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

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WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

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

NEW YORK, NY

WHEN: May 21, at 9:00 am
WHERE: 26 Federal Plaza
Room 305 B and C
New York, NY
RESERVATIONS: Federal Information Center
1–800–347–1997

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 No. 91-061]

Imported Fire Ant Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: We are affirming without change an interim rule that amended the imported fire ant quarantine and regulations by designating all or portions of the following counties as generally infested areas: 1 county in Alabama, 1 county in Arkansas, 14 counties in North Carolina, 1 county in Oklahoma, 2 counties in South Carolina, and 1 county in Texas. The rule affirmed by this action expanded the regulated areas and imposed certain restrictions on the interstate movement of regulated articles from those areas. The rule was necessary to prevent the artificial spread of the imported fire ant.

EFFECTIVE DATE: June 14, 1991.

FOR FURTHER INFORMATION CONTACT: Milton C. Holmes, Senior Operations Officer, Domestic and Emergency Operations, 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** and effective on February 7, 1991 (56 FR 4933–4936, Docket Number 90–249), we amended the Imported Fire Ant regulations in 7 CFR 301.81–2a by designating all or portions of the following counties as generally infested areas: Madison County in Alabama; Jefferson County in Arkansas; Anson, Cumberland, Duplin, Hoke, Hyde, Lenoir, Martin, Pitt, Richmond, Robeson, Sampson, Scotland, Tyrrell, and Washington Counties in North Carolina; Love County in Oklahoma; Abbeville and Union Counties in South Carolina; and Webb County in Texas.

Comments on the interim rule were required to be received on or before April 8, 1991. We did not receive any comments. The facts presented in the interim rule still provide a basis of this rule.

Executive Order 12291 and Regulatory Flexibility Act

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

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

This action affects the interstate movement of regulated articles from specified areas in Alabama, Arkansas, North Carolina, Oklahoma, South Carolina, and Texas. Thousands of small entities move these articles interstate from these States, and many more thousands of small entities move these articles interstate from other States.

Based on information compiled by the Department, we have determined that approximately 149 small entities within the newly regulated areas move articles interstate from the specified areas in those States. Further, the overall economic impact from this action is estimated to be approximately $20,000.

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

Paperwork Reduction Act

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

Executive Order 12372

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

List of Subjects in 7 CFR Part 301

Agricultural commodities, Imported fire ant, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, we are adopting as a final rule, without change, the interim rule amending 7 CFR 301.82–2a that was published at 56 FR 4933–4936 on February 7, 1991.

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

Done in Washington, DC, this 9th day of May 1991.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 91–11513 Filed 5–14–91; 8:45 am]
BILLING CODE 3410–34–M

7 CFR Part 319

[Docket No. 91-039]

Importation of Avocados from New Zealand

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the Fruits and Vegetables regulations to allow the importation into the United States of avocados from New Zealand, subject to our inspection at the port of first arrival and disinfection or treatment if injurious

insects are found. We are taking this action as the result of a request from the Government of New Zealand and because we have determined that there is no significant pest risk associated with the importation of avocados from New Zealand under these circumstances.

EFFECTIVE DATE: June 14, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. Robert L. Griffin, Head, Permit Unit, PPQ, APHIS, USDA, room 632, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8645.

SUPPLEMENTARY INFORMATION:

Background

The Fruits and Vegetables regulations in 7 CFR 319.56 *et seq.* prohibit or restrict the importation into the United States of certain fruits and vegetables to prevent the introduction and dissemination of injurious insects, including fruit and melon flies, that are new to or not widely distributed within and throughout the United States. Section 319.56–6 provides guidelines for the inspection, disinfection, or refusal of entry for imported fruits and vegetables at the port of first arrival and at the destination point in the United States at the option of the United States Department of Agriculture (USDA).

In a proposed rule published in the **Federal Register** on February 4, 1991, (56 FR 4180–4181, Docket 90–231), we proposed to amend the regulations in 7 CFR part 319 by adding a new § 319.56–2s to allow the importation into the United States of avocados from New Zealand, subject to inspection at the port of first arrival, and disinfection or treatment if any injurious insects are found.

Comments on the proposed rule were required to be received on or before March 6, 1991. We received one comment by the closing date. The commenter favored the proposed rule, agreeing with our conclusion that New Zealand is free from certain injurious insects.

Based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposal as a final rule without change.

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, it has been 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.

This document changes the Fruit and Vegetable regulations by listing avocados from New Zealand as enterable into the United States under certain restrictions. Avocados from New Zealand will be allowed entry into the United States subject to inspection. Disinfection or treatment will also be required if any injurious insects are found by the inspector.

No increase in pest infestations are foreseen, because New Zealand is free from certain injurious insects and any other injurious insects will be easily detectable by an inspector. Therefore, no adverse economic consequences are expected in the United States as a result of this regulatory change.

According to the United States Department of Commerce, avocados are produced on 6,902 fruit-and-tree-nut farms in the United States. Eighty-six percent or 5,920 of these farms are located in California. The other significant producing State is Florida. Information on the size of these U.S. fruit-and-tree-nut-producing farms is unavailable, and no data concerning avocado-only-producing farms is known. In general, 46 percent of the farms producing fruit-and-tree-nuts in California and Florida are run by operators whose principal occupation is farming, the remaining 54 percent are run by operators whose principal occupation is other than farming. Approximately 17 percent of farms in California and Florida which produce fruit-and-tree-nuts have sales of agricultural products in excess of $100,000, while 10 percent have sales between $50 to $100,000, 27 percent have sales between $10 to $50,000, and 46 percent have sales below $10,000. Farms run by operators whose principal occupation is not farming are more likely to have sales below $10,000.

According to the Agricultural Marketing Service and the Economic Research Service of USDA, U.S. avocado production currently totals 175–200 thousand metric tons annually, and U.S. imports of avocados currently total 4.5–5.5 thousand metric tons annually. Most of these imports arrive from Chile. Annual avocado supplies in the United States thus total approximately 180–206 thousand metric tons.

New Zealand produces one thousand metric tons of avocados annually. It is unlikely that U.S. imports of avocados from New Zealand would total more than 500 metric tons annually. Avocado imports from New Zealand would likely arrive in the United States during the late summer and fall months (July–December) as do imports from Chile. Imports from New Zealand, therefore, will compete with only a portion of U.S. production. Approximately 50 percent of U.S. avocado production is currently available between July and December and total U.S. supplies (U.S. production plus imports) during July–December range from 92–106 thousand metric tons. The additional avocados expected from New Zealand as a result of this regulatory change will add only 0.5 percent to the total available supply in the United States during July–December. This slight increase in supply is unlikely to cause an appreciable change in U.S. avocado prices, and thus no impact on U.S. avocado producers or consumers will be expected as a result of this regulatory change. However, U.S. importers of avocados will be expected to realize a small economic benefit due to the slight increase in supply.

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, subpart V.)

List of Subjects in 7 CFR Part 319

Agricultural commodities, Fruit, Imports, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation.

PART 319—FOREIGN QUARANTINE NOTICES

Accordingly, we are amending 7 CFR part 319 as follows:

1. The authority citation for Part 319 continues to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151–167; 7 CFR 2.17, 2.51, and 371.2(c), unless otherwise noted.

2. In subpart—Fruits and Vegetables, a new § 319.56–2t is added to read as follows:

§ 319.56–2t Administrative instructions; conditions governing the entry of avocados from New Zealand.

Avocados may be imported into the United States from New Zealand in accordance with § 319.56–6 and all other applicable requirements of this subpart.

Done in Washington, DC, this 10th day of May 1991.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 91–11515 Filed 5–14–91; 8:45 am]

BILLING CODE 3410–34–M

Agricultural Marketing Service

7 CFR Part 1002

[DA–91–009]

Milk in the New York-New Jersey Marketing Area; Amendments to Classification and Accounting Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action approves the tentative amendments to the classification and accounting rules and regulations issued by the Acting Market Administrator of the New York-New Jersey marketing order on April 2, 1991, after consideration of proposed changes at a public meeting held March 12, 1991. Amendment of the classification and accounting rules and regulations is necessary to make such regulations conform to order amendments effective April 1, 1991. The revision of the rules substantially all relate to the adoption of three classifications of milk and uniform product definitions.

EFFECTIVE DATE: May 1, 1991.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 447–7183.

SUPPLEMENTARY INFORMATION: Pursuant to provisions of § 1002.46 of the order, as amended, regulating the handling of milk in the New York-New Jersey marketing area (7 CFR part 1002), the Acting Market Administrator of said order or April 2, 1991, issued tentative amendments to the classification and accounting rules and regulations.

A copy of the stenographic record of the meeting called by the Acting Market Administrator concerning such amendments to the rules and regulations and the tentative amendments to the rules and regulations were each forwarded by the Acting Market Administrator to the Secretary. Upon consideration of such tentative amendments in the light of the stenographic record, said amendments to the classification and accounting rules and regulations are hereby approved.

It is hereby determined that it is unnecessary and impractical to defer the effective date of the amendments to the classification and accounting rules and regulations for 30 days after publication in the **Federal Register** in that:

(1) A copy of the tentative amendments was mailed on March 1 and March 4, 1991, to all handlers operating pool plants and other interested parties, thus affording such persons a reasonable time to prepare for the effective date herein specified;

(2) Amendments to the marketing order, as amended, to which such amended rules and regulations apply were effective April 1, 1991; and

(3) The said amended rules and regulations are required by provisions of the order, as amended, to be effective on the first day of the month following their approval.

Accordingly, the said amendments to the classification and accounting rules and regulations shall be effective on and after May 1, 1991.

The tentative amendments issued by the Market Administrator and hereby approved are set forth below.

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

Effective Date: May 1, 1991.

Signed at Washington, DC, on May 2, 1991.

Jo Ann R. Smith,

Assistant Secretary, Marketing and Inspection Services.

List of Subjects in 7 CFR Part 1002

Milk marketing orders.

Therefore, pursuant to the provisions of § 1002.46 of the order regulating the handling of milk in the New York-New Jersey marketing area, the classification and accounting rules and regulations of part 1002 are amended as set forth as follows.

PART 1002—[AMENDED]

1. The authority citation for 7 CFR part 1002 continues to read as follows:

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

2. Section 1002.102 is revised to read as follows:

§ 1002.102 Milk and milk products.

Milk, Fluid milk products, Fluid cream products, and other dairy products containing or produced from skim milk and/or butterfat are as defined pursuant to prevailing federal and/or state standards of identity.

§§ 1002.103 through 1002.127 [Removed]

3. Sections 1002.103 through 1002.127 are removed.

4. Section 1002.128 is revised to read as follows:

§ 1002.128 Dispenser insert.

A *dispenser insert* when used in conjunction with a fluid milk product or products included in § 1002.41(c)(1) means that the product is in a container from which it may be dispensed through a self-contained valve or other mechanical means for human consumption on the premises of the purchaser.

5. Section 1002.129 is revised to read as follows:

§ 1002.129 Packaged; consumer packages.

The term *packaged* or *consumer packages* when used in conjunction with a fluid milk product or product included in § 1002.41(c)(1) means that the product is in a container of 8 quarts or less or dispenser insert of any size. Any such product in any other container will be considered to have been handled in bulk.

6. Section 1002.140 is revised to read as follows:

§ 1002.140 Method.

Skim milk and butterfat shall be accounted for at the plant on a monthly basis and shall be classified separately pursuant to §§ 1002.40 through 1002.46 in the following manner:

(a) On the basis of the skim milk and butterfat in fluid milk products and products included in § 1002.41(c)(1) which are held at a plant, moved from a plant, dumped at a plant, destroyed or lost under extraordinary circumstances, or used at the plant to produce products other than fluid milk products or products included in § 1002.41(c)(1);

(b) On the basis of the fluid skim milk equivalent and butterfat content of all products, other than fluid milk products and products included in § 1002.41(c)(1), which are reprocessed, converted, or combined with another product during

the month or for which the handler fails to establish a disposition.

7. In § 1002.141, paragraphs (a), (b), (e) and (f) are revised to read as follows:

§ 1002.141 Preliminary accounting for other than fluid milk products and products included in § 1002.41(c)(1) at pool plants.

(a) Separately tabulate the total pounds of each product, other than a fluid milk product or product included in § 1002.41(c)(1), contained in opening inventory and received at the plant.

(b) Separately tabulate the total pounds of each product, other than a fluid milk product or product included in § 1002.41(c)(1), contained in closing inventory at or moved from the plant.

* * * * *

(e) When a product other than a fluid milk product or product included in § 1002.41(c)(1) manufactured during the month is reprocessed, converted, or combined with another product during the same month, the fluid milk products, products included in § 1002.41(c)(1), and other source milk used in the first instance shall be considered to have been used directly in the product resulting from such reprocessing, conversion, or combining.

(f) When condensed skim milk or skim milk powder manufactured in a month are used in the same month to fortify a fluid milk product or a product included in § 1002.41(c)(1), the skim milk equivalent of that portion of such products which is in excess of the volume included in the fortified product shall be determined and accounted for in accordance with § 1002.246 (b) and (c).

8. In § 1002.142, paragraph (a) is revised to read as follows:

§ 1002.142 Skim milk and butterfat to be accounted for at a pool plant.

(a) Tabulate and total the pounds of skim milk:

(1) In milk received from dairy farmers at the plant;

(2) In fluid milk products and products included in § 1002.41(c)(1) in the opening inventories at the plant, separately in bulk and packaged form;

(3) In fluid milk products and products included in § 1002.41(c)(1) in transit from other pool plants in accordance with § 1002.221(b), separately in bulk and packaged form;

(4) In fluid milk products and products included in § 1002.41(c)(1) received at the plant from other plants separately in bulk and packaged form or from units;

(5) In other source milk other than a fluid milk product or a product included in § 1002.41(c)(1) determined to be a receipt pursuant to § 1002.141(c) at its skim milk content or equivalent. The total of the skim milk so tabulated shall be known as the total skim milk to be accounted for.

* * * * *

9. In § 1002.143, paragraph (a) is revised to read as follows:

§ 1002.143 Skim milk and butterfat accounted for at a pool plant.

(a) Tabulate, total, and classify the pounds of skim milk:

(1) In fluid milk products and products included in § 1002.41(c)(1) transferred to other plants, disposed of from the plant, dumped at the plant, or destroyed or lost under extraordinary circumstances;

(2) In fluid milk products and products included in § 1002.41(c)(1) in closing inventories at the plant;

(3) In fluid milk products and products included in § 1002.41(c)(1) in transit from other pool plants in accordance with § 1002.221(b);

(4) In fluid milk products, products included in § 1002.41(c)(1), and in other source milk used in the plant in the manufacture of other than fluid milk products or products included in § 1002.41(c)(1);

(5) In the skim milk equivalent of skim milk powder and condensed skim milk determined pursuant to § 1002.246 (b) and (c) to be in excess of the volume included in the fluid milk products and products included in § 1002.41(c)(1) accounted for in paragraph (a) (1) and (2) of this section.

In the event that the skim milk in fluid milk products or products included in § 1002.41(c)(1) is classified in more than one class, the tabulation should be subdivided to show the quantity of skim milk in each class. The total of all skim milk so tabulated shall be known as the skim milk accounted for.

* * * * *

10. Section 1002.145 is revised to read as follows:

§ 1002.145 Shrinkage allowance.

Shrinkage shall be allocated to a handler's receipts and classified at each plant as follows: Add to the skim milk and butterfat in Class III the skim milk and butterfat determined pursuant to paragraph (a) (1) and (2) of this section: Provided, that the skim milk and butterfat assigned to Class III pursuant to paragraph (a)(1) of this section may not exceed the skim milk and butterfat determined in paragraph (b) of this section. Add to the skim milk and butterfat in Class I–A and Class I–B the amounts determined in paragraph (c) of this section.

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) of this section, which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in pool milk received from producers, in milk received from pool units, and in milk received from units other than pool units, exclusive of the quantity for which Class II or Class III utilization was requested by the handler;

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in receipts of fluid milk products in bulk from other pool plants;

(3) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in receipts of fluid milk products in bulk from plants other than those defined in § 1002.8 (b) or (d), excluding the quantity for which Class II or Class III classification is requested by the handler; and

(5) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1) through (4) of this section.

(c) Shrinkage in excess of the amounts assigned to Class III pursuant to paragraphs (a) and (b) of this section shall be assigned pro rata to Class I–A and Class I–B in accordance with the respective volumes of skim milk and butterfat actually accounted for in each such class.

11. Section 1002.180 is revised to read as follows:

§ 1002.180 Assignment at a plant which is not a pool plant, an other order plant nor a producer-handler plant under any other order.

Skim milk or butterfat transferred in the following forms from a pool plant or

pool unit to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(a) As Class I–A milk, if transferred in the form of a packaged fluid milk product; and

(b) As Class I–A milk, if transferred in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(1) The transferring handler claims classification pursuant to the assignment set forth in paragraph (c) of this section in the handler's report submitted to the market administrator pursuant to § 1002.30 for the month within which such transaction occurred;

(2) The operator of such transferee plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification;

(3) In determining the nonpool plant's utilization for purposes of this section, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a second nonpool plant shall be classified pursuant to the same assignment procedure with respect to receipts and utilization at such second nonpool plant, except that classification of such transfers in Class I–A and Class I–B shall not be less than the quantities which would be assigned to those classes if the transfer of such products had been directly from a pool plant or pool unit.

(c) Skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at the transferee plant pursuant to paragraph (b)(2) of this section:

(1) Packaged receipts of fluid milk products from Federal order sources shall first be assigned to route disposition in Federal order marketing areas (assigning receipts to sales in the same market to the extent possible) and any residual shall be assigned to Class I–B route sales.

(2) Such bulk transfers and other bulk receipts of fluid milk products at such transferee plant from pool plants and units and from other order plants shall next be assigned to any remaining route disposition in any Federal order marketing area. For this purpose receipts from each Federal order market shall first be assigned to remaining route sales in such marketing area and any remainder of such receipts shall be prorated with all Federal order receipts to remaining route disposition in all Federal order marketing areas.

(3) Receipts from dairy farmers shall then be assigned to any remaining route sales in the marketing area.

(4) Remaining receipts from dairy farmers and other unregulated other source receipts (excluding opening inventory) in the form of fluid milk products shall be assigned pro rata to Class I–B, Class II, and Class III utilization at such plant to the extent of such utilization available at such plant and any remainder of such receipts shall be assigned pro rata to Class I–A bulk sales to plants regulated under this order and Class I bulk sales to plants regulated under other orders.

(5) Receipts of bulk fluid cream products from plants defined pursuant to § 1002.8 (b) and (d) shall be assigned pro rata among such plants to any remaining Class II and Class III utilization on a pro rata basis, then to any remaining Class I–A disposition and finally any Class I–B disposition.

(6) Any remaining receipts of fluid milk products or bulk fluid cream products being assigned pursuant to this paragraph shall be assigned pro rata with remaining receipts from other order plants, first to remaining Class I–A utilization, then to Class I–B utilization, then to Class II utilization, and finally to Class III utilization at such plant: *Provided,* That if on inspection of the books and records of such plant the market administrator finds that there is insufficient utilization to cover such receipts, the remainder shall be classified as Class I–A.

(7) Any remaining Class I–A route disposition in any Federal marketing area shall be subject to the pricing specified in § 1002.60(d)(2).

12. Section 1002.220 is revised to read as follows:

§ 1002.220 Method of accounting for closing inventories.

Skim milk and butterfat in the form of fluid milk products and products included in § 1002.41(c)(1) shall be accounted for and classified by the handler at the time of filing reports in accordance with § 1002.30 as follows:

(a) As Class I–A in the form of packaged fluid milk products at a pool plant.

(b) As Class II in the form of packaged products included in § 1002.41(c)(1).

(c) As Class III in the form of bulk fluid milk products and bulk products included in § 1002.41(c)(1) at a pool plant or such products in bulk or packaged form at a plant not defined in § 1002.8 (b) or (d).

13. In § 1002.221, the introductory text is revised to read as follows:

§ 1002.221 Method of accounting for fluid milk products and products included in § 1002.41(c)(1) is transit at the end of a month from a pool plant to a pool plant.

All fluid milk products and products included in § 1002.41(c)(1) transferred from a pool plant but not received until the following month at the transferee pool plant shall be considered in transit and shall be accounted for in the following manner:

* * * * *

14. In § 1002.222, the introductory text is revised to read as follows:

§ 1002.222 Method of accounting for fluid milk products and products included in § 1002.41(c)(1) in transit at the end of a month from a pool plant to a plant other than a pool plant.

All fluid milk products and products included in § 1002.41(c)(1) transferred from a pool plant but not received until the following month at a transferee plant which is not a pool plant shall be considered in transit and shall be accounted for in the following manner:

* * * * *

15. Section 1002.233 is revised to read as follows:

§ 1002.233 Weights and equivalents of condensed skim milk and skim milk powder.

In the absence of information establishing the weight or skim milk equivalent of condensed skim milk and skim milk powder, the following table shall be used:

CONDENSED SKIM MILK

Percent total solids in the mixture	Weight per gallon (pounds)	Skim equiv. factor	Skim equiv. factor
A	B	C	D
Less than 24.5	9.10	2.281	1.333
24.5 but less than 25.5	9.22	2.851	1.915
25.5 but less than 26.5	9.26	2.965	2.033
26.5 but less than 27.5	9.30	3.079	2.151
27.5 but less than 28.5	9.34	3.193	2.269
28.5 but less than 29.5	9.38	3.307	2.387
29.5 but less than 30.5	9.42	3.421	2.505
30.5 but less than 31.5	9.46	3.536	2.624
31.5 but less than 32.5	9.51	3.649	2.742
32.5 but less than 33.5	9.55	3.763	2.860
33.5 but less than 34.5	9.59	3.877	2.977
34.5 but less than 35.5	9.63	3.991	3.095
35.5 but less than 36.5	9.68	4.105	3.214
36.5 but less than 37.5	9.72	4.219	3.331
37.5 but less than 38.5	9.77	4.333	3.450
38.5 but less than 39.5	9.81	4.447	3.567
39.5 but less than 40.5	9.85	4.561	3.685
40.5 but less than 41.5	9.90	4.675	3.803
41.5 but less than 42.5	9.95	4.789	3.922
42.5 but less than 43.5	9.99	4.903	4.039
43.5 but less than 44.5	10.04	5.017	4.157
44.5 but less than 45.5	10.08	5.131	4.275
45.5 but less than 46.5	10.13	5.245	4.393
46.5 but less than 47.5	10.18	5.359	4.511
47.5 but less than 48.5	10.23	5.473	4.629
48.5 but less than 49.5	10.28	5.587	4.748
49.5 but less than 50.5	10.33	5.701	4.866

CONDENSED SKIM MILK—Continued

Percent total solids in the mixture	Weight per gallon (pounds)	Skim equiv. factor	Skim equiv. factor
A	B	C	D
50.5 but less than 51.5	10.37	5.815	4.983
51.5 but less than 52.5	10.43	5.929	5.102
52.5 but less than 53.5	10.48	6.043	5.220
53.5 but less than 54.5	10.53	6.157	5.337
54.5 but less than 55.5	10.58	6.271	5.455
Skim milk powder		11.000	10.360

16. Section 1002.242 is revised to read as follows:

§ 1002.242 Skim milk and butterfat in lowfat milk.

(a) The butterfat content of lowfat milk shall be the same as the butterfat in the milk, cream, and skim milk used to make the product.

(b) Skim milk in lowfat milk shall be the weight of the product less the butterfat content determined pursuant to paragraph (a) of this section.

(c) In the absence of information showing the ingredients used in the production of lowfat milk, either prevailing minimum butterfat standards for lowfat milk or actual butterfat tests are to be allowed.

17. In section 1002.246, paragraph (b) is revised to read as follows, and in paragraph (c), the words "Class II" are changed to "Class III".

§ 1002.246 Skim milk equivalent of condensed skim milk and skim milk powder.

* * * * *

(b) When condensed skim milk or skim milk powder are used to fortify fluid milk products or products included in § 1002.41(c)(1), the skim milk equivalent of that portion of such product which is in excess of the volume included in the fortified fluid milk product or product included in § 1002.41(c)(1) shall be determined by multiplying the pounds of condensed skim milk and skim milk powder by the factor in column D in the table in § 1002.233. The skim milk equivalent so determined shall be accounted for as a Class III disposition. Condensed skim milk and skim milk powder used to fortify fluid milk products and products included in § 1002.41(c)(1) will be considered to contribute no butterfat to the product so fortified.

* * * * *

18. Section 1002.248 is revised to read as follows:

§ 1002.248 Skim milk and butterfat in churn buttermilk and churn buttermilk products.

Skim milk and butterfat on hand at or leaving the plant in the form of churn buttermilk and churn buttermilk products together with the skim milk and butterfat contained in the butter shall be considered the net result of the fluid milk products, products included in § 1002.41(c)(1), and other source milk used: Provided, That if skim milk and butterfat in churn buttermilk and churn buttermilk products are held in closing inventory or disposed of from the plant in the form of a fluid milk product or product included in § 1002.41(c)(1), such skim milk and butterfat contained in these products shall be treated as fluid milk products or products included in § 1002.41(c)(1). The skim milk and butterfat claimed to have been used in the manufacture of butter shall be reduced by the quantities of skim milk and butterfat determined to be contained in these fluid milk products or products included in § 1002.41(c)(1).

19. Section 1002.249 is revised to read as follows:

§ 1002.249 Skim milk and butterfat used to manufacture products other than fluid milk products and products included in § 1002.41(c)(1).

Skim milk and butterfat, in the form of fluid milk products, products included in § 1002.41(c)(1), and other source milk, claimed to have been used in the manufacture of other than fluid milk products and products included in § 1002.41(c)(1) will be allowed as claimed in the light of the skim milk and butterfat contained in the finished products. The evaluation of each claim shall include a full consideration of all available information.

20. Section 1002.260 is revised to read as follows:

§ 1002.260 Procedure for establishing fluid milk products and products included in § 1002.41(c)(1) dumped.

Fluid milk products and products included in § 1002.41(c)(1) that are dumped may be classified as Class III only to the extent that the following procedure is followed:

(a) The market administrator is given prior notice and the opportunity to verify the fluid milk products and products included in § 1002.41(c)(1) to be dumped.

(1) Prior notice is given during normal business hours by telephone to the office of the market administrator.

(2) Prior notice at other times is given by speaking to any authorized person on a list of special telephone numbers provided by the market administrator.

(b) Route returns are dumped between the hours of 9 a.m. and 4:45 p.m., Monday through Friday, except holidays. Notice is given by calling the office of the market administrator prior to 3 p.m. of the day dumpage takes place.

(c) On dumpage other than route returns, a representative sample of the dumped product taken by the handler is made available to the market administrator.

[FR Doc. 91–11521 Filed 5–14–91; 8:45 am]
BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150—AD01

Fracture Toughness Requirements for Protection Against Pressurized Thermal Shock Events

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations for light-water nuclear power plants to change the procedure for calculating the amount of radiation embrittlement that a reactor vessel receives. The pressurized thermal shock rule (PTS rule) establishes a screening criterion. This criterion limits the amount of embrittlement of a reactor vessel beltline material beyond which the plant cannot continue to operate without justification based on a plant-specific analysis. The final amendment does not change the screening criterion. The PTS rule also prescribes the procedure that must be used for calculating the amount of embrittlement for comparison to the screening criterion. The final amendment updates the procedure and makes it consistent with the one given in Regulatory Guide 1.99, Revision 2, published in May 1988.

EFFECTIVE DATE: June 14, 1991.

FOR FURTHER INFORMATION CONTACT: Allen L. Hiser, Jr., Division of Engineering, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492–3988.

SUPPLEMENTARY INFORMATION:

Background

Pressurized thermal shock events are system transients in a pressurized water reactor (PWR) that can cause severe overcooling followed by immediate

repressurization to a high level. The thermal stresses caused by rapid cooling of the reactor vessel inside surface combine with the pressure stresses to increase the potential for fracture if an initiating flaw is present in low toughness material. This material may exist in the reactor vessel beltline, adjacent to the core, where neutron radiation gradually embrittles the material during plant lifetime. The degree of embrittlement depends on the chemical composition of the steel, especially the copper and nickel contents.

The toughness of reactor vessel materials is characterized by a "reference temperature for nil ductility transition" (RT_{NDT}), which is determined by destructive tests of material specimens. For many reactors now in operation, toughness of the beltline materials at room temperature is low. As temperature is raised, toughness increases slowly at first; but at the temperature defined as RT_{NDT}, toughness begins to increase much more rapidly. The transition in toughness from low values to high that takes place above RT_{NDT} means that vessel materials are quite tough at normal operating temperatures. Radiation embrittlement moves RT_{NDT} to higher temperatures. Correlations based on test results for unirradiated and irradiated specimens have been developed to calculate the shift in RT_{NDT} as a function of neutron fluence for various material compositions. The value of RT_{NDT} at a given time in a vessel's life is used in fracture mechanics calculations to determine whether assumed pre-existing flaws would propagate as cracks when the vessel is stressed.

The Pressurized Thermal Shock (PTS) rule, 10 CFR 50.61, adopted on July 23, 1985 (50 CFR 29937), establishes a screening criterion. This screening criterion establishes a limiting level of embrittlement beyond which operation cannot continue without further plant-specific evaluation. The screening criterion is given in terms of RT_{NDT}, calculated as a function of the copper and nickel contents of the material and the neutron fluence according to the procedure given in the PTS rule, and called RT_{PTS} to distinguish it from other procedures for calculating RT_{NDT}.

The PTS rule requires each PWR licensee to report the results of the calculations of predicted RT_{PTS} values for each beltline material (including the copper, nickel and fluence values that provided the basis for the calculations) from the time he submits his report to the expiration date of the operating license (EOL). The PTS rule further provides that if RT_{PTS} for the controlling material is predicted to exceed the screening criterion before EOL, the licensee should submit plans and a schedule for flux reduction programs that are reasonably practicable to avoid reaching the screening criterion. Finally, the PTS rule requires licensees of plants that would reach the screening criterion before EOL despite the flux reduction program to submit a plant-specific safety analysis justifying operation beyond the screening criterion. The licensee must submit the analysis at least 3 years before the plant is predicted to reach that limit. Regulatory Guide 1.154, "Format and Content of Plant-Specific Pressurized Thermal Shock Safety Analysis Reports for Pressurized Water Reactors" provides guidance for the preparation of the report and describes acceptance criteria that the NRC staff would use.

In response to the PTS rule, the licensees of operating reactors have submitted the fluence predictions and material composition data and these have now been accepted. Of greater importance are the flux reduction programs that have been undertaken by licensees for those plants having high values of RT_{PTS}.

On December 26, 1989 (54 FR 52946), the Commission published the proposed rule to change the procedure for calculating RT_{PTS} to reflect recent findings that embrittlement is occurring faster than predicted by the PTS rule for some reactor vessel materials. Although the PTS rule was adopted on July 23, 1985, the procedure for calculating RT_{PTS} was developed in 1981–1982 and not updated because a number of licensees were using the 1982 formulations as the basis for flux reduction programs. Meanwhile, plant surveillance data were being added to the data base and there were extensive new and more accurate correlations made. These culminated in Revision 2 to Regulatory Guide 1.99, "Radiation Embrittlement of Reactor Vessel Materials," published in May 1988. Revision 2 provides the basis for pressure-temperature limit calculations. Peer review of the new correlations was provided by the public comments on Revision 2.

In the regulatory analysis prepared for Revision 2, and repeated in the regulatory analysis for this amendment, the NRC evaluated the impact of amending the PTS rule to be consistent with the Guide. Copper and nickel contents and fluence values for each PWR reactor vessel were taken from the PTS submittals from licensees. When the values of RT_{PTS} were recalculated using these quantities and the procedure developed for Revision 2, the results were higher for approximately half the vessels, including three vessels where the value may be over 60°F higher than previously thought. This would increase the probability of PTS-induced vessel failure by a factor of at least 30 for those plants.

The NRC believes these changes in the nonconservative direction are greater than can be absorbed by the uncertainties believed to exist and taken into account by the NRC when the RT_{PTS}-based screening limit was set. (A margin of 48°F is added in the calculation of RT_{PTS} to cover not only the uncertainty in the formula for embrittlement but also the uncertainties in the copper, nickel, and fluence values entered in the formula.) Based on this new information, the probability of reactor vessel failure by fracture during a PTS event is presently higher in some vessels than the probability based on the procedure for calculating RT_{PTS} which is given in the present PTS rule. Moreover, a few of those reactor vessels will reach the screening criterion in the 1990's. Thus, the current PTS rule needs to be amended.

A 75 day comment period expired on March 12, 1990. Comments were received from 15 respondents.

Summary of Public Comments

The proposed amendments have been modified in response to the comments received and will be published in final form, as modified, to become effective 30 days after publication of this final rule. Changes were made in response to the public comments to introduce flexibility and technical improvement in the calculation of RT_{PTS} by requiring consideration of the plant-specific surveillance data and operating conditions when they would have a significant effect on the date the screening criterion would be reached. Another change was made to loosen the reporting schedule for licensees whose reactor vessels will not become highly embrittled. A summary of the public comments and staff responses follows:

1. Validity of a Limited Revision

Several comments questioned broad issues in the PTS rule and urged that a limited revision not be undertaken. Some comments said that the screening criterion should be raised (made less conservative) because they believed that the calculated probability of fracture would be reduced if the new embrittlement formula was substituted for the old in those calculations. Other comments pointed out changes in the assumptions about flaw size and

location, as well as updated information about the expected severity and frequency of PTS transients as reasons to revisit the screening criterion. Still other comments questioned the use of a single parameter, RT_{PTS}, in the screening criterion and asked for consideration of a multiparameter criterion.

Staff Response

A general response to the comments is as follows. First, the scope of the proposed amendment is narrow: to make technical corrections in the embrittlement formula for calculation of RT_{PTS} values to compare to the screening criterion. A general revision of the PTS rule must wait until further research is done. Second, the screening criterion is not a safety limit. It is a tripwire which triggers a plant-specific safety analysis, i.e., it defines which licensees need to do that analysis and when it should be done. Third, the screening criterion is not linked directly to a predicted frequency of through-wall cracking. Only when the plant-specific analysis is done (using plant-specific systems and fracture parameters) is the criterion for continued operation based on a through-wall crack frequency of 5×10^{-6} per reactor year. It is Regulatory Guide 1.154, "Format and Content of Plant-Specific Pressurized Thermal Shock Safety Analysis Reports for Pressurized Water Reactors" (not 10 CFR 50.61) which states that this frequency is the staff's primary acceptance criterion for continued operation.

In specific response to the issue of conservatism, the Regulatory Analysis for the proposed rule summarized the results of some studies of the effects on through-wall crack frequency when calculated using the proposed embrittlement formula instead of the one used in the original PTS rule and Monte Carlo analyses done earlier. These studies showed that the PTS rule is more conservative than previously thought for some accident scenarios, but not for all. The results did not justify raising the screening criterion.

2. Alternative Use of Plant-Specific Surveillance Data

Eleven out of fifteen comments urged the addition of this alternative to the proposed RT_{PTS} calculation method based on copper and nickel contents and fluence, noting that this alternative is allowed in calculating pressure-temperature limits using R.G. 1.99.[1] The strongest need for this alternative is for plants nearing the screening criterion. In the plant-specific PRA (probabilistic risk analysis) required as the basis for allowing a plant to operate beyond the screening criterion, any embrittlement information may be used if justification is given. Noting this, commenters said that the use of plant-specific surveillance data would in some cases make the PRA results favorable; therefore, it should be permissible to use such data in calculating RT_{PTS}, thereby avoiding the time and expense of the PRA analysis.

Staff Response

The proposed amendment to the PTS rule is prescriptive on the issue of calculating RT_{PTS}, because not many plants meet the criteria for "credible" surveillance data given in R.G. 1.99 in all respects and because the criteria are somewhat subjective. Lengthy disputes over credibility are anticipated, based on experience in applying R.G. 1.99 elsewhere. Moreover, in many cases there is a difficult choice to be made between reliance on a very small amount of plant-specific surveillance data, or a calculated value based on a large data base of specimens most of which were irradiated in other reactors.

Nevertheless, in response to the widespread comments, it is agreed that there is need for some flexibility in the PTS rule to permit consideration of all available information. A new paragraph (b)(3) has been added and the existing paragraphs (b)(3) through (b)(6) have been renumbered. The intent of the new paragraph (b)(3) is to provide flexibility for use in two kinds of special situations. Commenters dwelt on the situation where surveillance data showed the vessel to be significantly less embrittled than indicated by the proposed embrittlement formula. In the other situation, there is information from surveillance data or other information such as the operating temperature of the reactor vessel that shows the vessel may be significantly more embrittled than calculated by the proposed rule.[2] Thus, some flexibility has been added to the rule to ensure that significant information is not ignored.

Several of the commenters on this issue recommended that Position C 2, "Surveillance Data Available," as well as the criteria for credibility of the surveillance data, given in R.G. 1.99, be incorporated in the PTS rule in total. The staff has rejected this suggestion in an effort to keep the implementation of the PTS rule as simple as possible. It is anticipated that only those licensees whose vessels are approaching the screening criterion would make use of paragraph (b)(3). Its use requires review and approval by the staff, at which time the guidelines in R.G. 1.99 may be appropriate, but not necessarily so.

3. Use of Measured Values of RT_{NDT}

Several comments said that the changes in wording of the requirement in paragraph (b)(2)(i) that "measured values must be used if available . . ." represented a change in the rule which reduced its flexibility.

Staff Response

There is no change in intent. The words were changed in the proposed rule to remove any ambiguity. A further clarification was made in the final rule by adding the words "if credible values are available." The intent is to allow a licensee to offer justification for not using a particular measured value if he does not have confidence in it.

4. Only a Few Plants are Affected Significantly, but the Proposed Rule Adds a Regulatory Burden on All and a Public Relations Burden Also

The proposed PTS rule "reorders" the list of reactor vessels in terms of their sensitivity to PTS events, and should be revised to reduce these impacts by increasing flexibility in the requirements or by a multiparameter approach.

Staff Response

To limit the effort required by the industry, the PTS rule prescribes a screening criterion to separate out those plants that should do the PRA analysis, based on the level of embrittlement of the reactor vessels, i.e., the rule describes who should do the analysis, and when they should do it. Yet, the foregoing comments request that either some kind of intermediate screening procedure be established that considers several parameters instead of only RT_{PTS}, or that the objective should be accomplished by introducing flexibility into the rule.

The staff has rejected the suggestion of a "mini-PRA" as an intermediate procedure, because that opens the door to very misleading conclusions. When the PTS rule was in the early formative stages, there were proposals for a deterministic criterion. However, it soon became clear that there was no way to choose the design transient from among the array of transients of increasing severity but lower frequency. Extending

[1] Radiation Embrittlement of Reactor Vessel Materials, Regulatory Guide 1.99, Revision 2, May, 1988.

[2] The irradiation temperatures represented in the data base that was correlated to obtain the formula in the PTS rule ranged from 525 to 590 degrees Fahrenheit. Operation below that temperature range is considered to cause more embrittlement.

this reasoning to PRAs, the staff concludes that a partial PRA is inappropriate. These comments have been rejected, but paragraph (b)(1) has been modified to reduce the reporting burden for all plants except those expected to reach the screening criterion before the end of their operating life. These modifications are in addition to the amendments to paragraph (b)(1) that were published in the proposed rule to simplify the reporting requirements.

5. Use of "Adequate Protection" Exception to the Backfit Rule

One comment said that flexibility in granting exemptions to the rule or exceptions to the required submittal schedules would be reduced if exception was taken to the backfit rule (10 CFR 50.109) on the basis that the amendments to the PTS rule were needed to provide adequate protection to the health and safety of the public.

Staff Response

The staff has continued to cite "adequate protection," because it believes that the amendment to the PTS rule is necessary to assure that there is no undue risk to public health and safety from pressurized thermal shock. Characterizing the amendment as "necessary to assure adequate protection" does not preclude the NRC from granting exemptions to the rule, so long as licensees propose alternatives which assure adequate protection. The staff also notes that the PTS rule, paragraphs (b)(5), (b)(6) and (b)(7), provides procedures for the kind of case-by-case review that would normally be the basis for an exemption. There is even what amounts to an appeal procedure in paragraph (b)(7) whereby a licensee whose plant-specific analysis and proposed corrective actions are not approved can again request consideration of additional modifications to equipment, systems and operation of the facility in addition to those previously proposed.

Finding of No Significant Environmental Impact

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in subpart A of 10 CFR part 51, that this rule is not a major Federal action significantly affecting the quality of the human environment and therefore an environmental impact statement is not required.

The PTS rule is one of several regulatory requirements the function of which is to ensure reactor vessel integrity. This amendment to the PTS rule updates the procedure for calculating the level of embrittlement of the reactor vessel beltline as a result of neutron radiation. Use of the updated procedure will not result in any adverse changes in power level, effluents, or other operational characteristics of a nuclear power reactor. Therefore, this rule is not expected to have any significant effect on the environment. Moreover, since the use of the updated procedure is likely to result in more accurate and conservative predictions of transition to nil ductility, the risk of an accident and attendant environmental consequences is likely to be reduced under the new amended rule.

The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the environmental assessment and the finding of no significant impact are available from Allen L. Hiser, Jr., Division of Engineering, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492–3988.

Paperwork Reduction Act Statement

This rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These information collection requirements were approved by the Office of Management and Budget Approval No. 3150–0011.

Public reporting burden for this collection of information is estimated to average approximately 331 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Information and Records Management Branch (MNBB–7714), Division of Information Support Services, Office of Information Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–3019 (3150–0011), Office of Management and Budget, Washington, DC 20503.

Regulatory Analysis

The NRC staff prepared a regulatory analysis for the final rule, which describes the factors and alternatives considered by the Commission in deciding to propose this rule.

A copy of the regulatory analysis is available for inspection and copying for a fee at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC 20555. Single copies of the analysis may be obtained from Allen L. Hiser, Jr., Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 492–3988.

Regulatory Flexibility Act Certification

As required by the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Commission certifies that this rule does not have a significant economic impact on a substantial number of small entities. This rule specifies minimum fracture toughness properties of irradiated pressure vessel materials to ameliorate the effects of PTS events on nuclear facilities licensed under the provision of 10 CFR 50.21(b) and 10 CFR 50.22. The companies that own these facilities do not fall within the scope of the definition of "small entities" as set forth in the Regulatory Flexibility Act or the Small Business Size Standards in regulations issued by the Small Business Administration at 10 CFR part 121.

Backfit Analysis

The NRC has concluded, on the basis of the documented evaluation required by 10 CFR 50.109(a)(4), that the backfit requirements contained in this amendment are necessary to ensure that the facility provides adequate protection to the public health and safety, and, therefore, that a backfit analysis is not required and the cost-benefit standards of 10 CFR 50.109(a)(3) do not apply. The documented evaluation given in the regulatory analysis includes a statement of the objectives of and reasons for the backfits that would be required by the rule and sets forth the basis for the NRC's conclusion that these backfits are not subject to the cost-benefit standards of 10 CFR 50.109(a)(3).

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire prevention, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, and 5 U.S.C. 553, the NRC is adopting

the following amendments to 10 CFR part 50.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation of part 50 is revised to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended 1244, 1246, (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 936, 955 as amended (42 U.S.C. 2131, 2235), sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 50.46 (a) and (b), and 50.54(c) are issued under sec. 161b, 161i and 161o, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.7(a), 50.10 (a)–(c), 50.34 (a) and (e), 50.44 (a)–(c), 50.46 (a) and (b), 50.47(b), 50.48 (a), (c), (d), and (e), 50.49(a), 50.54(a), (i), (i)(1), (l)–(n), (p), (q), (t), (v), and (y), 50.55(f), 50.55a(a) (c)–(e), (g), and (h), 50.59(c), 50.60(a), 50.62(c), 50.64(b), and 50.80 (a) and (b) are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.49 (d), (h), and (j), 50.54 (w), (z), (bb), (cc), and (dd), 50.55(e), 50.59(b), 50.61(b), 50.62(b), 50.70(a), 50.71 (a)–(c) and (e), 50.72(a), 50.73 (a) and (b), 50.74, 50.78, and 50.90 are issued under sec. 161(o), 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 50.8, paragraph (b) is revised to read as follows:

§ 50.8 Information collection requirements: OMB approval.

* * * * *

(b) The approved information collection requirements contained in this part appear in §§ 50.30, 50.33, 50.33a, 50.34, 50.34a, 50.35, 50.36, 50.36a, 50.48, 50.49, 50.54, 50.55, 50.55a, 50.59, 50.60, 50.61, 50.63, 50.64, 50.71, 50.72, 50.80, 50.82, 50.90, 50.91, and appendixes A, B, E, G, H, I, J, K, M, N, O, Q, and R.

* * * * *

3. In § 50.61, paragraph (b) is revised to read as follows:

§ 50.61 Fracture toughness requirements for protection against pressurized thermal shock events.

* * * * *

(b) *Requirements.*

(1) For each pressurized water nuclear power reactor for which an operating license has been issued, the licensee shall submit projected values of RT_{PTS} for reactor vessel beltline materials by giving values for the time of submittal, the expiration date of the operating license, the projected expiration date if a change in the operating license has been requested, and the projected expiration date of a renewal term if a request for license renewal has been submitted. The assessment must use the calculative procedures given in paragraph (b)(2) of this section. The assessment must specify the bases for the projection, including the assumptions regarding core loading patterns. The submittal must list the copper and nickel contents, and the fluence values used in the calculation for each beltline material. If these quantities differ from those submitted in response to the original PTS rule and accepted by the NRC, justification must be provided. If the value of RT_{PTS} for any material in the beltline is projected to exceed the PTS screening criterion before the expiration date of the operating license or the proposed expiration date if a change in the license has been requested, or the end of a renewal term if a request for license renewal has been submitted, this assessment must be submitted by December 16, 1991. Otherwise, this assessment must be submitted with the next update of the pressure-temperature limits, or the next reactor vessel material surveillance report, or 5 years from the effective date of this rule, whichever comes first. These submittals must be updated whenever there is a significant change in projected values of RT_{PTS}, or upon a request for a change in the expiration date for operation of the facility.

(2) The pressurized thermal shock (PTS) screening criterion is 270°F for plates, forgings, and axial weld materials, or 300°F for circumferential weld materials. For the purpose of comparison with this criterion, the value of RT_{PTS} for the reactor vessel must be calculated as follows, except as provided in paragraph (b)(3) of this section. The calculation must be made for each weld and plate, or forging, in the reactor vessel beltline.

Equation 1. $RT_{PTS} = I + M + \Delta RT_{PTS}$

(i) "I" means the initial reference temperature (RT_{NDT}) of the unirradiated material measured as defined in the ASME Code, Paragraph NB–2331. Measured values must be used if credible values are available; if not, the following generic mean values must be used: 0°F for welds made with Linde 80 flux, and −56°F for welds made with Linde 0091, 1092 and 124 and ARCOS B–5 weld fluxes.

(ii) "M" means the margin to be added to cover uncertainties in the values of initial RT_{NDT}, copper and nickel contents, fluence and the calculational procedures. In Equation 1, M is 66°F for welds and 48°F for base metal if generic values of I are used, and M is 56°F for welds and 34°F for base metal if measured values of I are used.

(iii) ΔRT_{PTS} is the mean value of the adjustment in reference temperature caused by irradiation and should be calculated as follows:

Equation 2: $\Delta RT_{PTS} = (CF) f^{(0.28 - 0.10 \log f)}$

(iv) CF (°F) is the chemistry factor, a function of copper and nickel content. CF is given in table 1 for welds and in table 2 for base metal (plates and forgings). Linear interpolation is permitted. In Tables 1 and 2 "Wt–% copper" and "Wt–% nickel" are the best-estimate values for the material, which will normally be the mean of the measured values for a plate or forging or for weld samples made with the weld wire heat number that matches the critical vessel weld. If these values are not available, the upper limiting values given in the material specifications to which the vessel was built may be used. If not available, conservative estimates (mean plus one standard deviation) based on generic data [1] may be used if justification is provided. If none of these alternatives are available, 0.35% copper and 1.0% nickel must be assumed.

(v) "f" means the best estimate neutron fluence, in units of 10^{19} n/cm^2 (E greater than 1 MeV), at the clad-base-metal interface on the inside surface of the vessel at the location where the material in question receives the highest fluence for the period of service in question.

TABLE 1.—CHEMISTRY FACTOR FOR WELDS, °F

Copper, Wt-%	Nickel, Wt-%						
	0	0.20	0.40	0.60	0.80	1.00	1.20
0	20	20	20	20	20	20	20
0.01	20	20	20	20	20	20	20
0.02	21	26	27	27	27	27	27
0.03	22	35	41	41	41	41	41

[1] Data from reactor vessels fabricated to the same material specification in the same shop as the vessel in question and in the same time period is an example of "generic data."

TABLE 1.—CHEMISTRY FACTOR FOR WELDS, °F—Continued

Copper, Wt-%	Nickel, Wt-%						
	0	0.20	0.40	0.60	0.80	1.00	1.20
0.04	24	43	54	54	54	54	54
0.05	26	49	67	68	68	68	68
0.06	29	52	77	82	82	82	82
0.07	32	55	85	95	95	95	95
0.08	36	58	90	106	108	108	108
0.09	40	61	94	115	122	122	122
0.10	44	65	97	122	133	135	135
0.11	49	68	101	130	144	148	148
0.12	52	72	103	135	153	161	161
0.13	58	76	106	139	162	172	176
0.14	61	79	109	142	168	182	188
0.15	66	84	112	146	175	191	200
0.16	70	88	115	149	178	199	211
0.17	75	92	119	151	184	207	221
0.18	79	95	122	154	187	214	230
0.19	83	100	126	157	191	220	238
0.20	88	104	129	160	194	223	245
0.21	92	108	133	164	197	229	252
0.22	97	112	137	167	200	232	257
0.23	101	117	140	169	203	236	263
0.24	105	121	144	173	206	239	268
0.25	110	126	148	176	209	243	272
0.26	113	130	151	180	212	246	276
0.27	119	134	155	184	216	249	280
0.28	122	138	160	187	218	251	284
0.29	128	142	164	191	222	254	287
0.30	131	146	167	194	225	257	290
0.31	136	151	172	198	228	260	293
0.32	140	155	175	202	231	263	296
0.33	144	160	180	205	234	266	299
0.34	149	164	184	209	238	269	302
0.35	153	168	187	212	241	272	305
0.36	158	172	191	216	245	275	308
0.37	162	177	196	220	248	278	311
0.38	166	182	200	223	250	281	314
0.39	171	185	203	227	254	285	317
0.40	175	189	207	231	257	288	320

TABLE 2.—CHEMISTRY FACTOR FOR METAL, °F

Copper, Wt-%	Nickel, Wt-%						
	0	0.20	0.40	0.60	0.80	1.00	1.20
0	20	20	20	20	20	20	20
0.01	20	20	20	20	20	20	20
0.02	20	20	20	20	20	20	20
0.03	20	20	20	20	20	20	20
0.04	22	26	26	26	26	26	26
0.05	25	31	31	31	31	31	31
0.06	28	37	37	37	37	37	37
0.07	31	43	44	44	44	44	44
0.08	34	48	51	51	51	51	51
0.09	37	53	58	58	58	58	58
0.10	41	58	65	65	67	67	67
0.11	45	62	72	74	77	77	77
0.12	49	67	79	83	86	86	86
0.13	53	71	85	91	96	96	96
0.14	57	75	91	100	105	106	106
0.15	61	80	99	110	115	117	117
0.16	65	84	104	118	123	125	125
0.17	69	88	110	127	132	135	135
0.18	73	92	115	134	141	144	144
0.19	78	97	120	142	150	154	154
0.20	82	102	125	149	159	164	165
0.21	86	107	129	155	167	172	174
0.22	91	112	134	161	176	181	184
0.23	95	117	138	167	184	190	194
0.24	100	121	143	172	191	199	204
0.25	104	126	148	176	199	208	214
0.26	109	130	151	180	205	216	221
0.27	114	134	155	184	211	225	230
0.28	119	138	160	187	216	233	239
0.29	124	142	164	191	221	241	248

TABLE 2.—CHEMISTRY FACTOR FOR METAL, °F—Continued

Copper, Wt-%	Nickel, Wt-%						
	0	0.20	0.40	0.60	0.80	1.00	1.20
0.30	129	146	167	194	225	249	257
0.31	134	151	172	198	228	255	266
0.32	139	155	175	202	231	260	274
0.33	144	160	180	205	234	264	282
0.34	149	164	184	209	238	268	290
0.35	153	168	187	212	241	272	298
0.36	158	173	191	216	245	275	303
0.37	162	177	196	220	248	278	308
0.38	166	182	200	223	250	281	313
0.39	171	185	203	227	254	285	317
0.40	175	189	207	231	257	288	320

(3) To verify that the values of RT_{PTS} calculated as required by paragraph (b)(2) of this section are bounding values for the specific reactor vessel, licensees shall consider plant-specific information that could affect the level of embrittlement. This information includes but is not limited to the reactor vessel operating temperature and surveillance results. Results from the plant-specific surveillance program shall be integrated into the embrittlement estimate if,

(i) The plant-specific surveillance data has been deemed credible as defined in Regulatory Guide 1.99 Revision 2, and

(ii) The RT_{PTS} value changes significantly.[2]

Any information that is believed to improve the accuracy of the RT_{PTS} value significantly shall be reported to the Director, Office of Nuclear Reactor Regulation. Values of RT_{PTS} that have been modified using the procedures of this paragraph are subject to the approval of the Director, Office of Nuclear Reactor Regulation when used as provided in this section.

(4) For each pressurized water nuclear power reactor for which the value of RT_{PTS} for any material in the beltline is projected to exceed the PTS screening criterion before the expiration date of the operating license, or the projected expiration data if a change in the license has been requested, or the end of a renewal term if a request for license renewal has been submitted, the licensee shall submit by March 16, 1992, an analysis and schedule for implementation of such flux reduction programs as are reasonably practicable to avoid exceeding the PTS screening criterion set forth in paragraph (b)(2) of this section. The schedule for implementation of flux reduction measures may take into account the schedule for submittal and anticipated Commission approval of detailed plant-specific analyses, submitted to demonstrate acceptable risk at values of RT_{PTS} above the screening limit due to plant modifications, new information or new analysis techniques.

(5) For each pressurized water nuclear power reactor for which the analysis required by paragraph (b)(4) of this section indicates that no reasonably practicable flux reduction program will prevent the value of RT_{PTS} from exceeding the PTS screening criterion before the expiration date of the operating license, or the projected expiration date if a change in the operating license has been requested, or the end of a renewal term if a request for license renewal has been submitted, the licensee shall submit a safety analysis to determine what, if any, modifications to equipment, systems, and operation are necessary to prevent potential failure of the reactor vessel as a result of postulated PTS events if continued operation beyond the screening criterion is allowed. In the analysis, the licensee may determine reactor vessel materials properties based on available information, research results, and plant surveillance data, and may use probabilistic fracture mechanics techniques. This analysis must be submitted at least 3 years before the value of RT_{PTS} is projected to exceed the PTS screening criterion or by one year after the effective date of this amendment, whichever is later.

(6) After consideration of the licensee's analyses (including effects of proposed corrective actions, if any) submitted in accordance with paragraphs (b)(4) and (b)(5) of this section, the Commission may, on a case-by-case basis, approve operation of the facility at values of RT_{PTS} in excess of the PTS screening criterion. The Commission will consider factors significantly affecting the potential for failure of the reactor vessel in reaching a decision.

(7) If the Commission concludes, pursuant to paragraph (b)(6) of this section, that operation of the facility at values of RT_{PTS} in excess of the PTS screening criterion cannot be approved on the basis of the licensee's analyses submitted in accordance with paragraphs (b)(4) and (b)(5) of this section, the licensee shall request and receive Commission approval prior to any operation beyond the criterion. The request must be based upon modifications to equipment, systems, and operation of the facility in addition to those previously proposed in the submitted analyses that would reduce the potential for failure of the reactor

[2] Changes to RT_{PTS} values are considered significant if either the value determined in paragraph (b)(2) of this section or the alternate value determined in paragraph (b)(3) of this section, or both values, exceed the screening criterion, prior to the expiration of the operating license, including any renewed term, if applicable, for the plant.

vessel due to PTS events, or upon further analyses based upon new information or improved methodology.

Dated at Rockville, MD, this 6th day of May, 1991.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

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SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Regulations; Waiver of the Nonmanufacturer Rule

AGENCY: Small Business Administration.

ACTION: Notice to waive the "Nonmanufacturer Rule" for multiple products.

SUMMARY: This notice advises the public that the Small Business Administration (SBA) is establishing a waiver of the "Nonmanufacturer Rule" for the products listed in **SUPPLEMENTARY INFORMATION.** These Products are being granted waivers because no small business is supplying them to the Federal government. The effect of a waiver is to allow an otherwise qualified regular dealer to supply the product of any domestic manufacturer on a Federal contract set aside for small business or awarded through the SBA 8(a) program.

EFFECTIVE DATE: May 15, 1991.

FOR FURTHER INFORMATION CONTACT: James Fairbairn, Industrial Specialist, phone (202) 205–6465.

SUPPLEMENTARY INFORMATION:

PSC	Product lines granted waivers
3805	Loaders.
3820	Drill Rigs.
4710	Pipe and Tubing, High Nickel Alloy.
5805	Digital EPBX Equipment.
6810	Soda Ash, Ethyl Acetate, Propylene Glycol, Caustic Soda, Methylene Chloride, Acetone, 1,1,1,-Trichloroethane, Heptane, HPLC, Methanol, Nitric Acid, Toluene, Hydrochloric Acid NN-Dimethyl Formamine, Ammonium Sulfate, Benzene.
7220	Vinyl Surface, Tile and Roll; Carpet Tile; Woven Carpet, 6-Feet Vinyl Back Broadloom.
9510	Bars and Rods, High Nickel Alloy.
9515	Plate, Sheet, Strip and Foil; Stainless Steel and High Nickel Alloy.
9520	Structural Shapes, High Nickel Alloy.
9525	Wire, Nonelectrical, High Nickel Alloy.
9530	Bars and Rods, High Nickel Alloy, Titanium, Aluminum, Nickel-Copper, Nickel-Copper-Aluminum, Copper, Copper-Nickel, Aluminum-Bronze and Naval Brass.
9540	Structural Shapes, Angles, Channels, Tees and Zees, Aluminum and High Nickel Alloy.
9545	Plate, Sheet, Strip, Foil and Wire; High Nickel Alloy.

After an initial survey of these product lines, SBA notified the public by notice in the **Federal Register** on December 18, 1990 (Vol. 55, No. 243 p. 51913), of its proposed intention to grant a waiver for the products indicated. After a thirty day comment period, small business sources were identified for only two products in the proposed waiver list, poultry and sulfuric acid. These products were therefore deleted from the final waiver list, and we now publish a final waiver for these products on this list. The basis for a waiver is that no small business manufacturer or processor is supplying these specific product lines to the Federal government.

On November 15, 1988, Public Law 100–656 incorporated into the Small Business Act the existing SBA policy that recipients of contracts set aside for small business or the SBA 8(a) Program shall provide the products of small business manufacturers or processors. This requirement is commonly known as the "Nonmanufacturer Rule". The SBA regulations imposing this requirement are found in 13 CFR 121.906(b) and 121.1106(b). Section 303(h) of the law provides for waiver of this requirement by SBA for any "class of products" for which there are no small business manufacturers or processors in the Federal market. A class of products is considered to be a particular Product and Service Code (PSC) under the Federal Procurement Data System or an SBA recognized product line within a PSC. To be considered in the Federal market, a small business must have been awarded a contract by the Federal government to supply that particular class of products within the past three years. SBA has been requested to issue a waiver for each of the products listed above because of an apparent lack of any small business manufacturers or processors for them within the Federal market. SBA searched its Procurement Automated Source System (PASS) for small business manufacturers or processors that have sold to the Federal government. When no small business manufacturers or processors were identified within the Federal market by the PASS search, we published a notice to the public in the **Federal Register** stating our proposed intention to grant waivers for these products unless new information was found. The notice described the legal provisions for a waiver, how SBA defines the market, and requested information as to whether small businesses manufacturers have sold them to the Federal government during the past three years.

We received only three comments on the notice of intent to issue a waiver for these products. The Department of the Treasury strongly supports the proposal to waive the rule for a wide range of chemicals and metal products Waiver for the products is thought to help both the agency and small business. Two other government agencies identified new small business sources for poultry and sulfuric acid. They have thus been deleted from the Proposed Rule. This waiver is being granted pursuant to statutory authority under section 303(h) of Public Law 100–656. A waiver for the designated products is for an indefinite period, but is subject to an annual review or upon receipt of information indicating that the conditions required for a waiver no longer exist. If SBA determines that the conditions required for a waiver no longer exist, the waiver will be determined. That termination will be published in the **Federal Register.**

Dated: April 29, 1991.

Patricia Saiki,

Administrator.

[FR Doc. 91–10997 Filed 5–14–91; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90–NM–210–AD; Amendment 39–6997]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which currently requires repetitive inspections for cracking of the frame structure and skin in the fuselage section 41 and repair, if necessary. Such cracking, if not corrected, could result in sudden decompression of the fuselage. This amendment eliminates the X-ray inspection option for all airplanes, eliminates the borescope inspection for all airplanes that have accumulated more than 20,000 flight cycles, reduces the repetitive inspection intervals in

certain areas, and eliminates deferral of crack repair. This amendment is prompted by recommendations of the FAA-sponsored Boeing Model 747 Structures Working Group.

EFFECTIVE DATE: June 24, 1991.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Steven C. Fox, Seattle Aircraft Certification Office, Airframe Branch, ANM-120S; telephone (206) 227-2777. Mailing address: FAA, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 86-23-06 R1, Amendment 39-5583 (52 FR 7567, March 12, 1987), applicable to Boeing Model 747 series airplanes, to require repetitive inspections for cracking of body frames and skin in the fuselage section 41 and repair, if necessary, was published in the **Federal Register** on January 10, 1991 (56 FR 968).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Two commenters, the manufacturer and the Air Line Pilots Association (ALPA), fully supported the proposed rule.

Another commenter, the Air Transport Association (ATA) of America on behalf of its members, expressed no objection to the deletion of the x-ray and borescope inspections for airplanes with greater than 20,000 flight cycles; however, two members requested that the proposed rule be revised to defer repair of cracks at body station (BS) 400 bulkhead and at the nose wheel well forward canted bulkhead, as permitted by the existing AD 86-23-06 R1, since these areas have been safely monitored since 1973. The FAA does not concur. Since the issuance of that AD, the FAA has determined that the areas adjacent to the frames, such as the skin panels from BS 360 to 540, stringers 6 to 14, the nose wheel well vertical beams and webs, and BS 256 canted bulkhead chords and fuselage skin, are also prone to cracking and are the subject of other AD's. Based upon these findings of cracks in the adjacent areas, the FAA has determined that, in order to assure the continued operational safety of these airplanes, deferral of repairs of known cracks cannot be permitted.

Paragraph F. of the final rule has been revised to specify the current procedure for submitting requests for approval of alternative methods of compliance.

The economic analysis paragraph, below, has been revised to increase the specified hourly labor rate from $40 per manhour (as was cited in the preamble to the Notice) to $55 per manhour. The FAA has determined that it is necessary to increase this rate used in calculating the cost impact associated with AD activity to account for various inflationary costs in the airline industry.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither significantly increase the economic burden on any operator nor increase the scope of the rule.

There are approximately 685 Model 747 series airplanes of the affected design in the worldwide fleet. It is estimated that 202 airplanes of U.S. registry will be affected by this AD, that it will take approximately 3,612 manhours per airplane to accomplish the required actions, and that the average labor cost will be $55 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $40,129,320.

It should be noted that the total cost impact figure indicated above includes the labor costs of approximately 2,400 manhours for previously-required inspections that continue to be required by this new AD action. The additional costs imposed by new requirements of this AD action include labor charges for approximately 1,200 additional manhours.

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 final evaluation has been prepared for this action and is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 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 superseding amendment 39-5583 (52 FR 7567, March 12, 1987), AD 86-23-06 R1, with the following new airworthiness directive:

AD 91-11-01. **Boeing:** Amendment 39-6997. Docket No. 90-NM-210-AD. Supersedes AD 86-23-06 R1.

Applicability: Model 747 series airplanes, listed in Boeing Alert Service Bulletin 747-53A2265, Revision 7, dated January 25, 1990, certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To prevent sudden decompression of the fuselage, accomplish the following:

A. Within the next 500 flight cycles after the effective date of this AD, or prior to accumulating the flight limit specified in Boeing Drawing 624U0001, Sheet 3, Revision A, dated December 14, 1989, whichever occurs later, accomplish the inspections contained in Boeing Alert Service Bulletin 747-53A2265, Revision 7, dated January 25, 1990. Repeat these inspections at intervals not to exceed those specified in the drawing.

B. If any cracking is found, repair in accordance with FAA-approved procedures prior to further flight. Concurrent with performing any repair, visually inspect adjacent structures in accordance with Section III of Boeing Alert Service Bulletin 747-53A2265, Revision 7, dated January 25, 1990, and repair any cracks in accordance with FAA-approved procedures prior to further flight.

C. For the purpose of complying with this AD, the number of landings may be determined to equal the number of pressurization cycles where the cabin differential pressure was greater than 2.0 PSI.

D. For Model 747SR airplanes only, based on continued mixed operation of lower cabin differentials, the initial inspection thresholds and the repetitive inspection intervals

specified in this AD may be multiplied by a 1.2 adjustment factor.

E. For structure that has been installed during previous airplane modification/repair, the inspection thresholds referenced in paragraph A of this AD are measured from the time of replacement of that structure.

F. 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, Seattle Aircraft Certification Office (ACO), 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, Seattle ACO.

G. 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.

H. Installation of new and improved body frame structure in accordance with FAA-approved procedures or Boeing Service Bulletin 747-53-2272, dated January 12, 1987, is considered terminating action for the repetitive inspections required by this AD for the structure replaced and other adjacent structure (considered to be stingers, clips, and skin associated with the frame).

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

This amendment supersedes Amendment 39-5583, AD 86-23-06 R1. This amendment (39-6997, AD 91-11-01) becomes effective June 24, 1991.

Issued in Renton, Washington, on May 7, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-11495 Filed 5-14-91; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91-NM-05-AD; Amendment 39-7000]

Airworthiness Directives; Short Brothers, PLC, Model SD3-60

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Short Brothers, PLC, Model SD3-60 series airplanes, which requires modification of the wiring for the emergency lighting system and the installation of two new relays. This amendment is prompted by reports which indicate that the emergency lighting system will not illuminate automatically if normal airplane power is interrupted or lost. This condition, if not corrected, could result in failure of the emergency lights to illuminate during an emergency.

EFFECTIVE DATE: June 24, 1991.

ADDRESSES: The applicable service information may be obtained from Short Brothers, PLC, 2011 Crystal Drive, suite 713, Arlington, Virginia 22202-3719. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM-113; telephone (206) 227-2148. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to certain Short Brothers, PLC, Model SD3-60 series airplanes, which requires modification of the wiring for the emergency lighting system and the installation of two new relays, was published in the **Federal Register** on February 11, 1991 (56 FR 5375).

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received in response to the proposal.

Paragraph C. of the final rule has been revised to specify the current procedure for submitting requests for approval of alternative methods of compliance.

The economic analysis paragraph, below, has been revised to increase the specified hourly labor rate from $40 per manhour (as was cited in the preamble to the Notice) to $55 per manhour. The FAA has determined that it is necessary to increase this rate used in calculating the cost impact associated with AD activity to account for various inflationary costs in the airline industry.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed with the changes previously described. The FAA has determined that these changes will neither significantly increase the economic burden on any operator, nor significantly increase the scope of the AD.

It is estimated that 86 airplanes of U.S. registry will be affected by this AD, that it will take approximately 24 manhours per airplane to accomplish the required actions, and that the average labor cost will be $55 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $113,520.

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 final evaluation has been prepared for this action and is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 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:

AD 91-11-04. **Short Brothers, PLC:** Amendment 39-7000. Docket 91-NM-05-AD.

Applicability: Model SD3-60 series airplanes, Serial Numbers SH3601 through SH3764, certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To prevent a failure of the emergency lighting system to illuminate during an emergency, accomplish the following:

A. For Serial Numbers SH3601 through SH3661, and SH3663 through SH3665: Within 2,400 hours time-in-service or within 6 months after the effective date of this AD, whichever occurs first, modify the wiring for the emergency lighting system and install two

new relays between CB243 and the left and right under voltage units, in accordance with part A. of Short Brothers Service Bulletin SD360–33–22, Revision 1, dated November 1990.

B. For Serial Numbers SH3662 and SH3666 through SH3764: Within 2,400 hours time-in-service or within 6 months after the effective date of this AD, whichever occurs first, modify the wiring for the emergency lighting system and install two new relays between CB243 and the left and right under voltage units, in accordance with part B. of Short Brothers Service Bulletin SD360–33–22, Revision 1, dated November 1990.

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.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Short Brothers, PLC, 2011 Crystal Drive, suite 713, Arlington, Virginia 22202–3719. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

This amendment (39–7000, AD 91–11–04) becomes effective June 24, 1991.

Issued in Renton, Washington, on May 7, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–11494 Filed 5–14–91; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 90–NM–263–AD; Amdt. 39–6998]

Airworthiness Directives; McDonnell Douglas Model DC–9–80 (MD–80) Series Airplanes and Model MD–88 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to McDonnell Douglas Model DC–9–80 (MD–80) series and Model MD–88 airplanes, which currently requires repetitive inspections of the left and right engine forward mount upper and lower cone bolt through-bolts and the through-bolt nuts. This amendment requires installation of castellated nuts and cotter pins as terminating action for the repetitive inspection requirements of that AD. This amendment is prompted by reports of recent incidents involving loose and missing through-bolt nuts and/or partially backed-off through-bolts. This condition, if not corrected, could result in separation of the engine from airplane.

EFFECTIVE DATE: June 24, 1991.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90806, Attention: Business Unit Manager of Publications, C1–HCO (54–60). This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, or at the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. David Y.J. Hsu, Aerospace Engineer, Airframe Branch, ANM–122L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806–2425; telephone (213) 988–5323.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 90–12–51, Amendment 39–6684 (55 FR 31821, August 6, 1990), applicable to McDonnell Douglas Model DC–9–80 (MD–80) series airplanes and Model MD–88 airplanes, to require installation of castellated nuts and cotter pins as terminating action for the repetitive inspection requirements of that AD, was published in the **Federal Register** on January 8, 1991 (56 FR 659).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Three commenters indicated total agreement with the proposal.

One commenter contended that if a repair is required before further flight, the requirements for that repair should be specified in the AD so that the operator does not have to wait for the approval from the Manager of the Los Angeles Aircraft Certification Office. The FAA disagrees. The repair requirements generally vary from one condition to the other, and each repair scheme can only be addressed on a case-by-case basis. Furthermore, operators have the option of accomplishing the terminating action prior to the required compliance time, whereby the required inspections and consequent repairs can be terminated.

Several commenters requested that the proposed 18-month compliance time for the accomplishment of the terminating action be extended to accommodate operators' current maintenance schedules. Three commenters recommended that it be extended to 24 months or 30 months after the effective date of the new AD, basically for the economic reason that engines may have to be removed on an unscheduled basis; these commenters suggested that an acceptable level of safety can be retained by continuing the 30-day repetitive inspections in accordance with paragraphs B. of the AD. One commenter recommended that the compliance time be extended to 24 months after receipt of parts in sufficient quantities, or by February 28, 1993, due to the fact that new bolts P/N PBF 1559D, as required in Option 2 specified in the AD, will not be readily available until February or March 1991; this commenter contended that Option 2 is the only viable approach to accomplish this required terminating action. The FAA disagrees with all of these suggestions. In developing an appropriate compliance time for this AD action, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but the availability of required parts and the practical aspect of installing the terminating modification within a maximum interval of time allowable for all affected airplanes to continue to operate without compromising safety. The manufacturer has advised that an ample number of required parts for the affected fleet will be available within the 18-month compliance time. However, under the provisions of paragraph F. of the final rule, operators may apply for alternative methods of compliance if the application is accompanied by data substantiating that an acceptable level of safety will be provided.

Two commenters recommended that the reporting requirements of paragraph D. of the AD for the repetitive inspections portion be deleted. These commenters contended that inspection data serves no more useful purpose beyond the first inspection. The FAA agrees. Paragraph D. of the AD has been revised to require submission of a report only after performing the initial inspection in accordance with paragraph A. of the AD.

The data of McDonnell Douglas Service Bulletin 71–51 was incorrectly cited in the Notice as September 26, 1990; the correct date of that service

bulletin is September 28, 1990. The final rule reflects this corrected date.

Paragraph F. of the final rule has been revised to specify the current procedures for submitting requests for approval of alternative methods of compliance.

In addition, the economic analysis paragraph, below, has been revised to increase the specified hourly labor rate from $40 per manhour (as was cited in the preamble to the Notice) to $55 per manhour. The FAA has determined that it is necessary to increase this rate used in calculating the cost impact associated with AD activity to account for various inflationary costs in the airpline industry.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interests require the adoption of the rule as proposed with the changes previously described. The FAA has determined that these changes will neither significantly increase the economic burden on any operator, nor increase the scope of the AD.

There are approximately 831 Model DC–9–81, –82, –83, and –87 series airplanes, and Model MD–88 airplanes, of the affected design in the worldwide fleet. It is estimated that 397 airplanes of U.S. registry would be affected by this AD, that it would take approximately 58 manhours per airplane to accomplish the required actions, and that the average labor costs would be $55 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $1,266,430.

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 final evaluation has been prepared for this action and is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 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 superseding Amendment 39–6684 (55 FR 31821; August 6, 1990), AD 90–12–51, with the following new airworthiness directive:

AD 91–11–02. McDonnell Douglas: Amendment 39–6998. Docket No. 90–NM–283–AD. Supersedes AD 90–12–51.

Applicability: Model DC–9–81, –82, –83, and –87 (MD–81, –82, –83 and –87) series airplanes and Model MD–88 airplanes, certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To prevent damage to the engine, cone bolts, and pylon, or separation of an engine from the airplane, as a result of the loss of a through-bolt, accomplish the following:

A. Within seven days after August 29, 1990 (the effective date of Amendment 39–6684, AD 90–12–51), inspect the through-bolt nut, P/N SPS83978–1216, for proper torque and conditions in accordance with McDonnell Douglas MD–80 Alert Service Bulletin A71–51, dated May 23, 1990. If any of the following discrepancies are found, take corrective action as required below:

Condition A: If the torque stripe is misaligned, prior to further flight, accomplish the following:

I. Remove and replace the nut in accordance with paragraph C. of this AD, and

II. Apply a new torque stripe.

Condition B: If the torque stripe is aligned properly, within 10 calendar days, verify that the torque on the nut is 250 inch-pounds (in-lb) or more.

I. If the torque is 250 in-lb or more, remove and replace the torque stripe.

II. If the torque is less than 250 in-lb, reinstall the nut in accordance with paragraph C. of this AD and apply a new torque stripe.

Condition C: If the torque stripe is missing, and the nut is seated, and the through-bolt head is seated and positioned properly (there is no gap between the nut base and washer, or the washer and engine mount flange bushing, or the through-bolt head and retainer, or the retainer and engine mount flange bushing), within 10 calendar days, apply 30 in-lb of torque:

I. If the nut turns remove and replace the nut in accordance with paragraph C. of this AD and apply a new torque stripe.

II. If the nut does not turn, torque to the required range of 250 in-lb to 300 in-lb, and apply a new torque stripe.

Condition D: If the torque stripe is missing and there is a gap between the nut base and washer, or the washer and engine mount flange bushing, or the through-bolt head and retainer, or the retainer and engine mount flange bushing; prior to further flight, apply 30 in-lb of torque:

I. If the nut turns, remove and replace the nut in accordance with paragraph C. of this AD and apply a new torque stripe.

II. If the nut does not turn, torque to the required range of 250 in-lb to 300 in-lb, and apply a new torque stripe.

Condition E: If the nut is missing and the through-bolt has not migrated, prior to further flight, install a new nut in accordance with paragraph C. of this AD and apply a new torque stripe.

Condition F: If the nut is missing and the through-bolt is mission or partially backed-out, prior to further flight, repair in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. Repeat the inspections required by paragraph A. of this AD at intervals not to exceed 30 calendar days; except that, if the torque stripe is aligned properly, the corrective action identified in Condition B, above, is not required.

C. Nut installation method and requirements:

1. Remove and replace the nut.

2. Remove the existing torque stripe.

3. Ensure that the through-bolt head is properly positioned and in place.

4. Measure the running torque of the nut on the through-bolt. If the running torque is less than 30 in-lb or more than 100 in-lb, discard the nut and replace it with a new nut. If the running torque is 30 in-lb or more but less than 100 in-lb, continue with the installation procedure.

5. Ensure that the final installation torque is at least 250 in-lb but less than 300 in-lb.

D. Within 10 days after performing the initial inspection required by paragraph A. of this AD, submit a report of any discrepancies to the Manager, Los Angeles Manufacturing Inspection District Office, 3229 East Spring Street, Long Beach, California 90806–2425. The report must include the airplane's serial number.

E. Within 18 months after the effective date of this AD, install castellated nuts and cotter pins in accordance with McDonnell Douglas MD–80 Service Bulletin 71–51, dated September 28, 1990. Accomplishment of this modification constitutes terminating action for the repetitive inspection requirements of this AD.

F. 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 of the Los Angeles Aircraft Certification Office (ACO), 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, Los Angeles ACO.

G. 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.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Business Unit Manager of Publications, C1–HCO (54–60). These documents may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue S.W., Renton, Washington; or at the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

This amendment supersedes Amendment 39–6684, AD 90–12–51.

This amendment becomes effective June 24, 1991.

Issued in Renton, Washington, on May 7, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–11498 Filed 5–14–91; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 90–NM–287–AD; Amdt. 39–6999]

Airworthiness Directives; McDonnell Douglas Model DC–9–80 (MD–80) Series Airplanes and Model MD–88 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to McDonnell Douglas Model DC–9–80 (MD–80) series airplane and Model MD–88 airplanes, which currently requires inspection of passenger service unit (PSU) oxygen doors for proper seating, and readjustment, if necessary. This amendment requires installation of door stops as terminating action for the required repetitive inspections. This amendment is prompted by reports of PSU oxygen doors being pushed up past the door seal, which has caused the door to jam. This condition, if not corrected, could result in passenger oxygen not being readily available for use in the event of a cabin depressurization.

EFFECTIVE DATE: June 24, 1991.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, Post Office Box 1771, Long Beach, California 90801, Attn: Business Unit Manager, Technical Publications, C1–HCW (54–60). This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, or the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach California.

FOR FURTHER INFORMATION CONTACT: Robert T. Razzeto, Aerospace Engineer, Los Angeles Aircraft Certification Office, ANM–131L, FAA, Transport Airplane Directorate, 3229 East Spring Street, Long Beach, California 90806–2425; telephone (213) 988–5355.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 90–22–05, Amendment 39–6780 (55 FR 42358, October 19, 1990), applicable to McDonnell Douglas Model DC–9–80 (MD–80) series airplanes and Model MD–88 airplanes, to require modification of the PSU panel door frame by adding door stops, was published in the Federal Register on February 1, 1991 (56 FR 3984).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the three comments received.

One commenter, the manufacturer, agreed with the rule as proposed.

Two commenters, Air Transport Association (ATA) and an operator, expressed concern with the proposed 12-month compliance time. They believe that a 12-month compliance time will create undue airplane routing and maintenance scheduling problems. These commenters suggested that the compliance time be extended to 24 months. The FAA does not concur. In developing an appropriate compliance time, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but the availability of require parts and the practical aspect of installing the required modifications during operators' normal maintenance schedules. The compliance time, as proposed, represents the maximum interval of time allowable wherein the modification could reasonably be accomplished, parts could be obtained, and an acceptable level of safety could be maintained.

Paragraph D. of the final rule has been revised to specify the current procedures for submitting requests for approval of alternative methods of compliance.

The economic analysis paragraph, below, has been revised to increase the specified hourly labor rate from $40 per manhour (as cited in the preamble to the Notice) to $55 per manhour. The FAA has determined that it is necessary to increase this rate used in calculating the cost impact associated with AD activity to account for various inflationary costs in the airline industry.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither significantly increase the economic burden on any operator nor increase the scope of the rule.

There are approximately 732 Model DC–9–80 MD–80 series and Model MD–88 airplanes of the affected design in the worldwide fleet. It is estimated that 374 airplanes of U.S. registry will be affected by this AD, that it will take approximately 30 manhours per airplane to accomplish the required actions, and that the average labor cost will be $55 per manhour. The cost of parts to accomplish the modification is approximately $10 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $620,840.

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 final evaluation has been prepared for this action and is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 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 superseding Amendment 39–6780 (55 FR 42358, October 19, 1990), AD 90–22–05, with the following new airworthiness directives:

AD 91–11–03. McDonnell Douglas: Amendment 39–6999. Docket 90–NM–287–AD.

Applicability: Model DC–9–80 (MD–80) series airplanes and Model MD–88 airplanes, certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To prevent passenger service unit (PSU) oxygen doors from being jammed closed, accomplish the following:

A. Within 45 days after November 5, 1990 (the effective date of Amendment 39–6780, AD 90–22–05), and thereafter at intervals not to exceed 45 days, inspect all PSU oxygen doors for proper closure, in accordance with McDonnell Douglas Alert Service Bulletin A25–315, Revision 1, dated August 24, 1990.

B. Any jammed PSU oxygen doors found during the inspection required by paragraph A. of this AD must be readjusted prior to further flight, in accordance with Phase I of paragraph 2 of the Accomplishment Instructions of McDonnell Douglas Alert Service Bulletin A25–315, Revision 1, dated August 24, 1990.

C. Within 12 months after the effective date of this AD install PSU oxygen door stops in accordance with Phase II of paragraph 2 of the Accomplishment Instructions of McDonnell Douglas Alert Service Bulletin A25–315, Revision 1, dated August 24, 1990. Such installation constitutes terminating action for the repetitive inspections required by paragraph A. of this AD.

D. 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, Los Angeles Aircraft Certification Office (ACO), 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, Los Angeles ACO.

Note: Previously granted approval for an alternative method of compliance to AD 90–22–05 also constitutes approval for this AD.

E. 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.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, Post Office Box 1771, Long Beach, California 90801, Attn: Business Unit Manager, Technical Publications, C1–HCW (54–60). These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, or the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

This amendment supersedes Amendment 39–6780, AD 90–22–05.

This amendment (39–6999, AD 91–11–03) becomes effective June 24, 1991.

Issued in Renton, Washington, on May 7, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–11493 Filed 5–14–91; 8:45 am]

BILLING CODE 4910–13–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 200, 229, 260, and 269

[Release Nos. 33–6892, 39–2263; File No. S7–11–91, International Series Release No. 266]

RIN 3235–AE13

Rules and Forms to Implement the Trust Indenture Reform Act of 1990

AGENCY: Securities and Exchange Commission.

ACTION: Final Rules and Forms and Solicitation of Comments.

SUMMARY: The Securities and Exchange Commission ("Commission") is adopting new rules and a new form, and revising existing rules and forms, to implement amendments to the Trust Indenture Act of 1939 ("Trust Indenture Act" or "Act") effected by the Trust Indenture Reform Act of 1990 ("1990 Reform Act"). The new and revised rules and forms are to be used in applying for (a) exemptions from one or more provisions of the Act, (b) post-effective determinations of the eligibility of trustees under indentures relating to securities to be offered on a delayed basis, (c) determinations of the eligibility of foreign persons to act as sole trustee under qualified indentures, and (d) orders staying a trustee's duty to resign. The Commission also is amending current forms to conform them to amendments to the Act, which no longer authorizes refusal of qualification on the basis of pre-default conflicts of interest. The Commission is soliciting public comment on the new rules and form and the amendments to existing rules and forms adopted today. Finally, the Commission is alerting the public to an apparent drafting error in the Reform Act, concerning trustee reports under section 313 of the Act.

EFFECTIVE DATE: May 15, 1991.

DATES: Comment letters on the rules and forms being adopted should be received by July 1, 1991.

ADDRESSES: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Mail Stop 6–9, Washington, DC 20549. Comments letters should refer to File No. S7–11–91. All comment letters received will be made available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Felicia Smith, (202) 272–2573, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission is adopting amendments to Rules 5a–2 [1] and 7a–15 [2] and Forms T–1 [3] and T–2 [4] under the Act.[5] The Commission also is adopting Rules 4d–7 and 4d–8,[6] Rules 5b–1 through 5b–3,[7] Rules 10a–1 through 10a–4,[8] Rules 10b–4 through 10b–6 [9] and Form T–6 [10] under the Act. In addition, the Commission is adopting Rules 30–1(e)(5) through 30–1(e)(8) [11] relating to delegation of authority. Finally, the Commission is adopting Item 512(k) [12] of Regulation S–K under the Securities Act of 1933 (the "Securities Act").[13]

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[2] 17 CFR 260.7a–15.
[3] 17 CFR 269.1.
[4] 17 CFR 269.2.
[5] 15 U.S.C. 77aaa *et seq.*
[6] 17 CFR 260.4d–7 and 260.4d–8.
[7] 17 CFR 260.5b–1—260.5b–3.
[8] 17 CFR 260.10a–1—260.10a–4.
[9] 17 CFR 260.10b–4—260.10b–6.
[10] 17 CFR 269.9.
[11] 17 CFR 200.30–1(e)(5)—200.30–1(e)(8).
[12] 17 CFR 229.512(k).
[13] 15 U.S.C. 77a *et seq.*

I. Executive Summary

The Commission is adopting a new form and new procedural rules, and amending existing forms and rules, to carry out the statutory changes enacted by the 1990 Reform Act.[14] This recently enacted legislation modernizes the Trust Indenture Act in response to the significant changes in debt instruments and distribution techniques that have occurred in the five decades since passage of the Act. The 1990 Reform Act streamlines qualification procedures by providing that the indenture provisions mandated by the Act are now applicable as a matter of law. The Commission also has been granted authority to adapt the statute to accommodate new financing techniques. The Act now authorizes the Commission, acting by rule or order, to grant exemptions from the Act's provisions, to determine the eligibility of trustees under indentures for securities to be sold on a delayed basis after indenture qualification, and to permit foreign persons to act as sole trustee under qualified indentures. The Commission also has the authority to stay a trustee's duty to resign under specified circumstances.

More specifically, the Act, as amended, permits the Commission to waive or modify one or more of the statutory requirements where necessary or appropriate in the public interest and consistent with the protection of investors and statutory purposes.[15] To accommodate this new exemptive authority, the Commission is adopting rules to provide procedures for making exemptive applications.[16]

The provisions of the 1990 Reform Act permit a registrant to delay the naming of a trustee under an indenture where the securities are to be sold on a delayed basis and authorize the Commission to determine the eligibility of such a trustee after the indenture has been qualified.[17] In accordance with that grant of authority, the Commission is adopting procedural rules and amendments to Forms T–1 and T–2 that would permit those forms to be used as applications to determine the eligibility of an institutional or individual trustee designated to act as an indenture trustee in such circumstances. The Commission also is adopting a new provision under Regulation S–K that requires a registrant that intends to use the new procedure for delayed determination of the trustee's eligibility to include in its registration statement an undertaking to file the required application.[18]

In light of the continuing internationalization of the securities markets, the 1990 Reform Act added a provision authorizing the Commission to permit a foreign person to act as sole trustee under a qualified indenture where specific conditions are met.[19] The Commission is adopting rules setting forth the application procedure for obtaining that authorization. In addition to procedural rules, the Commission is adopting new Form T–6, which would be used by applicants to provide information to the Commission concerning trust powers and regulation in the foreign jurisdiction, as well as the eligibility of U.S. institutional trustees to act as sole indenture trustee in the foreign jurisdiction.[20]

In connection with adoption of the post-default standard for determining whether a trustee has a disqualifying conflict of interest, the 1990 Reform Act provides that a trustee may apply for a stay of its duty to resign upon specified conditions.[21] The Commission is adopting rules to provide an application procedure for seeking such a stay.[22]

Technical revisions are being adopted to conform existing rules and forms to the statutory amendments. Existing Form T–1 is being amended to reflect its potential use by foreign trustees, and Forms T–1 and T–2 are being amended to reflect the new post-default standard for determining conflicts of interest. In this regard, so long as there has been no default, applicants will be required to provide only limited information with respect to their eligibility to act as trustee under sections 310(a)(1), 310(a)(2), and 310(a)(5).[23] Amendments to rules 5a–2 and 7a–15 make it clear that the Act's general requirements regarding forms of application are applicable to Form T–6.

The Commission is adopting rules authorizing the Director ("Director") of the Division of Corporation Finance ("Division") to grant orders for applications made in accordance with the newly adopted rules and forms, and to accelerate the effectiveness of certain applications.

Finally, the Reform Act amended section 313(a)[24] of the Act, which relates to trustees' reports. Section 313(a) no longer requires an annual report of the trustee. A report now is required only on the occurrence of specified events. Late in the legislative process there was an apparent drafting error in this provision, as a result of which a report is required in certain instances where no report should be necessary and no report is required in a situation where one should be provided. The Commission intends to recommend a technical amendment of the statute to Congress. The Commission is recommending that, until such time as the amendment can be made, trustees should prepare their reports consistent with the Congressional intent as opposed to the literal language of the statute.[25]

II. Discussion of Proposals

A. Applications for Exemption

As amended, section 304(d) of the Act permits the Commission conditionally or unconditionally to exempt "any person, registration statement, indenture, security or transaction, or any class or classes of persons, registration statements, indentures, securities, or transactions" from one or more provisions of the Act, to the extent any such exemption is "necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended" by the Act. Under the Act as amended, the Commission "may, in its sole discretion, decline to entertain any application for an order of exemption * * *."

Changes in the types of debt securities, in the methods of public financing and in the character of relations between obligors and their financial intermediaries have produced situations where the strictures of the Act did not serve its own intent.[26] With the broad exemptive authority granted by the 1990 Reform Act, the Commission will be able to adapt the statutory requirements to particular situations and developing market conditions under standards that look to the statute's fundamental purposes. Both exemptive rules and orders are contemplated.

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[14] Title IV, Public Law No. 101–550, 1990 U.S. Cong. and Ad. News (104 Stat.) 2713, 2721–32.

[15] Section 304(d), 15 U.S.C. 77ddd(d).

[16] See, *infra* II.A, "Applications for Exemption," for discussion of Rules 4d–7 and 4d–8.

[17] Section 305(b)(2), 15 U.S.C. 77eee(b)(2).

[18] See, *infra* II.B, "Applications for Determining Eligibility of a Person Designated as Trustee for an Offering on a Delayed Basis," for discussion of Rules 5b–1 *et seq.*, Item 512(j) of Regulation S–K, and the amendments to Forms T–1 and T–2.

[19] Section 310(a)(1), 15 U.S.C. 77jjj(a)(1).

[20] See, *infra* II.C, "Applications for Determining Eligibility of a Foreign Person to Act as Sole Trustee" for a discussion of Rules 10a–1 *et seq.*, and Form T–6.

[21] Section 310(b), 15 U.S.C. 77jjj(b).

[22] See, *infra* II.D, "Applications for Stay of Trustee's Duty to Resign," for a discussion of Rules 10b–4 *et seq.*

[23] 15 U.S.C. 77jjj(a)(1), 77jjj(a)(2), and 77jjj(a)(5).

[24] 15 U.S.C. 77mmm(a).

[25] See *infra*, III "Interpretation of section 313 of the Act."

[26] See S. Rep. No. 101–155, 101st Cong., 1st Sess. 46–47 (1989) ("Senate Report").

The Commission is adopting rules to specify procedures under which applications for exemptive orders may be made. Rules 4d–7 and 4d–8 establish procedures for the filing and content of applications for exemption from the requirements of one or more provisions of the Act.[27]

Rule 4d–7 contains technical filing requirements. It also provides that existing procedures for incorporation by reference may be used in connection with such applications.[28]

Rule 4d–8 requires that the application contain a statement of the relevant facts on which the request for relief is based, including a justification for exemption from any statutory protections, and a discussion of any benefits expected for security holders, trustees and obligors. An application for exemptive relief will not be entertained if it does not contain a justification for the requested relief that is adequate to permit consideration of the application; rather, a request will be made that the application either be withdrawn or amended. In addition, an applicant may be requested to furnish additional information or documents.

The authority to issue orders granting exemptive relief pursuant to application under section 304(d) has been delegated to the Director of the Division through the adoption of Commission Rule 30–1(e)(5). The rule does not provide the Division Director with delegated authority to deny an application under section 304(d), or to exercise the statutory authority to decline to entertain such an application. Accordingly, if the Division believes that a denial is appropriate or that the Commission should not entertain the application, the matter will be submitted to the Commission for its consideration.

The Commission solicits comment on the exemptive procedures adopted.

B. Applications for Determining Eligibility of a Person Designated as Trustee for an Offering on a Delayed Basis

Section 305(b)(2) of the Act, as amended, facilitates qualification of indentures used in connection with delayed offerings of debt securities pursuant to rule 415 under the Securities Act[29] Prior to the amendment, indenture qualification was coordinated fully with the effectiveness of the registration statement. That procedure was based on the assumption that, as was the case when the Act became law, the indenture terms would be fixed and the trustee identified by the time the registration statement became effective. However, the indentures used in delayed offerings now permitted under rule 415 frequently do not specify business terms until the actual sale of the securities at some date later than the effective date.[30]

Under the Act as amended, all indentures for registered debt securities will continue to be filed with the registration statement, and qualified at the time the registration statement becomes effective. However, pursuant to section 305(b)(2) and the rules being adopted today, the issuer of any securities to be sold on a delayed basis will be permitted to file an application to determine the eligibility of the trustee designated to serve under the indenture after the sale of such securities. This procedure also will be available for indentures relating to debt securities that must be included on a registration statement, although they may never be issued (*e.g.*, equity securities exchangeable into debt or debt securities that may be issued in lieu of cash interest or dividend payments).[31] In the event a registrant fails to file an application in a timely fashion or the designated trustee is not eligible to act as an indenture trustee and such issuer fails to file an application to designate an eligible trustee, section 309(b) of the Act[32] authorizes the Commission to issue a stop order pursuant to section 8(d) of the Securities Act[33] suspending the effectiveness of the related registration statement.[34]

Rules 5b–1 through 5b–3 and the amendments to Forms T–1 and T–2 implement the optional procedure for delayed qualification of trustees serving under indentures used in connection with delayed offerings. Rule 5b–1 specifies that Forms T–1 and T–2 are the appropriate forms for applications for determining such eligibility.[35] The forms require information from the designated trustee that will permit the Commission to determine whether the trustee meets the eligibility requirements of Section 310(a) of the Act.[36] The forms also require the applicant to provide the file number of the related registration statement to assist the Commission staff in identifying applications under section 305(b) (2). Forms T–1 and T–2 include a box that must be checked to indicate that the form is being filed to determine the eligibility of the trustee pursuant to section 305(b) (2).

Rule 5b–2 provides that applications are subject to the Act's general requirements as to form and content of applications.[37] Rule 5b–3 sets forth specific technical filing requirements for applications pursuant to section 305(b)(2). In particular, the rule specifies that applications shall be filed no later than the second business day following the initial date of public offering or sales after effectiveness of the registration statement with respect to such securities or transmitted by a means reasonably calculated to result in filing with the Commission by that date.

As specified in the Act, if the trustee meets the eligibility requirements of the Act, the application will become effective the tenth day after it is filed or such earlier date as the Commission may determine, having due regard to the adequacy of information provided, the public interest, and the protection of investors. It is anticipated that the ten day period will be accelerated in almost all cases. If the Commission finds that the trustee does not meet the eligiblity standards of the Act, it will issue a

[27] The grant of exemptive authority to the Commission under section 304(d) parallels a similar provision in the Investment Company Act of 1940 ("Investment Company Act") [15 U.S.C. 80a–6(c)]. The rules adopted under section 304(d) are in many respects identical or similar to the rules applicable to exemptive applications under section 6(c) of the Investment Company Act. See 17 CFR 270.0–2 and 17 CFR 270.0–5.

[28] See Rules 7a–28—7a–32, 17 CFR 260.7a–28—7a–32.

[29] 17 CFR 230.415.

[30] *See* Senate Report at 47.

[31] *Id.*

[32] 15 U.S.C. 77iii(b).

[33] 15 U.S.C. 77h(d).

[34] *See* Senate Report at 47–48.

[35] Forms T–1 and T–2 are the only forms available for applications under section 305(b)(2). Form T–1 may be used by a foreign trustee for this purpose, but only if it has previously received an order or is the subject of a Commission rule permitting the trustee to act as sole trustee under indentures to be qualified. See General Instruction A to Form T–1. Accordingly, obligors will not be able to use a foreign trustee that does not have a previous order or is not the subject of a Commission rule to act as trustee under Section 305(b) (2).

[36] The forms would provide the following information with respect to a domestic institutional trustee: (A) whether it is organized and doing business under the laws of the United States, any State or Territory or the District of Columbia; (b) whether it is authorized under the laws of any of these jurisdictions to exercise trust powers; (c) whether it is subject to supervision or examination by representatives of any of these jurisdictions; (d) whether it has a minimum combined capital and surplus of $150,000; and (e) whether it is an obligor or affiliated with any obligor on the indenture securities. In the case of a foreign trustee, the same information would be elicited, along with a copy of the rule or order granting authority to act as sole trustee on identures to be qualified under the Act. In the event that the Form T–2 is used to determine the eligibility of an individual to act as a co-trustee, the information provided would establish that the individual was not an obligor or affiliated with an obligor on the indenture securities.

The form also would require information with respect to any defaults on the indenture securities. If a default has occurred, institutional trustees, domestic or foreign, and individual trustees would be required to provide additional information relating to conflicts under section 310(b) of the Act.

[37] Rule 5a–2 and Rules 7a–15 through 7a–37, 17 CFR 260.5a–2, 7a–15—7a–37.

refusal order prior to the effective date of the application.[38]

It is anticipated that the incidence of ineligible trustees will be minimal, because the provisions of section 310(a) only require that the trustee be authorized to exercise corporate trust powers; be subject to supervision or examination by Federal, State, Territorial or District of Columbia authority; have a combined capital and surplus of at leat $150,000; and not be the obligor on the securities or a person affiliated with the obligor.[39]

The authority to accelerate the effective date of applications filed under section 305(b)(2) has been delegated to the Director of the Division through the adoption of Commission Rule 30–1(e)(6).

In connection with the new procedures available for determining trustee eligibility for delayed offering, the Commission is amending Item 512 of Regulation S–K. A registrant filing a registration statement with respect to securities to be sold on a delayed basis that wishes to take advantage of the new procedure, and thus to determine the eligibility of its designated trustee on a delayed basis, would be required to undertake that it will file an application to determine eligibility of its designated trustee at such time as required by, and otherwise in accordance with, the Commission's rules. The undertaking would notify the Commission that the registrant intends to postpone the designation of a trustee under an indenture for the securities to be sold on a delayed basis.

Comment is requested on the procedures adopted for determining trustee eligibility for delayed offerings. In particular, comment is requested on the time period within which the application is required to be filed. Should it be a shorter or longer period (*e.g.*, 1 business day or 5 business days)? With respect to the notification to be provided by the proposed undertaking, commenters may wish to address alternative ways in which the registrant's intention to rely on section 305(b)(2) could be indicated.

C. Applications for Determining Eligibility of a Foreign Person to Act as Sole Trustee

Section 310(a)(1) gives the Commission the authority to permit a corporation or other person organized and doing business under the laws of a foreign government to act as sole trustee under an indenture of a foreign obligor. As provided in the statute, permission to serve as sole trustee may be granted to those foreign persons that are authorized under the laws of a foreign jurisdiction to exercise corporate trust powers and are subject to supervision or examination by authority of such foreign government or a political subdivision thereof that is substantially equivalent to U.S. supervision or examination.[40] The Commission's authority under section 310(a) may be exercised by rule or order. The statute also provides that, in making its determination, the Commission shall consider whether, under the foreign law, a United States institutional trustee is eligible to act as sole trustee under an indenture relating to securities sold within the foreign jurisdiction.

Rules 10a–1 through 10a–4 adopted today, provide procedures for applications to determine the eligibility of a foreign person to serve as sole trustee. The Commission also is adopting Form T–6 as an application form for that purpose.

Rule 10a–1 specifies that Form T–6 will be the appropriate form for making applications under section 310(a)(1). Rule 10a–2 provides that the Commission's general requirements as to form and content of applications will be applicable to applications under section 310(a)(10). Rule 10a–3 addresses other technical filing requirements.

In connection with applications under section 310(a)(1), Form T–6 may be used in two circumstances. First, a foreign institution may use the form to apply for a determination that, in the future, it may exercise sole trust powers under qualified indentures. In this case, the form requires the applicant to discuss the applicable statutes or rules in the foreign jurisdiction that provide for supervision or examination substantially equivalent to that provided for in the United States and provide for eligibility of U.S. persons to act as sole trustees in the foreign jurisdictions. Copies of the statutory and regulatory provisions, as well as published administrative interpretations, must be filed as exhibits to the Form T–6, and the instruction to item 15 of the form indicates that opinions of counsel addressing these two matters may be required.

In connection with its current release, the Commission is also requesting comment on the requirements and procedures employed in the supervision and examination of institutional trustees by United States authorities that should be considered by the Commission for comparative purposes in item 15 of Form T–6. In addition, commenters may wish to provide their views on specific factors that applicants should identify in addressing whether, under foreign law, a United States institution trustee would be eligible to act as sole trustee under an indenture relating to securities sold within the foreign jurisdiction.[41]

Secondly, Form T–6 also may be used in those cases where the trustee wishes to obtain an order under section 310(a)(1) at the same time as the issuer files a registration statement relating to the indenture securities. In such cases, additional items on the form must be completed to assure that the trustee meets the eligibility requirements of paragraph (a)(1), (a)(2), and (a)(5) of section 310. The instructions to the form indicate that, where the foreign trustee has previously obtained an order or the Commission has adopted a rule permitting the trustee to act as a sole trustee on indentures to be qualified under the Act, Form T–1 is the appropriate form to be used in connection with the qualification of indentures.[42]

Rule 10a–4 provides that an applicant must designate an agent for service of process in the United States and consent to service of process on such agent at the time an application on Form T–6 is filed. The rule also requires foreign trustees that have been authorized to act as sole trustee, by Commission rule or order, to furnish a consent to service of process as an exhibit to any statement of eligibility to act as trustee filed on Form T–1. Form F–X, proposed by the Commission in connection with the Multijurisdictional Disclosure System ("MJDS") for Canadian issuers, would satisfy these requirements.[43] It is

[38] If a refusal order is issued, the obligor is required to provide a "successor trustee" within five calendar days.

[39] See Senate Report at 48.

[40] Persons not meeting the statutory standard may seek permission to serve as sole trustee under section 304(d) of the Act. See Senate Report at 48.

[41] Similarly, as part of the proposed multijurisdictional disclosure system with Canada, the Commission recently published for comment proposed rule 10a–5 that would permit certain trust companies incorporated under the laws of Canada or a political subdivision of Canada to act as sole trustee under an indenture relating to securities sold in the United States. The release proposing rule 10a–5 contained a summary of significant provisions of Canadian trust regulation. Although the Commission preliminarily concluded that the supervision and examination of institutional trustees in Canada was substantially equivalent to the supervision and examination of institutional trustees in the United States, commenters were invited to address the issue. See Securities Act Release No. 6889 (March 22, 1991).

[42] Form T–1 is being amended to require foreign trustees to provide information evidencing the grant of an order or rule permitting them to act as sole trustee. See Item 15 of Form T–1.

[43] *See* Securities Act Release No. 6879 (Oct. 22, 1990) [55 FR 46288]; Securities Act Release No. 6841 (July 24, 1989) [54 FR 32228].

anticipated that, on the adoption of Form F–X as part of the MJDS, the Commission will amend Rule 10a–4 and Forms T–1 and T–6 to require the use of that form by foreign trustees making application under the Act.

Authority to issue orders under section 310(a)(1) has been delegated to the Director of the Division through the adoption of Commission Rule 30–1(e)(7). The Director does not have authority to deny applications under this section.

Comment is solicited on the procedure for obtaining authorization for a foreign entity to act as sole trustee.

D. Applications for Stay of Trustee's Duty to Resign

Prior to the 1990 Reform Act, the Act provided a 90-day grace period after a conflict arose during which a trustee could eliminate the conflict and restore its eligibility rather than resign. Because the amended statute recognizes a conflict of interest only after a default under the indenture, a trustee need not resign because of a conflict until 90 days after a default occurs. The statutory amendments also created a procedure under which a trustee with a conflict of interest may apply to the Commission within the 90-day period after certain defaults for permission to continue to serve after the expiration of that period.[44]

The new application procedure should prevent unnecessary resignations for curable technical defaults. Continued permission to serve requires, after opportunity for hearing, showings that the default may be cured or waived during a reasonable period and that the trustee's continued service would not be inconsistent with the interests of holders under the indenture. The statute provides that, during the pendency of its application, the applicant will not be required to resign. No relief from the duty to resign is available under the procedure for payment defaults, whether of principal, interest or sinking or purchase fund installment.[45]

Rules 10b–4 through 10b–6 implement the application procedures for a stay of the duty to resign. Rule 10b–4 contains technical filing requirements and procedures for incorporation by reference.

Rule 10b–5 requires that the application contain a statement of the reasons why the applicant is deemed to be entitled to a stay of resignation. The rule states that the applicant should provide information with respect to the nature of the default, the reasonableness of the time before the default will be cured or waived, the procedure to be followed in connection with the cure or waiver, and the basis for a conclusion that a stay will not be inconsistent with the interest of the holders of the indenture securities.

Rule 10b–6 provides for notice of a proceeding initiated by the filing of an application. The applicant is required to provide a draft of a notice of application as an exhibit to the application. The Commission will then publish in the **Federal Register** a notice of the application for a stay of the duty to resign, including a statement as to the earliest time on which action may be taken. That notice also will provide an opportunity for interested persons to submit information bearing on the application and to request a hearing.

The authority to issue notices with respect to applications for stay orders and to issue orders granting stays of the duty to resign has been delegated to the Division Director through adoption of Commission Rule 30–1(e)(8). As with the other delegations adopted today, the Division Director does not have delegated authority to deny an application for a stay under section 310(b).

The Commission solicits comment on the exemptive procedure adopted.

E. Technical Amendments

In connection with the new post-default standard for determining conflicts of interest, section 305(b)(1) of the Act [46] was amended to remove the provision requiring the Commission to refuse qualification of the indenture if it finds that any person designated as trustee has a conflict of interest within the meaning of section 310(b) of the Act. Since, under the Act, as amended, disqualifying conflicts only arise upon a default under the indenture, a finding by the Commission at the time of qualification that the trustee has no impermissible conflict of interest is no longer necessary.[47] Accordingly, Forms T–1 and T–2 are being amended; information about potential conflicts of interest will not be required where there have been no defaults. Disclosure of the existence of a default will be required. Where a default is disclosed, the full range of information will continue to be required.

In addition, Form T–1 is being amended to add a provision requiring foreign trustees to identify the order or rule under section 310(a) permitting them to act as sole trustee under a qualified indenture and to specify that the exhibits provided by foreign trustees should contain information sufficient to determine eligibility under section 310(a)(2) of the Act. Finally, technical amendments are being made to rules 5a–2 and 7a–15 to make it clear that the general requirements for forms of application apply to new Form T–6.

III. Interpretation of Section 313 of the Act

An apparent drafting error in the 1990 Reform Act has come to the attention of the Commission. Section 411 of the statute amends section 313(a) of the Act, the provision requiring reports by the indenture trustee, by changing the former requirement of annual reporting to a requirement that arises only on the occurrence of specified events.[48] As

[44] Section 310(b), 15 U.S.C. 77jjj(b).

[45] See Senate Report at 34.

[46] 15 U.S.C. 77eee(b)(1).

[47] *See* Senate Report at 47.

[48] The Act now reads as follows:

Section 313. (a) The indenture trustee shall transmit to the indenture security holders as hereinafter provided, at stated intervals of not more than 12 months, a brief report with respect to any of the following events which may have occurred within the previous 12 months (but if no such event has occurred within such period no report need be transmitted):

(1) Any change to its eligibility and its qualifications under section 310;

(2) The creation of or any material change to a relationship specified in paragraphs (1) through (10) of section 310(b);

(3) The character and amount of any advances made by it, as indenture trustee, which remain unpaid on the date of such report, and for the reimbursement of which it claims or may claim a lien or charge, prior to that of the indenture securities, on the trust estate or on property or funds held or collected by it as such trustee, if such advances so remaining unpaid aggregate more than one-half of 1 per centum of the principal amount of the indenture securities outstanding on such date;

(4) The amount, interest rate, and maturity date of all other indebtedness owing to it in its individual capacity, on the date of such report, by the obligor upon the indenture securities, with a brief description of any property held as collateral security therefor, except an indebtedness based upon a creditor relationship arising in any manner described in paragraph (2), (3), (4), or (8) of subsection (b) of section 311;

(5) Any change to the property and funds physically in its possession as indenture trustee on the date of such report;

(6) Any change to any release, or release and substitution of property subject to the lien of the indenture (and the consideration thereof, if any) which it has not previously reported;

(7) Any additional issue of indenture securities which it has not previously reported; and

(8) Any action taken by it in the performance of its duties under the indenture which it has not previously reported and which in its opinion materially affects the indenture securities or the trust estate, except action in respect of a default, notice of which has been or is to be withheld by it in accordance with an indenture provision authorized by subsection (b) of section 315.

with the remainder of the Act's prescriptive provisions, section 313 was amended so that its duties are imposed as a matter of law, without reference to the terms recited in the indenture.

Late in the legislative process, section 411 [49] was amended to add a provision requiring reports of the creation of relationships or material changes to such relationship that, but for the absence of default under the indenture, would constitute impermissible conflicts of interest under section 310(b) of the Act.[50] Due to the error in the redesignation of the section, section 313(a)(4) (concerning reports with respect to indebtedness of the obligor to the trustee) in the amended Act mistakenly does not include the intended addition of language restricting the reporting obligations to changes in indebtedness, while section 313(a)(6) (concerning reports with respect to releases and substitutions of collateral), which should have been substantively unaffected by the amendment, erroneously includes the addition.[51]

The Commission intends to recommend a technical amendment to the Congress correcting the misdesignation that now exists within section 313(a). Until such time as the amendment can be made, trustees should prepare their reports consistent with the Congressional intent. In other words, reports of indebtedness of the obligor to the indenture trustee should be prepared if changes to the amount, interest rate, maturity or collateral for the indebtedness to the trustee have occurred. This is in contrast to the suggestion of the misdesignated text that annual reporting of indebtedness is required whether or not such changes have occurred.[52]

IV. Charts Reflecting Revisions to Forms

The following charts highlight the substantive changes between the former and revised Forms T-1 and T-2.

A. Revisions to Form T-1

Former Form T-1	Revised T-1
Facing Page	A legend has been added, requiring a check mark when the form is used to determine the eligibility of a trustee pursuant to Section 305(b)(2), and a line has been added for the file number of the related delayed offering registration statement where the Form T-1 is used as an application under Section 305(b)(2). Line two has been modified to require jurisdiction of incorporation in order to include information on foreign trustees. A line has been added requiring foreign trustees to provide the name, address and telephone number of any agent for service.
General Instruction A.	General Instruction A has been expanded to indicate that Form T-1 shall be used for statements of eligibility of foreign trustees under trust indentures to be qualified where a prior order or rule has been issued or promulgated under section 310(a)(1) or 304(d) of the Act; and for applications to determine the eligibility of a trustee pursuant to section 305(b)(2) of the Act.
General Instruction B.	A new General Instruction B has been added to indicate those items of the Form T-1 that must be answered where obligations are not in default, and the items required to be answered when obligations are in default.
General Instructions B through F.	Old General Instructions B, C and D have been redesignated General Instructions C, D and E. Old Instruction E has been combined with New General Instruction B. Old General Instruction F has been revised to require information with respect to underwriters for one year instead of three years in accordance with the amendment to section 310(b) of the Act.
General Instructions.	A new General Instruction G has been added to require certain information on the cover page of Form T-1 when the form is being used as an application under section 305(b)(2) of the Act.
Item 1	No change.
Item 2	Reference to affiliations with the underwriters has been deleted.
Items 3 through 11.	No change.
New Items	Item 12 has been added to provide information concerning the indebtedness of the obligor to the trustee in response to new section 310(b)(10) of the Act. New item 13 requires information concerning defaults by the obligor. New item 14 requires disclosure with respect to affiliations with the underwriters. New item 15 requires information concerning Commission rules or orders authorizing foreign trustees to act as sole trustees under indentures qualified or to be qualified under the Act.
Item 12	Item 12 has been redesignated item 16.
Instructions as Exhibits.	The instructions have been expanded to require translations of any documents that are not in English and to require foreign trustees to provide financial information adequate to meet the requirements of section 310(a)(2) of the Act.
Exhibits 1 through 4.	No change.
Exhibit 5	Exhibit 5 is modified to make it clear that the exhibit is required only when the obligor is in default.
Exhibit 6	Exhibit 6 has been modified to indicate that the consent under section 321(b) is only required by United States institutional trustees.
Exhibit 7	No change.
New Exhibits	New exhibit 8 requires a copy of the order pursuant to which a foreign trustee is acting as sole trustee. New exhibit 9 requires the filing of a consent to service of process by foreign trustees.
Signature	The Signature has been moved below the Instructions for the exhibits. In addition, the form requires the trustee to specify its form of organization and the jurisdiction in which the form was executed.

B. Revisions to Form T-2

Former T-2	Revised T-2
Facing Page	A legend has been added, requiring a check mark when the Form T-2 is used to determine the eligibility of a trustee pursuant to section 305(b)(2), and a line has been added for the file number of the related delayed offering registration statement where the Form T-2 is used as an application under section 305(b)(2).
General Instruction A.	General Instruction A has been expanded to indicate that Form T-2 shall be used to determine the eligibility of an individual trustee pursuant to section 305(b)(2) of the Act.
General Instruction B.	A new General Instruction B has been added to indicate those items of the Form T-2 that must be answered when obligations are not in default, and the items required when obligations are in default.

[49] Section 411(5).

[50] The new requirement appears in the Act as section 313(a)(2).

[51] The error in the redesignation caused the attachment of the words "any change to" to subparagraphs (1), (4) and (5), as they existed before the amendment, instead of subparagraphs (1), (3) and (4). The misdesignation can be seen through a comparison of section 411 of S. 1712, Report No. 101-115 (101st Cong. 1st Sess.) (1989), with section 411 of the statute as enacted.

[52] The mistaken addition of "any change to" in section 313(a)(6) has no apparent effect on the obligation to report actions respecting the property secured by the lien of an indenture.

Former T–2	Revised T–2
General Instructions B through F.	Old General Instructions B, C and D have been redesignated General Instructions C, D and E. Old Instruction E has been combined with new Instruction B. Old General Instruction F has been revised to require information with respect to underwriters for one year instead of three years in accordance with the amendment to section 310(b) of the Act.
General Instructions.	A new General Instruction G has been added to require information on the cover page of Form T–2 when the form is being used as an application under section 305(b)(2) of the Act.
Item 1	Reference to affiliations with underwriters has been deleted.
Items 2 through 7	No change.
New Items	Item 8 has been added to provide information concerning the indebtedness of the obligor to the trustee in response to new section 310(b)(10) of the Act. New item 9 requires information concerning defaults by the obligor. New item 10 requires disclosure with respect to affiliations with the underwriters.
Item 8	Item 8 has been redesignated Item 11.
Signature	The Signature has been moved below the Instructions for the exhibits.

V. Cost Benefit Analysis

To evaluate the benefits and costs associated with the described rules and forms, the Commission requests commenters to provide views and data as to the costs and benefits associated with various application procedures under the rules and forms. The procedures will enable obligors and trustees (the typical applicants) to reduce substantially the amount of time and expense required to comply with the present procedure for qualification of the trustees. The rules relate to procedures for exemptions and actions by the Commission made possible as a result of the amendments to the Act. The benefit to obligors and trustees, as a result of the flexibility now present in the statute that enables the Commission to grant various exemptions and stays of a trustee's duty to resign, and permit appointment of a foreign trustee for offerings made in the United States by foreign obligors, greatly outweighs any burden.

The rules will also benefit public security holders, by reducing costs incurred in (a) providing for indenture trustees at the effective date of registration statements when the offerings of indenture securities will be made on a delayed basis, and (b) needless resignations of indenture trustees because of technical non-payment defauts that may be easily cured within a reasonable time frame. In addition, the rules facilitate the expansion of investment opportunities for United States citizens, due to the removal of barriers to foreign registrants making public issuances of debt securities in the United States.

VI. Effective Date

Prior to the effective date of the amendments to Forms T–1 and T–2, trustees filing statements of eligibility under the Act may use existing Forms T–1 and T–2 (17 CFR 269.1 and 269.2). If the trustee, or the obligor on the indenture securities to which the Form T–1 or T–2 relate, represents that there is no existing default under any indenture of the obligor on which the trustee is the indenture trustee, the trustee may limit its responses to Items 1, 2, and 12 of existing Form T–1 and items 1 and 8 of existing Form T–2.

Individuals or entities wishing to apply for an exemption under section 304(d) of the Act or for a stay of trustee's duty to resign under section 310(d) of the Act may voluntarily use the procedures being adopted prior to publication in the **Federal Register.**

Individuals or entities wishing to make an application under section 305(b)(2) or 310(a)(1) of the Act may voluntarily use the procedures set forth for making an application under section 304(d) until the effective date of the amendments to Forms T–1 and T–2 and new Form T–6 (17 CFR 269.9).

The Congressionally mandated changes included in the 1990 Reform Act modernize the provisions of the Act and permit issuers and trustees to save time and expense in connection with compliance with the Act. The statute became law on November 15, 1990. The rules and forms being adopted and amended provide procedures for the affected parties to take advantage of the new statutory provisions. Because of the procedural nature of the provisions being adopted, and because of the desirability of permitting the public to take advantage of the provisions of the 1990 Reform Act, the Commission is adopting the new and amended rules and forms without providing for notice and comment. This action is taken in accordance with the provisions of 5 U.S.C. 553(b), which provides that subsection (b) of the section does not apply to rules of agency procedure.[53] While the rules and forms are being adopted, the Commission also is requesting that the public comment on the rules and forms by July 1, 1991. The Commission will consider the comments received to determine whether amendments to the new rules and forms would be appropriate.

The new and amended rules and forms will be effective immediately upon publication in the **Federal Register,** in accordance with the Administrative Procedure Act, which allows effectiveness in less than 30 days after publication for "good cause." 5 U.S.C. 553(d)(3). The 1990 Reform act provisions have already been enacted. The permissive nature of the statutory provisions and the benefits that will accrue from these changes support a conclusion that the new and amended rules and forms should be adopted as quickly as possible.

VII. Request for Comments

Any interested persons wishing to submit written comments on the rules and forms adopted and amended, or to submit comments on other matters that might have an impact on the rules and forms, are requested to do so by July 1, 1991.

Persons wishing to submit written comments should file three copies thereof with Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC. 20549. Comments letters should refer to File No. S7–11–91. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549.

VIII. Statutory Bases and Text of Regulations and Forms

The amendments to rules 5a–2 and 7a–15 and Forms T–1 and T–2 are being adopted pursuant to the authority set forth in sections 304, 305, 307, 308, 310, 314, and 319 of the Trust Indenture Act of 1939, as amended [15 U.S.C. 77ddd, 77eee, 77ggg, 77hhh, 77jjj, 77nnn, and 77sss].

Rules 30–1(e)(5), 30–1(e)(6), 30–1(e)(7), and 30–1(e)(8), amending the delegation of authority of the Division Director, are being adopted pursuant to the authority set forth in the Public Law No. 87–592, 76 Stat. 394 [15 U.S.C. 78d–1, 78d–2] and sections 304, 305, 307, 308, 310, 314, and

[53] For the same reason, the new and amended rules and forms are not subject to the Regulatory Flexibility Act, 5 U.S.C. 603, 604, although the Chairman of the Commission has executed a certification conforming to that Act.

319 of the Trust Indenture Act of 1939, as amended [15 U.S.C. 77ddd, 77eee, 77ggg, 77hhh, 77jjj, 77nnn and 77sss].

Rules 4d–7, 4d–8, 5b–1, 5b–2, 5b–3, 10a–1, 10a–2, 10a–3, 10a–4, 10b–4, 10b–5, 10b–6, and Form T–6 [269.9] are being adopted pursuant to the authority set forth in sections 304, 305, 307, 308, 310, 314, and 319 of the Trust Indenture Act of 1939, as amended [15 U.S.C. 77ddd, 77eee, 77ggg, 77hhh, 77jjj, 77nnn, and 77sss].

Item 512(j) of Regulation S–K is being adopted pursuant to the authority set forth in sections 5, 6, 7, 8, 10, and 19 of the Securities Act of 1933, as amended [15 U.S.C. 77e, 77f, 77g, 77h, 77j, 77s] and sections 304, 305, 307, 308, 310, 314, and 319 of the Trust Indenture Act of 1939, as amended [15 U.S.C. 77ddd, 77eee, 77ggg, 77hhh, 77jjj, 77nnn, 77sss].

List of Subjects in 17 CFR Parts 200, 229, 260, and 269

Administrative practice and procedure; Authority delegations (Government agencies); Organization and functions (Government agencies), Reporting and recordkeeping requirements, Securities, Trusts and trustees.

IX. Text of Regulations and Forms

In accordance with the foregoing, title 17, chapter II of the Code of Federal Regulations is amended as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

1. The authority citation for part 200 subpart A is revised to read as follows:

Authority: 15 U.S.C. 77s, 77t, 77w, 78d–1, 78d–2, 78w, 79t, 77ddd, 77eee, 77ggg, 77hhh, 77nnn, 77sss, 80a–37, and 80b–11, unless otherwise noted.

2. By amending § 200.30–1 by adding paragraphs (e)(5), (e)(6), (e)(7), and (e)(8) to read as follows:

§ 200.30–1 Delegation of authority to Director of Division of Corporation Finance.

* * * * *

(e) * * *

(5) To authorize the issuance of orders exempting any person, registration statement, indenture, security or transaction, or any class or classes of persons, registration statements, indentures, securities, or transactions from the requirements of one or more provisions of the Act pursuant to section 304(d) of the Act (15 U.S.C. 77ddd(d)) and rule 4d–7 thereunder (17 CFR 260.4d–7 of this Chapter).

(6) To determine to be effective prior to the 10th day after filing thereof an application for determining the eligibility under section 310(a) of the Act of a person designated as trustee for delayed offerings of debt securities under the Securities Act pursuant to section 305(b)(2) of the Act and rule 5b–1 [17 CFR 260.5b–1 of this chapter] thereunder.

(7) To authorize the issuance of an order permitting a foreign person to act as sole trustee under qualified indentures pursuant to section 310(a) of the Act and rule 10a–1 through 10a–4 thereunder [17 CFR 260.10a–1 through 260.10a–4 of this chapter].

(8) To issue notices with respect to applications for, and authorize the issuance of orders granting, a stay of a trustee's duty to resign pursuant to section 310(b) of the Act and Rule 10b–4 [17 CFR 260.10b–4 of this chapter] thereunder.

* * * * *

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934 AND ENERGY POLICY AND CONSERVATION ACT OF 1975—REGULATION S–K

3. The authority citation for part 229 is revised to read as follows:

Authority: 15 U.S.C. 77e, 77f, 77g, 77h, 77j, 77k, 77s, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 77jjj, 77nnn, 77sss, 78*l*, 78m, 78n, 78o, 78w, 80a–8, 80a–29, 80a–30, 80a–37, 80b–11, unless otherwise noted.

4. § 229.512 is amended by adding paragraph (j) to read as follows:

§ 229.512 (Item 512) Undertakings.

* * * * *

(j) *Qualification of trust indentures under the Trust Indenture Act of 1939 for delayed offerings.* Include the following if the registrant intends to rely on section 305(b)(2) of the Trust Indenture Act of 1939 for determining the eligibility of the trustee under indentures for securities to be issued, offered, or sold on a delayed basis by or on behalf of the registrant:

"The undersigned registrant hereby undertakes to file an application for the purpose of determining the eligibility of the trustee to act under subsection (a) of section 310 of the Trust Indenture Act ("Act") in accordance with the rules and regulations prescribed by the Commission under section 305(b)(2) of the Act."

PART 260—GENERAL RULES AND REGULATIONS, TRUST INDENTURE ACT OF 1939

5. The authority citation for part 260 is revised to read as follows:

Authority: 15 U.S.C. 77ddd, 77eee, 77ggg, 77hhh, 77jjj, 77nnn, 77sss.

6. By adding new § 260.4d–7 to read as follows:

§ 260.4d–7 Application for exemption from one or more provisions of the Act.

(a) Three copies of every application for an order under section 304(d) of the Act (15 U.S.C. 77ddd(d)) and of every amendment thereto shall be filed with the Commission at its principal office.

(b) One copy shall be manually signed by a duly authorized officer of the applicant (or individual customarily performing similar functions with respect to an organization, whether incorporated or unincorporated), or by a natural person seeking exemption under section 304(d) of the Act.

(c) Such applications shall be on paper no larger 8½ × 11 inches in size. If reduction of large documents would render them illegible, such documents may be filed on paper larger than 8½ × 11 inches in size. The left margin shall be at least 1½ inches wide and if the application is bound, it shall be bound on the left side.

(d) The application shall be typed, printed, copied, or prepared by a process which produces copies suitable for repeated photocopying and microfilming. All typewritten or printed matter shall be set forth in black ink to permit photocopying. If printed, the application shall be in type not smaller than 10-point, roman type, at least two points leaded.

(e) Rules 7a–28 through 7a–32 (§§ 260.7a–28 through 260.7a–32 of this chapter) relating to incorporation by reference shall be applicable to applications for exemption pursuant to section 304(d) of the Act.

7. By adding new § 260.4d–8 to read as follows:

§ 260.4d–8 Content.

(a) Each application for an order under section 304(d) of the Act (15 U.S.C. 77ddd(d)) shall contain the name, address, and telephone number of each applicant and the name, address, and telephone number of any person to which such applicant wishes any questions regarding the application to be directed.

(b) Each application shall contain a statement of the relevant facts on which the request for relief is based, including a justification for the exemption(s) requested and a discussion of any benefit expected for security holders, trustees and/or obligors.

8. By revising § 260.5a–2 to read as follows:

§ 260.5a–2 General requirements as to form and content of statements of eligibility and qualification.

Rules 7a–15 through 7a–37 [§§ 260.7a–15 through 260.7a–37 of this chapter] under section 307 under the Trust Indenture Act shall be applicable to statements filed on Forms T–1, T–2, and T–6.

9. By adding new § 260.5b–1 to read as follows:

§ 260.5b–1 Application pursuant to section 305(b)(2) of the Trust Indenture Act for determining eligibility of a person designated as trustee for offerings on a delayed basis.

Forms T–1 and T–2 (17 CFR 269.1 and 269.2) shall be used for applications filed for the purpose of determining the eligibility under section 310(a) of the Act of a person designated as trustee for debt securities registered under the Securities Act of 1933 which are eligible to be issued, offered, or sold on a delayed basis by or on behalf of the registrant.

10. By adding new § 260.5b–2 to read as follows:

§ 260.5b–2 General requirements as to form and content of applications.

Rule 5a–2 [§ 260.5a–2 of this chapter] and rules 7a–15 through 7a–37 [§§ 260.7a–15 through 260.7a–37 of this chapter] shall be applicable to applications pursuant to rule 5b–1 [§ 260.56b–1 of this chapter].

11. By adding new § 260.5b–3 to read as follows:

§ 260.5b–3 Number of copies—Filing—Signatures.

(a) Three copies of every application pursuant to rule 5b–1 [§ 260.5b–1 of this chapter] and of every amendment thereto shall be filed with the Commission at its principal office by the issuer upon the indenture securities. Such application shall be filed no later than the second business day following the initial date of public offering or sales after effectiveness of the registration statement with respect to such securities, or transmitted by a means reasonably calculated to result in filing with the Commission by that date.

(b) One copy shall be manually signed by the applicant's duly authorized officer (or individual customarily performing similar functions with respect to any organization, whether incorporated or unincorporated), or by the individual trustee, as applicable.

12. By revising § 260.7a–15 to read as follows:

§ 260.7a–15 Scope of §§ 260.7a–15 to 260.7a–37.

The rules contained in §§ 260.7a–15 to 260.7a–37 shall govern applications for exemption filed pursuant to section 304(c) or 304(d) of the Act, applications for qualification of indentures filed pursuant to section 307, statements of eligibility and qualifications of trustees filed pursuant to section 305, 307, or 310(a) of the Act, applications for the stay of the trustee's duty to resign filed pursuant to section 310(b) of the Act, and reports filed pursuant to section 314(a) of the Act.

13. By adding new § 260.10a–1 to read as follows:

§ 260.10a–1 Application for determining eligibility of a foreign person to act as sole trustee pursuant to section 310(a)(1) of the Act.

Form T–6 (17 CFR 269.9 of this chapter) shall be used for an application filed to obtain authorization for a corporation or other person organized and doing business under the laws of a foreign government to act as sole trustee under an indenture qualified or to be qualified under the Act.

14. By adding new § 260.10a–2 to read as follows:

§ 260.10a–2 General requirements as to form and content of applications.

Rule 5a–2 [§ 260.5a–2 of this chapter] and rules 7a–15 through 7a–37 [§§ 260.7a–15 through 260.7a–37 of this chapter] under section 307 of the Act shall be applicable to applications on Form T–6 pursuant to section 310.(a)(1) of the Act and Rule 10a–1 [§ 260.10a–1 of this chapter].

15. By adding new § 260.10a–3 to read as follows:

§ 260.10a–3 Number of copies—Filing—Signatures.

(a) Three copies of every application pursuant to rule 10a–1 [§ 260.10a–1 of this chapter] and of every amendment thereto shall be filed with the Commission at its principal office.

(b) One copy shall be manually signed by the applicant's duly authorized officer (or individual customarily performing similar functions with respect to any organization, whether incorporated or unincorporated).

16. By adding new § 260.10a–4 to read as follows:

§ 260.10a–4 Consent of trustee to service of process.

At the time of filing an application pursuant to rule 10a–1 [§ 260.10a–1 of this chapter] and at such time as it files a statement of eligibility to act as trustee under an indenture qualified under the Act, an indenture trustee organized and doing business under the laws of a foreign government shall furnish to the Commission a written consent of the trustee and power of attorney designating a U.S. person with an address in the United States as agent upon whom may be served any process, pleadings, subpoenas or other papers in any Commission investigation or administrative proceeding and any civil suit or action brought against the trustee or to which the trustee has been joined as defendant or respondent, in any appropriate court in any place subject to the jurisdiction of any state or of the United States, or of the District of Columbia or Puerto Rico, where the investigation, proceeding or cause of action arises out of or relates to or concerns the securities in relation to which the indenture trustee proposes to act as trustee pursuant to any rule or order under section 310(a) of the Act and stipulates and agrees that any such suit, action or proceeding may be commenced by the service of process upon said agent for service of process, and that such service shall be taken and held in all courts to be as valid and binding as if due personal service thereof had been made.

17. By adding new § 260.10b–4 to read as follows:

§ 260.10b–4 Application for stay of trustee's duty to resign pursuant to section 310(b) of the Act.

(a) Three copies of every application for a stay of a trustee's duty to resign under section 310(b) of the Act and of every amendment thereto shall be filed with the Commission at its principal office.

(b) One copy shall be manually signed by a duly authorized officer of the applicant (or individual customarily performing similar functions with respect to an organization, whether incorporated or unincorporated) or by a natural person seeking a stay under section 310(b) of the Act.

(c) Such applications shall be on paper no larger than 8½ × 11 inches in size. If reduction of large documents would render them illegible, such documents may be filed on paper larger than 8½ × 11 inches in size. The left margin shall be at least 1½ inches wide and if the application is bound, it shall be bound on the left side.

(d) The application shall be typed, printed, copied, or prepared by a process which produces copies suitable for repeated photocopying and microfilming. All typewritten or printed matter shall be set forth in black ink to permit photocopying. If printed, the application shall be in type not smaller

than 10-point, roman type, at least two points leaded.

(e) Rules 7a–28 through 7a–32 [§§ 260.7a–28 through 260.7a–32 of this chapter] relating to incorporation by reference shall be applicable to applications for stay pursuant to section 310(b) of the Act.

18. By adding new § 260.10b–5 to read as follows:

§ 260.10b–5 Content.

(a) Each application for a stay of a trustee's duty to resign under section 310(b) of the Act shall contain the name, address, and telephone number of each applicant and the name, address, and telephone number of any person to which such applicant wishes any questions regarding the application to be directed.

(b) Each application shall contain a statement of the reasons why the applicant is deemed to be entitled to a stay of resignation with reference to the provisions of section 310(b) of the Act. The statement shall address the nature of the default, the reasonableness of the period before the default will be cured or waived, the procedures to be used to cure or obtain a waiver of the default, and the reasons why a stay will not be inconsistent with the interests of the holders of the indenture securities.

19. By adding new § 260.10b–6 to read as follows:

§ 260.10b–6 Notices—Exemptive Application Procedure.

(a) A proposed notice of the proceeding indicated by the filing of the application shall accompany each application for a stay of a trustee's duty to resign under section 310(b) as an exhibit thereto and if necessary shall be modified to reflect any amendments to such application.

(b) Notice of the initiation of the proceeding will be published in the Federal Register and will indicate the earliest date upon which an order disposing of the matter may be entered. The notice will also provide that any interested person may, within the period specified therein, submit to the Commission in writing any facts bearing upon the desirability of a hearing on the matter, and may request that a hearing be held stating the person's reasons therefore and the nature of his or her interest in the matter.

(c) An order disposing of the matter will be issued following the expiration of the period of time referred to in paragraph (b) of this section, unless the Commission thereafter orders a hearing on the matter.

(d) The Commission will order a hearing on the matter, if it appears that a hearing is necessary or appropriate in the public interest or for the protection of investors:

(1) Upon the request of any interested person, or

(2) Upon its own motion.

PART 269—FORMS PRESCRIBED UNDER THE TRUST INDENTURE ACT OF 1939

20. The authority citation for part 269 is revised to read as follows:

Authority: 15 U.S.C. 77ddd, 77eee, 77ggg, 77hhh, 77iii, 77jjj, 77nnn, 77sss.

21. By adding new § 269.9 to read as follows:

§ 269.9 Form T–6 for application under section 310(a)(1) of the Trust Indenture Act for determination of the eligibility of a foreign person to act as institutional trustee.

This form shall be used for the filing of an application pursuant to rule 10a–1 [§ 260.10a–1 of this chapter] to obtain authorization for a corporation or other person organized and doing business under the laws of a foreign government to act as sole trustee under an indenture qualified or to be qualified under the Act.

§§ 269.1, 269.2 and 269.9 [Amended]

22. By revising Forms T–1, (§ 269.1), and T–2 (§ 269.2) and adding Form T–6 (§ 269.9) to read as follows:

Note: The Text and Instructions of Forms T–1, T–2 and T–6 do not appear in the Code of Federal Regulations.

OMB Approval

OMB Number: 3235–0110, Expires: March 31, 1994, estimated average burden hours per response: 15.

Securities Act of 1933 File No.: _____

(If application to determine eligibility of trustee for delayed offering pursuant to Section 305(b)(2))

Securities and Exchange Commission

Washington, DC 20549

Form T–1

Statement of Eligibility Under the Trust Indenture Act of 1939 of a Corporation Designated to Act as Trustee

Check if an Application to Determine Eligibility of a Trustee Pursuant to Section 305(b)(2) _____

(Exact name of trustee as specified in its charter)

(Jurisdiction of incorporation or organization if not a U.S. national bank)

(I.R.S. Employer Identification Number)

(Address of principal executive offices)

(Zip code)

(Name, address and telephone number of agent for service)

(Exact name of obligor as specified in its charter)

(State or other jurisdiction of incorporation or organization)

(I.R.S. Employer Identification No.)

(Address of principal executive offices)

(Zip code)

(Title of the indenture securities)

General Instructions

A. Rule as to the Use of Form T–1

Form T–1 shall be used for statements of eligibility of corporations designated to act as trustees under trust indentures to be qualified pursuant to sections 305 or 307 of the Trust Indenture Act of 1939. Form T–1 also shall be used for statements of eligibility of foreign trustees under trust indentures to be qualified pursuant to sections 305 or 307, where a prior order has been issued pursuant to section 301(a)(1) or 304(d), or the Commission has promulgated a rule under such sections permitting the trustee to act as a sole trustee under the indenture to be qualified. Finally, Form T–1 shall be used for applications to determine the eligibility of a trustee pursuant to section 305(b)(2) of the Act.

B. Obligations Deemed To Be in Default

Item 13 requires disclosure of defaults of the obligor on securities issued under indentures under which the applicant is trustee.

If the obligor is not in default, the applicant is required to provide responses to items 1, 2, and 16 of Form T–1. In addition, time 15 would be applicable to foreign trustees. If the obligor is in default, the applicant must respond to all of the items in the Form T–1.

An obligor shall be deemed to be in default upon the occurrence of acts or conditions as defined in the indenture, but exclusive of any period of grace or requirement of notice.

C. Application of General Rules and Regulations

The General Rules and Regulations under the Trust Indenture Act of 1939 are applicable to statements of eligibility on this form. Attention is particularly directed in rules 0–1 and 0–2 as to the meaning of terms used in the rules and regulations. Attention is also directed to rule 5a–3 regarding the filing of statements of eligibility and qualification and to rule 7a–16 regarding the inclusion of items, the differentiation between items and answers, and the omission of instructions.

D. Scope of Items and Instructions

The items and instructions require information only as to the trustee, unless the context clearly shows otherwise.

E. Calculation of Percentages of Securities

The percentages of securities required by this form are to be calculated in accordance with the provisions of rule 10b–1.

F. Items Relating to Underwriters

Wherever any item of the form requires information with respect to an underwriter for the obligor, the information is to be given as to every person who, within one year prior to the date of filing the statement of eligibility and qualification, acted as an underwriter of any security of the obligor outstanding on the date of filing the statement and as to every proposed principal underwriter of the securities proposed to be offered. The term "principal underwriter" means an underwriter in privity of contract with the issuer of the securities as to which he is an underwriter.

G. Coordination With Delayed Offering Registration Statement

When the Form T–1 is used for applications to determine the eligibility of a trustee pursuant to section 305(b)(2), the following provisions shall apply:

1. The file number under the Securities Act of 1933 for the delayed offering registration statements to which the application applies shall be placed in the upper right hand corner of the cover page of the Form T–1.

2. The description of the indenture securities included under "Title of Securities" should specify whether the application relates to a single tranche or to all of the securities registered pursuant to the delayed offering registration statement.

Item 1. General Information

Furnish the following information as to the trustee—

(a) Name and address of each examining or supervising authority to which it is subject.

(b) Whether it is authorized to exercise corporate trust powers.

Item 2. Affiliations with the Obligor

If the obligor is an affiliate of the trustee, describe each such affiliation.

Instructions. 1. The term "affiliate" is defined in Rule 0–2 of the General Rules and Regulations under the Act. Attention is also directed to Rule 7a–26.

2. Include the name of each such affiliate and the names of all intermediary affiliates, if any. Indicate the respective percentage of voting securities or other bases of control giving rise to the affiliation.

Item 3. Voting Securities of the Trustee

Furnish the following information as to each class of voting securities of the trustee:

As of _____ (Insert date within 31 days).

Col. A	Col. B*
Title of class	Amount outstanding

Instructions. The term "voting security" is defined in section 303(16) of the Act.

Item 4. Trusteeships Under Other Indentures

If the trustee is a trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of the obligor are outstanding, furnish the following information:

(a) Title of the securities outstanding under each such other indenture.

(b) A brief statement of the facts relied upon as a basis for the claim that no conflicting interest within the meaning of section 310(b)(1) of the Act arises as a result of the trusteeship under any such other indenture, including a statement as to how the indenture securities will rank as compared with the securities issued under such other indenture.

Item 5. Interlocking Directorates and Similar Relationships With the Obligor or Underwriters

If the trustee or any of the directors or executive officers of the trustee is a director, officer, partner, employee, appointee, or representative of the obligor or of any underwriter for the obligor, indentify each such person having any such connection and state the nature of each such connection.

Instructions. 1. Notwithstanding General Instruction F, the term "underwriter" as used in this item does not refer to any person who is not currently engaged in the business of underwriting.

2. The term "employee," "appointee," and "representative," as used in this item, do not include connections in the capacity of transfer agent, registrar, custodian, paying agent, fiscal agent, escrow agent, or depositary, or in any other similar capacity or connections in the capacity of trustee, whether under an indenture or otherwise.

Item 6. Voting Securities of the Trustee Owned by the Obligor or Its Officials

Furnish the following information as to the voting securities of the trustee owned beneficially by the obligor and each director, partner, and executive officer of the obligor:

As of _____ (Insert date within 31 days).

Instructions. 1. Names of persons who do not own beneficially any of the securities specified may be omitted.

2. No information need be given in any case where the amount of voting securities of the trustee, owned beneficially by the obligor and its directors, partners, and executive officers, taken as a group, does not exceed 1 percent of the outstanding voting securities of the trustee.

Col. A	Col. B	Col. C	Col. D
Name of owner	Title of class	Amount owned beneficially	Percentage of voting securities represented by amount given in Col. C

Item 7. Voting Securities of the Trustee Owned by Underwriters of Their Officials

Furnish the following information as to the voting securities of the trustee owned beneficially by each underwriter for the obligor and each director, partner, and executive officer of each such underwriter:

As of _____ (Insert date within 31 days).

Instructions. 1. Instruction 1 to Item 6 shall be applicable to this item.

2. The name of each director, partner, or executive officer required to be given in Column A shall be set forth under the name of the underwriter of which he is a director, partner, or executive officer.

3. No information need be given in any case where the amount of voting securities of the trustee owned beneficially by an underwriter and its directors, partners, and executive officers, taken as a group, does not exceed 1 percent of the outstanding voting securities of the trustee.

Col. A	Col. B	Col. C	Col. D
Name of owner	Title of class	Amount owned beneficially	Percentage of voting securities represented by amount given in Col. C

Item 8. Securities of the Obligor Owned or Held by the Trustee

Furnish the following information as to securities of the obligor owned beneficially or held as collateral security for obligations in default by the trustee:

As of _____ (Insert date within 31 days).

Instructions. 1. As used in this item, the term "securities" includes only such securities as are generally known as corporate securities, but shall not include any note or other evidence of indebtedness issued to evidence an obligation to repay monies lent to a person by one or more banks, trust companies, or banking firms, or any certificate of interest or participation in any such note or evidence of indebtedness.

2. For the purposes of this item the trustee shall not be deemed the owner or holder of (a) any security which it holds as collateral security (as trustee or otherwise) for an obligation which is not in default, or (b) any security which it holds as collateral security under the indenture to be qualified, irrespective of any default thereunder, or (c) any security which it holds as agent for collection, or as custodian, escrow agent or depositary, or in any similar representative capacity.

3. No information need be furnished under this item as to holdings by the trustee of securities already issued under the indenture to be qualified or securities issued under any other indenture under which the trustee is also trustee.

4. No information need be given with respect to any class of securities where the amount of securities of the class which the trustee owns beneficially or holds as collateral security for obligations in default does not exceed 1 percent of the outstanding securities of the class.

Col. A	Col. B	Col. C	Col. D
Title of class	Whether the securities are voting or nonvoting securities	Amount owned beneficially or held as collateral security for obligations in default	Percent of class represented by amount given in Col. C

Item 9. Securities of Underwriters Owned or Held by the Trustee

If the trustee owns beneficially or holds as collateral security for obligations in default any securities of an underwriter for the obligor, furnish the following information as to each class of securities of such underwriter any of which are so owned or held by the trustee:

As of _____ (Insert date within 31 days).

Col. A	Col. B	Col. C	Col. D
Title of issuer and title of class	Amount outstanding	Amount owned beneficially or held as collateral security for obligations in default by trustee	Percent of class represented by amount given in Col. C

Instruction. Instructions 1, 2, and 4 to Item 8 shall be applicable to this item.

Item 10. Ownership or Holdings by the Trustee of Voting Securities of Certain Affiliates or Security Holders of the Obligor

If the trustee owns beneficially or holds as collateral security for obligations in default voting securities of a person who, to the knowledge of the trustee (1) owns 10 percent or more of the voting securities of the obligor or (2) is an affiliate, other than a subsidiary, of the obligor, furnish the following information as to the voting securities of such person:

As of _____ (Insert date within 31 days).

Col. A	Col. B	Col. C	Col. D
Title of issuer and title of class	Amount outstanding	Amount owned beneficially or held as collateral security for obligations in default by trustee	Percent of class represented by amount given in Col. C

Instruction. Instructions 1, 2, and 4 to item 8 shall be applicable to this item.

Item 11. Ownership or Holdings by the Trustee of any Securities of a Person Owning 50 Percent or More of the Voting Securities of the Obligor

If the trustee owns beneficially or holds as collateral security for obligations in default any securities of a person who, to the knowledge of the trustee, owns 50 percent or more of the voting securities of the obligor, furnish the following information as to each class of securities of such person any of which are so owned or held by the trustee:

As of _____ (Insert date within 31 days).

Col. A	Col. B	Col. C	Col. D
Title of issuer and title of class	Amount outstanding	Amount owned beneficially or held as collateral security for obligations in default by trustee	Percent of class represented by amount given in Col. C

Instruction. Instructions 1, 2 and 4 to Item 8 shall be applicable to this item.

Item 12. Indebtedness of the Obligor to the Trustee

Except as noted in the instructions, if the obligor is indebted to the trustee, furnish the following information:

As of _____ (Insert date within 31 days).

Col. A	Col. B	Col. C
Nature of indebtedness	Amount outstanding	Date due

Instructions. 1. No information need be provided as to: (a) The ownership of securities issued under any indenture, or any security or securities having a maturity of more than one year at the time of acquisition by the indenture trustee; (b) disbursements made in the ordinary course of business in the capacity of trustee of an indenture, transfer agent, registrar, custodian, paying agent, fiscal agent or depositary, or other similar capacity; (c) indebtedness created as a result of services rendered or premises rented; or indebtedness created as a result of goods or securities sold in a cash transaction; (d) the ownership of stock or of other securities of a corporation organized under section 25(a) of the Federal Reserve Act, as amended, which is directly or indirectly a creditor of an obligor upon the indenture securities; or (e) the ownership of any drafts, bills of exchange, acceptances, or obligations which fall within the classification of self-liquidating paper.

2. Information should be given as to the general type of indebtedness, such as lines of credit, commercial paper, long-term notes, mortgages, *etc.*

Item 13, Defaults by the Obligor

(a) State whether there is or has been a default with respect to the securities under this idenure. Explain the nature of any such default.

(b) If the trustee is a trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of the obligor are outstanding, or is trustee for more than one outstanding series or securities under the indenture, state whether there has been a default under any such indenture or series, identify the indenture or series affected, and explain the nature of any such default.

Item 14. Affiliations With the Underwriters

If any underwriter is an affiliate of the trustee, describe each such affiliation.

Instructions. 1. The term "affiliate" as defined in Rule 0–2 of the General Rules and Regulations under the Act. Attention is directed to rule 7a–26.

2. Include the name of each such affiliate and the names of all intermediate affiliates, if any. Indicate the respective percentage of voting securities or other bases of control giving rise to the affiliation.

Item 15. Foreign Trustee

Identify the order or rule pursuant to which the foreign trustee is authorized to act as sole trustee under indentures qualified or to be qualified under the Act.

Item 16. List of exhibits

List below all exhibits filed as a part of this statement of eligibility

Instructions. Subject to rule 7a–29 permitting incorporation of exhibits by reference, the following exhibits are to be filed as a part of the statement of eligibility of the trustee. Such exhibits shall be appropriately lettered or numbered for convenient reference. Exhibits incorporated by reference may be referred to by the designation given in the previous filing. Where exhibits are incorporated by reference, the reference shall be made in the list of exhibits called for under item 16. If the certificate of authority to commence business (Exhibit 2) and/or the certificate to exercise corporate trust powers (Exhibit 3) is contained in another exhibit, a statement to that effect shall be made, identifying the exhibit in which such certificates are included. If an applicable exhibit is not in English, a translation in English shall also be filed. In response to exhibit 7, foreign trustees shall provide financial information sufficient to provide the information required by section 310(a)(2) of the Act.

1. A copy of the articles of association of the trustee as now in effect.

2. A copy of the certificate of authority of the trustee to commence business, if not contained in the articles of association.

3. A copy of the authorization of the trustee to exercise corporate trust powers, if such authorization is not contained in the documents specified in paragraph (1) or (2) above.

4. A copy of the existing bylaws of the trustee, or instruments corresponding thereto.

5. A copy of each indenture referred to in item 4, if the obligor is in default.

6. The consents of United States institutional trustees required by section 321(b) of the Act.

7. A copy of the latest report of condition of the trustee published pursuant to law or the requirements of its supervising or examining authority.

8. A copy of any order pursuant to which the foreign trustee is authorized to act as sole trustee under indentures qualified or to be qualified under the Act.

9. Foreign trustees are required to furnish a consent to service of process (*see* Rule 10a–4 under the Act).

Signature

Pursuant to the requirements of the Trust Indenture Act of 1939 the trustee, _____, a [state form of organization] organized and existing under the laws of _____, has duly caused this statement

of eligibility to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of _____, and State [or other jurisdiction] of _____, on the _____ day of _____, _____. (Year)

(Trustee)
By:

(Name and Title)

Instruction. The name of each person signing the statement of eligibility shall be typed or printed beneath the signature.

OMB Approval

OMB Number: 3235–0111, Expires: March 31, 1994, Estimated average burden hours per response: 9.

Securities Act of 1933 File No.: _____
(If application to determine eligibility to trustee for delayed offering pursuant to Section 305(b)(2))

Securities and Exchange Commission

Washington, DC 20549

Form T–2

Statement of Eligibility Under the Trust Indenture Act of 1939 of an Individual Designated to Act as Trustee

Check if an application to determine eligibility of a trustee pursuant to section 305(b)(2) _____

(Name of trustee)

(Social Security Number)

(Business address: street, city, state and zip code)

(Exact name of obligor as specified in its chapter)

(State or other jurisdiction of incorporation or organization)

(I.R.S. Employer Identification No.)

(Address of principal executive offices)

(Zip code)

(Title of indenture securities)

Special Instructions for Completing Form T–2

Under sections 304, 305, 307, 308, 309, 310, and 319 of the Trust Indenture Act of 1939, the Commission is authorized to solicit the information required to be supplied by this form for statements of eligibility of individuals designated to act as trustees.

Disclosure of the information specified in this form is mandatory prior to processing statements of eligibility, except for social security account numbers, disclosure of which is voluntary. The information will be used for the primary purpose of determining eligibility of trustees. This statement will be made a matter of public record. Therefore, any information given will be available for inspection by any member of the public.

Because of the public nature of the information, the Commission can utilize it for a variety of purposes, including referral to other governmental authorities or securities self-regulatory organizations for investigatory purposes or in connection with litigation involving the Federal securities laws or other civil, criminal or regulatory statutes or provisions. Social Security account numbers, if furnished, will assist the Commission in identifying persons desiring to qualify as trustees and, therefore, in promptly processing filings.

Failure to disclose the information requested by this form, except for social security account numbers, may result in enforcement action by the Commission to compel compliance with the Federal securities laws.

General Instructions

A. Rule as to Use of Form T–2

Form T–2 shall be used for statements of eligibility of individuals designated to act as trustees under trust indentures to be qualified pursuant to sections 305 or 307 of the Trust Indenture Act of 1939. Form T–2 shall be used for applications to determine the eligibility of an individual trustee pursuant to section 305(b)(2) of the Act.

B. Obligations Deemed to be in Default

Item 9 requires disclosure of defaults by the obligor on securities issued under indentures under which the applicant is trustee.

If the obligor is not in default, the applicant is required to provide responses to items 1 and 11 of Form T–2. If the obligor is in default, the applicant must respond to all of the items in the Form T–2.

An obligation shall be deemed to be in default upon the occurrence of acts or conditions as defined in the indenture, but exclusive of any period of grace or requirement of notice.

C. Application of General Rules and Regulations

The General Rules and Regulations under the Trust Indenture Act of 1939 are applicable to statements of eligibility on this form. Attention is particularly directed to rules 0–1 and 0–2 as to the meaning of terms used in the rules and regulations. Attention is also directed to rule 5a–3 regarding the filing of statements of eligibility and to rule 7a–16 regarding the inclusion of items, the differentiation between items and answers, and the omission of instructions.

D. Scope of Items and Instructions

The items and instructions require information only as to the trustee, unless the context clearly shows otherwise.

E. Calculation of Percentages of Securities

The percentages of securities required by this form are to be calculated in accordance with the provisions of rule 10b–1.

F. Items Relating to Underwriters

Wherever any item of the form requires information with respect to an underwriter for the obligor the information is to be given as to every person who, within one year prior to the date of filing the statement of eligibility and qualification, acted as an underwirter of any security of the obligor outstanding on the date of filing the statement and as to every proposed principal underwriter of the securities proposed to be offered. The term "principal underwriter" means an underwriter in privity of contract with the issuer of the securities as to which he is an underwriter

G. Coordination with Delayed Offering Registration Statement

When the Form T–2 is used for applications to determine the eligibility of a trustee pursuant to section 305(b)(2), the following provisions shall apply:

1. The file number under the Securities Act of 1933 for the delayed offering registration statement to which the application applies shall be placed in the upper right hand corner of the cover page of the Form T–2.

2. The description of the indenture securities included under "Title of Securities" should specify whether the application relates to a single tranche or to all of the securities registered pursuant to the delayed offering registration statement.

Item 1. Affiliations with Obligor

If the obligor is an affiliate of the trustee, describe each such affiliation

Instructions. 1. The term "affiliate" is defined in rule 0–2 of the General Rules and Regulations under the Act. It should be noted that a corporation or other business entity may be an affiliate of an individual within the meaning of the definition. Attention is also directed to rule 7a–26.

2. Include the name of each such affiliate and the names of all intermediary affiliates, if any. Indicate the respective percentage of voting securities or other bases of control giving rise to the affiliation.

Item 2. Trusteeships Under Other Indentures

If the trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of the obligor are outstanding, file a copy of each such indenture as an exhibit and furnish the following information:

(a) Title of the securities outstanding under each such other indenture.

(b) A brief statement of the facts relied upon by the trustee as a basis for the claim that no conflicting interest within the meaning of section 310(b)(1) of the Act arises as a result of the trusteeship under such other indenture, including a statement as to how the indenture securities will rank as compared with the securities issued under such other indenture.

Instruction. Attention is directed to rule 7a–29 permitting incorporation of exhibits by reference.

Item 3. Certain Relationships Between the Trustee and the Obligor or an Underwriter

If the trustee is a director, officer, partner, employee, appointee or representative of the obligor or of any underwiter for the obligor, state the nature of each such connection.

Instructions. 1. Notwithstanding General Instruction F, the term "underwriter" as used in this item does not refer to any person who is not currently engaged in the business of underwriting.

2. The terms "employee," "appointee," and "representative," as used in this item, do not include connections in the capacity of transfer agent, registrar, custodian, paying agent, fiscal agent, escrow agent, or depositary or in any other similar capacity or connections in the capacity of trustee, whether under an indenture or otherwise.

Item 4. Securities of the Obligor Owned or Held by the Trustee

Furnish the following information as to securities of the obligor owned beneficially by the trustee or held by the trustee as collateral security for obligations in default:

As of _____ (Insert date within 31 days).

Col. A	Col. B	Col. C	Col. D
Title of class	Whether the securities are voting or nonvoting securities	Amount owned beneficially or held as collateral security for obligations in default	Percent of class represented by amount given in Col. C

Instructions. 1. As used in this item, the term "securities" includes only such securities as are generally known as corporate securities, but shall not include any note or other evidence of indebtedness issued to evidence an obligation to repay monies lent to a person by one or more banks, trust companies, or banking firms, or any certificate of interest or participation in any such note or evidence of indebtedness.

2. For the purposes of this item the trustee shall not be deemed the owner or holder of (a) any security which it holds as collateral security (as trustee or otherwise) for an obligation which is not in default, or (b) any security which it holds as collateral security under the indenture to be qualified, irrespective of any default thereunder, or (c) any security which it holds as agent for collection, or as custodian, escrow agent or depositary, or in any similar representative capacity.

3. No information need be furnished under this item as to holdings by the trustee of securities already issued under the indenture to be qualified or securities issued under any other indenture under which the trustee is also trustee.

4. No information need be given with respect to any class of securities where the amount of securities of the class which the trustee owns beneficially or holds as collateral security for obligations in default does not exceed 1 percent of the outstanding securities of the class.

Item 5. Securities of Underwriters Owned or Held by the Trustee

If the trustee owns beneficially or holds as collateral security for obligations in default any securities of an underwriter for the obligor, furnish the following information as to each class of securities of such underwriter any of which are so owned or held by the trustee:

As of _____ (Insert date within 31 days).

Col. A	Col. B	Col. C	Col. D
Name of issuer and title of class	Amount outstanding	Amount owned beneficially or held as collateral security for obligations in default	Percentage of voting securities represented by amount given in Col. C

Instruction. Instructions 1, 2, and 4 to Item 4 shall be applicable to this item.

Item 6. Holdings by the Trustee of Voting Securities of Certain Affiliates or Principal Holders of Voting Securities of the Obligor

If the trustee owns beneficially or holds as collateral security for obligations in default voting securities of a person who, to the knowledge of the trustee (1) owns 10 percent or more of the voting securities of the obligor or (2) is an affiliate, other than a subsidiary, of the obligor, furnish the following information as to the voting securities of such person:

As of _____ (Insert date within 31 days).

Col. A	Col. B	Col. C	Col. D
Name of issuer and title of class	Amount outstanding	Amount owned beneficially or held as collateral security for obligations in default	Percent of class represented by amount given in Col. C

Instruction. Instructions 1, 2, and 4 to Item 4 shall be applicable to this item.

Item 7. Holdings by the Trustee of any Securities of a Person Owning 50 Percent or More of the Voting Securities of the Obligor

If the trustee owns beneficially or holds as collateral security for obligations in default any securities of a person who, to the knowledge of the trustee, owns 50 percent or more of the voting securities of the obligor, furnish the following information as to each class of securities of such person any of which are so owned or held by the trustee:

As of _____ (Insert date within 31 days).

Col. A	Col. B	Col. C	Col. D
Name of issuer and title of class	Amount outstanding	Amount owned beneficially or held as collateral security for obligations in default	Percent of class represented by amount given in Col. C

Instruction. Instructions 1, 2, and 4 to Item 4 shall be applicable to this item.

Item 8. Indebtedness of the Obligor to the Trustee

Except as noted in the instructions, if the obligor is indebted to the trustee, furnish the following information:

As of _____ (Insert date within 31 days).

Col. A	Col. B	Col. C
Nature of indebtedness	Amount outstanding	Date due

Instructions. 1. No information need be provided as to: (a) The ownership of securities issued under any indenture, or any security or securities having a maturity of more than one year at the time of acquisition by the indenture trustee; (b) disbursements made in the ordinary course of business in the capacity of trustee of an indenture, transfer agent, registrar, custodian, paying agent, fiscal agent or depository, or other similar capacity; (c) indebtedness created as a result of services rendered or premises rented, or indebtedness created as a result of goods or securities sold in a cash transaction; (d) the ownership of stock or of other securities of a corporation organized under section 25(a) of the Federal Reserve Act, as amended, which is directly or indirectly a creditor of an obligor upon the indenture securities, or (e) the ownership of any drafts, bills or exchanges, acceptances, or obligations which fall within the classification of self-liquidating paper.

2. Information should be given as to the general type of indebtedness, such as lines of credit, commercial paper, long-term notes, mortgages, etc.

Item 9. Defaults by the Obligor

(a) State whether there is or has been any default with respect to the securities under this indenture. Explain the nature of any such default.

(b) If the trustee is a trustee under another indenture under which any other securities, or certificates of interest or participation in other securities, of the obligor are outstanding, or is trustee for more than one outstanding series of securities, state whether there has been a default under any such indenture or series, identify the indenture or series affected, and explain the nature of any such default.

Item 10. Affiliations with the Underwriters

If any underwriter is an affiliate of the trustee, describe each such affiliation.

Instructions. 1. The term *affiliate* is defined in rule 0–2 of the General Rules and Regulations under the Act. Attention is directed to rule 7a–26.

2. Include the name of each affiliate and the names of all intermediate affiliates, if any. Indicate the respective percentage of voting securities other bases of control giving rise to the affiliation.

Item 11. List of Exhibits

List below all exhibits filed as a part of this statement of eligibility.

Instruction. Subject to rule 7a–29 permitting incorporation of exhibits by reference, exhibits filed as a part of the statement of eligibility of the trustee shall be appropriately lettered or numbered for convenient

reference. Exhibits incorporated by reference may be referred to by the designation given in the previous filing. Where exhibits are incorporated by reference, the reference shall be made in the list of exhibits called for under item 11.

Signature

Pursuant to the requirements of the Trust Indenture Act of 1939 I, _____, have signed this statement of eligibility in the City of _____, and State of _____, on the _____ day of _____, _____ (Year).

(Signature of trustee)

Instruction. The name of each person signing the statement of eligibility shall be typed or printed beneath the signature.

OMB Approval

OMB Number: 3235-0391, Expires: March 31, 1994, estimated average burden hours per response: 17.

Securities and Exchange Commission

Washington, DC 20549

Form T-6

Application Under section 310(a)(1) of the Trust Indenture Act of 1939 for Determination of Eligibility of a Foreign Person to Act as Institutional Trustee

(Exact name of trustee as specified in its charter)

(Jurisdiction of incorporation or organization)

(Address and telephone number of principal executive offices)

(Name, address and telephone number of agent for service)

(Exact name of obligor as specified in its charter)

(State or other jurisdiction of incorporation or organization)

(I.R.S. Employer Identification No.)

(Address of principal executive offices)

(Zip code)

(Title of the indenture securities)

General Instructions

A. Rule as to the Use of Form T-6

1. Items 1, 15, and 16 of Form T-6 shall be used by corporations or other persons organized and doing business under the laws of a foreign government to make application to act as a sole trustee under trust indentures to be qualified pursuant to section 310(a)(1) of the Trust Indenture Act of 1939 ("Act").

2. Subject to the provisions of General Instruction C, Items 1 through 16 of Form T-6 shall be used for statements of eligibility under section 310(a) of the Act of corporations or other persons organized and doing business under the laws of a foreign government that are seeking an order authorizing their eligibility under section 310(a)(1) to act as a sole trustee under trust indentures to be qualified under the Act; and at the same time are seeking to establish their eligibility to act as trustee under a particular indenture being qualified pursuant to section 305 or 307 of this Act.

3. Form T-1, rather than Form T-6, shall be used for statements of eligibility of foreign trustees under trust indentures to be qualified pursuant to section 305 or 307, where a prior order has been issued pursuant to section 310(a)(1) or 304(d).

B. Timing of Orders in Response to Applications on Form T-6

1. Orders in response to Forms T-6 filed pursuant to Instruction A.1. above will be issued at such time as the Commission shall determine.

2. Orders in response to Forms T-6 filed pursuant to Instruction A.2. above will be issued at the time the registration statement and indenture to which it relates are declared effective and qualified.

C. Obligations Deemed to be in Default

Item 13 requires disclosure of defaults by the obligor on securities issued under indentures under which the applicant is trustee.

If the obligor is not in default, the applicant is required to provide responses to items 1, 2, 15, and 16 of Form T-6. If the obligor is in default, the applicant must respond to all of the items in the Form T-6.

An obligation shall be deemed to be in default upon the occurrence of acts or conditions as defined in the indenture, but exclusive of any period of grace or requirement of notice.

D. Application of General Rules and Regulations

The General Rules and Regulations under the Trust Indenture Act of 1939 are applicable to statements of eligibility on this form. Attention is particularly directed to rules 0-1 and 0-2 as to the meaning of terms used in the rules and regulations. Attention is also directed to rules 10a-3 regarding the filing of statements of eligibility and to rule 7a-16 regarding the inclusion of items, the differentiation between items and answers, and the omission of instructions.

E. Scope of Items and Instructions

The items and instructions require information only as to the trustee, unless the context clearly shows otherwise.

F. Calculation of Percentages of Securities

The percentages of securities required by this form are to be calculated in accordance with the provisions of rule 10b-1.

G. Items Relating to Underwriters

Wherever any item of the form requires information with respect to an underwriter for the obligor, the information is to be given as to every person who, within one year prior to the date of filing the statement of eligibility, acted as an underwriter of any security of the obligor outstanding on the date of filing the statement and as to every proposed principal underwriter of the securities proposed to be offered. The term "principal underwriter" means an underwriter in privity of contract with the issuer of the securities as to which he is an underwriter.

Item 1. General Information

Furnish the following information as to the trustee—

(a) Name and address of each examining or supervising authority to which it is subject.

(b) Whether it is authorized to exercise corporate trust powers.

Item 2. Affiliations with Obligor

If the obligor is an affiliate of the trustee, describe each such affiliation.

Instructions. 1. The term "affiliate" is defined in rule 0-2 of the General Rules and Regulations under the Act. Attention is also directed to rule 7a-26.

2. Include the name of each such affiliate and the names of all intermediary affiliates, if any. Indicate the respective percentage of voting securities or other bases of control giving rise to the affiliation.

Item 3. Voting Securities of the Trustee

Furnish the following information as to each class of voting securities of the trustee:

As of _____ (Insert date within 31 days.)

Col. A	Col. B.
Title of class	Amount outstanding

Instruction. The term "voting security" is defined in section 303(16) of the Act.

Item 4. Trusteeships Under Other Indentures

If the trustee is a trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of the obligor are outstanding, furnish the following information:

(a) Title of the securities outstanding under each other indenture.

(b) A brief statement of the facts relied upon as a basis for the claim that no conflicting interest within the meaning of section 310(b)(1) of the Act arises as a result of the trusteeship under any such other indenture, including a statement as to how the indenture securities will rank as compared with the securities issued under such other indenture.

Item 5. Interlocking Directorates and Similar Relationships With the Obligor or Underwriters

If the trustee or any of the directors or executive officers of the trustee is a director, officer, partner, employee, appointee, or representative of the obligor or of any underwriter for the obligor, identify each such person having any such connection and state the nature of each such connection.

Instructions. 1. Notwithstanding General Instruction F, the term "underwriter" as used in this item does not refer to any person who is not currently engaged in the business of underwriter.

2. The term "employee," "appointee," and "representative," as used in this item, do not include connections in the capacity of transfer agent, registrar, custodian, paying agent, fiscal agent, escrow agent, or depositary, or in any other similar capacity or connections in the capacity of trustee, whether under an indenture or otherwise

Item 6. Voting Securities of the Trustee Owned by the Obligor or Its Officials

Furnish the following information as to the voting securities of the trustee owned beneficially by the obligor and each director, partner, and executive officer of the obligor:

As of _____ (Insert date within 31 days.)

Instructions. 1. Names of persons who do not own beneficially any of the securities specified may be omitted.

2. No information need to be given in any case where the amount of voting securities of the trustee, owned beneficially by the obligor and its directors, partners, and executive officers, taken as a group, does not exceed 1 percent of the outstanding voting securities of the trustee.

Col. A	Col. B	Col. C	Col. D
Name of owner	Title of class	Amount owned beneficially	Percentage of voting securities represented by amount given in Col. C

Item 7. Voting Securities of the Trustee Owned by Underwriters or Their Officials

Furnish the following information as to the voting securities of the trustee owned beneficially by each underwriter for the obligor and each director, partner, and executive officer of each such underwriter:

As of _____ (Insert date within 31 days.)

Instructions. 1. Instruction 1 to Item 6 shall be applicable to this item.

2. The name of each director, partner, or executive officer required to be given in Column A shall be set forth under the name of the underwriter of which he is a director, partner, or executive officer.

3. No information need be given in any case where the amount of voting securities of the trustee owned beneficially by an underwriter and its directors, partners, and executive officers, taken as a group, does not exceed 1 percent of the outstanding voting securities of the trustee.

Col. A	Col. B	Col. C	Col. D
Name of owner	Title of class	Amount owned beneficially	Percentage of voting securities represented by amount given in Col. C

Item 8. Securities of the Obligor Owned or Held by the Trustee

Furnish the following information as to securities of the obligor owned beneficially or held as collateral security for obligations in default by the trustee:

As of _____ (Insert date within 31 days).

Instructions. 1. As used in this item, the term "securities" includes only such securities as are generally known as corporate securities, but shall not include any note or other evidence of indebtedness issued to evidence an obligation to repay monies lent to a person by one or more banks, trust companies, or banking firms, or any certificate of interest or participation in any such note or evidence of indebtedness.

2. For the purposes of this item the trustee shall not be deemed the owner or holder of (a) any security which it holds as collateral security (as trustee or otherwise) for an obligation which is not in default, or (b) any security which it holds as collateral security under the indenture to be qualified, irrespective of any default thereunder, or (c) any security which it holds as agent for collection, or as custodian, escrow agent or depositary, or in any similar representative capacity.

3. No information need be furnished under this item as to holdings by the trustee of securities already issued under the indenture to be qualified or securities issued under any other indenture under which the trustee is also trustee.

4. No information need be given with respect to any class of securities where the amount of securities of the class which the trustee owns beneficially or holds as collateral security for obligations in default does not exceed 1 percent of the outstanding securities of the class.

Col. A	Col. B	Col. C	Col. D
Title of class	Whether the securities are voting or nonvoting securities	Amount owned beneficially or held as collateral security for obligations in default	Percentage of class represented by amount given in Col. C

Item 9. Securities of Underwriters Owned or Held by the Trustee

If the trustee owns beneficially or holds as collateral security for obligations in default any securities of an underwriter for the obligor, furnish the following information as to each class of securities of such underwriter any of which are so owned or held by the trustee:

As of _____ (Insert date within 31 days).

Col. A	Col. B	Col. C	Col. D
Title of issuer and title of class	Amount outstanding	Amount owned beneficially or held as collateral security for obligations in default by trustee	Percentage of class represented by amount given in Col. C

Instructions. Instructions 1, 2, and 4 to Item 8 shall be applicable to this item.

Item 10. Ownership or Holdings by the Trustee of Voting Securities of Certain Affiliates or Security Holders of the Obligor

If the trustee owns beneficially or holds as collateral security for obligations in default voting securities of a person who, to the knowledge of the trustee (1) owns 10 percent or more of the voting securities of the obligor or (2) is an affiliate, other than a subsidiary, of the obligor, furnish the following information as to the voting securities of such person:

As of _____ (Insert date within 31 days).

Col. A	Col. B	Col. C	Col. D
Title of issuer and title of class	Amount outstanding	Amount owned beneficially or held as collateral security for obligations in default by trustee	Percent of class represented by amount given in Col. C

Instruction. Instructions 1, 2, and 4 to item 8 shall be applicable to this item.

Item 11. Ownership or holdings by the Trustee of Any Securities of a Person Owning 50 Percent or More of the Voting Securities of the Obligor

If the trustee owns beneficially or holds as collateral security for obligations in default any securities of a person who, to the knowledge of the trustee, owns 50 percent or more of the voting securities of the obligor, furnish the following information as to each class of securities of such person any of which are so owned or held by the trustee:

As of _____ (Insert date within 31 days).

Col. A	Col. B	Col. C	Col. D
Title of issuer and title of class	Amount outstanding	Amount owned beneficially or held as collateral security for obligations in default by trustee	Percent of class represented by amount given in Col. C

Instruction. Instructions 1, 2, and 4 to item 8 shall be applicable to this item.

Item 12. Indebtedness of the Obligor to the Trustee

Except as noted in the instructions, if the obligor is indebted to the trustee, furnish the following information:

As of _____ (insert date within 31 days).

Col. A	Col. B	Col. C
Nature of indebtedness	Amount outstanding	Date due

Instructions. 1. No information need be provided as to: (a) The ownership of securities issued under any indenture, or any security or securities having a maturity of more than one year at the time of acquisition by the indenture trustee; (b) disbursements made in the ordinary course of business in the capacity of trustee of an indenture, transfer agent, registrar, custodian, paying agent, fiscal agent or depositary, or other similar capacity; (c) indebtedness created as a result of services rendered or premises rented; or indebtedness created as a result of goods or securities sold in a cash transaction; (d) the ownership of stock or of other securities of a corporation organized under section 25(a) of the Federal Reserve Act, as amended, which is directly or indirectly a

creditor of an obligor upon the indenture securities; or (e) the ownership of any drafts, bills of exchange, acceptances, or obligations which fall within the classification of self-liquidating paper.

2. Information should be given as to the general type of indebtedness, such as lines of credit, commercial paper, long-term notes, mortgages, etc.

Item 13. Defaults by the Obligor

(a) State whether there is or has been a default with respect to the securities under this indenture. Explain the nature of any such default.

(b) If the trustee is a trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of the obligor are outstanding, or is trustee for more than one outstanding series of securities under the indenture, state whether there has been a default under any such indenture or series, identify the indenture or series affected, and explain the nature of any such default.

Item 14. Affiliations With the Underwriters

If any underwriter is an affiliate of the trustee, describe each such affiliation.

Instructions. 1. The term "affiliate" is defined in rule 0–2 of the General Rules and Regulations under the Act. Attention is directed to rule 7a–26.

2. Include the name of each affiliate and the names of all intermediate affiliates, if any. Indicate the respective percentage of voting securities or other bases of control giving rise to the affiliations.

Item 15. Substantial Equivalency of Trust Regulation in the Foreign Jurisdiction and Eligiblity of United States Trustees to Act as Sole Trustees in the Foreign Jurisdiction

(a) A discussion should be provided of the regulation in the applicant's home jurisdiction relating to the supervision or examination of indenture trustees, including regulatory provisions and their administration.

(b) The regulatory provisions and their administration in the home jurisdiction shall be compared with United States regulation and administration with respect to supervision and examination of indenture trustees. The application shall discuss whether home jurisdiction supervision or examination of trustees is substantially equivalent to that in the United States.

(c) The application shall discuss the eligibility of United States persons to act as sole trustees in the applicant's home country.

Instruction. An opinion of counsel addressing (1) whether supervision or examination of indenture trustees in the applicant's home jurisdiction is substantially equivalent to that applicable in the United States, and (2) the eligibility of United States trustees to act as sole trustee in the applicant's home jurisdiction, may be required.

Item 16. List of Exhibits

List below all exhibits filed as a part of this statement of eligibility.

Instruction. Subject to Rule 7a–29 permitting incorporation of exhibits by reference, the following exhibits are to be filed as a part of the statement of eligibility of the trustee. Such exhibits shall be appropriately lettered or numbered for convenient reference. Exhibits incorporated by reference may be referred to by the designation given in the previous filing.

Where exhibits are incorporated by reference, the reference shall be made in the list of exhibits called for under Item 16. If the certificate of authority to commence business (Exhibit 2) and/or the certificate to exercise corporate trust powers (Exhibit 3) is contained in another exhibit, a statement to that effect shall be made, identifying the exhibit in which such certificates are included. If the applicable exhibit is not in English, a translation in English shall also be filed. In response to exhibit 7, foreign trustees should provide financial information sufficient to provide the information required by section 310(a)(2) of the Act.

1. A copy of the articles of association of the trustee as now in effect.

2. A copy of the certificate of authority of the trustee to commence business, if not contained in the articles of association.

3. A copy of the authorization of the trustee to exercise corporate trust powers, if such authorization is not contained in the documents specified in paragraph (1) or (2) above.

4. A copy of the existing bylaws of the trustee, or instruments corresponding thereto.

5. A copy of each indenture referred to in item 4, if the obligor is in default.

6. A copy of the latest report of condition of the trustee published pursuant to law or the requirements of its supervising or examining authority.

7. Trustee's consent to service of process (*see* rule 10a–4 under the Act).

8. Copies of applicable statutes, rules, regulations, and the administrative interpretations of those provisions affecting (a) substantial equivalency of regulation with respect to supervision or examination of the trustee in the foreign jurisdiction to that of trustees subject to the jurisdiction of the laws of the United States, any State, Territory, or the District of Columbia; and (b) eligibility of United States persons to act as sole indenture trustees in the foreign jurisdiction.

Signature

Pursuant to the requirements of the Trust Indenture Act of 1939 the trustee, _____, a _____ [state form of organization] organized and existing under the laws of _____, has duly caused this statement of eligibility to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of _____, and State [or other jurisdiction] of _____, on the _____ day of _____, _____(Year)

_____

(Trustee)

By:

_____

(Name and Title)

Instruction. The name of each person signing the statement of eligibility shall be typed or printed beneath the signature.

By the Commission.

Dated: May 8, 1991.

Margaret H. McFarland,

Deputy Secretary.

Securities and Exchange Commission Regulatory Flexibility Act Certification

I, Richard C. Breeden, Chairman of the Securities and Exchange Commission, hereby certify, pursuant to 5 U.S.C. 605(b), that the rules and forms under the Trust Indenture Reform Act of 1990 will not, if promulgated, have a significant economic impact on a substantial number of small entities. The reasons for this certification are that small entities are not generally impacted by the requirements of the Act, because they are not involved as obligors on or trustees under qualified indentures. In addition, because the requirements of the Act are inapplicable to underwriters, they are unaffected by the Act.

Dated May 8, 1991.

Richard C. Breeden.

[FR Doc. 91–11416 Filed 5–14–91; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

[T.D. 91–46]

RIN 1515–AA80

Cargo Release Notification to Certain Vessel and Air Carriers and Bonded Facilities That Are Not Part of the Automated Manifest System

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

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to provide that Customs may notify certain parties of the release of their cargo by posting in a conspicuous place in the customhouse at ports of entry at the start of each business day a computer-generated list of shipments which have been authorized for release from Customs custody. Release notification will be communicated in this manner to vessel carriers, air carriers and bonded facilities which are not participants in the Automated Manifest System, if entry data has been transmitted through the Automated Broker Interface, and Customs determines that documentation is not required to be physically filed in paper form. This procedure will greatly decrease the amount of paperwork involved in Customs processing of release notifications.

EFFECTIVE DATE: June 14, 1991.

FOR FURTHER INFORMATION CONTACT: Leo Morris, Office of Cargo Enforcement and Facilitation, (202) 566–8151.

SUPPLEMENTARY INFORMATION:

Background

Section 1448 of title 19, United States Code (19 U.S.C. 1448) provides that no merchandise shall be removed from the place of unlading until a permit for its delivery is issued by Customs. Pursuant to 19 U.S.C. 1484(j), merchandise shall be released from Customs custody only to or upon the order of the carrier by whom the merchandise is brought to the port at which entry is made, except that merchandise in a bonded warehouse shall be released from Customs custody only to or upon the order of the proprietor of the warehouse.

Prior to Customs efforts to automate, carriers and bonded warehouse proprietors were notified of the release of their shipments by Customs by receiving a paper copy of a Customs document (usually the Customs Form 3461) for each shipment which was authorized for release by Customs.

In Customs efforts to automate all phases of its entry processing of merchandise into a single automated system, the Automated Commercial System (ACS), Customs has developed a new method of informing carriers and bonded facilities of the release of cargo.

Two integral modules of the ACS, the Automated Manifest System (AMS), and the Automated Broker Interface (ABI), play a role in the creation of the new method of notification of cargo release.

ABI permits qualified trade participants to interface directly with Customs computer and transmit entry release and entry summary data for merchandise being imported. ABI speeds entry processing and provides two-way communication between the user and Customs. In this manner, participants are able to ensure the accuracy and completeness of data by accessing Customs automated reference files. Further, when Customs determines to release a shipment, it can transmit this message electronically to an ABI entry filer.

AMS is, in essence, both an imported merchandise inventory control system and a cargo release notification system. AMS permits qualified carriers to transmit their manifest data (a list of the goods transported by the carrier) to Customs. By comparing information provided in the AMS with automated Customs entry data submitted through ABI, Customs is able to make informed decisions with respect to the allocation of resources for the inspection of merchandise. One of the advantages AMS provides to participants is an electronic notification of Customs action authorizing the release of the cargo and its delivery to the consignee.

While AMS and ABI participants receive electronic status notifications regarding the release of cargo when entry data is furnished via ABI, vessels, aircraft or bonded facilities which are not participants in AMS do not receive electronic notification of the releases. Accordingly, a broker may receive electronically through ABI a cargo release notification before a carrier or bonded facility operator is aware that Customs has approved the release of the cargo. Until a recent test program, non-AMS carriers were notified of the release of their cargo in the same manner as pre-automation; they were notified of release of shipments by receipt of paper copies of documents authorizing release.

Proposals Published

On August 15, 1988, Customs published a notice in the **Federal Register** (53 FR 30696), proposing to discontinue the practice of providing separate copies of release documents with respect to transactions of non-AMS carriers and bonded facility operators for which entry data is furnished via ABI and which based on Customs analysis represent the most minimal risk of violation of the Customs laws. Customs proposed with respect to these types of transactions that if it determines that the cargo may be released without submission of paper documents through review of entry data submitted electronically through ABI and its selectivity criteria (the categories of information which guide Customs judgment in evaluating and assessing the risk of a transaction; see T.D. 90–92 published in the **Federal Register** (55 FR 49879) on December 3, 1990—the final regulations on electronic entry filing), it will post this information in a conspicuous place in the customhouse at the port of entry where the cargo was imported, as well as transmit a message through ABI to the ABI entry filer that the cargo is released. It should be noted that the electronic message the ABI entry filers will receive informing them of the cargo's release is not an official release notice. Pursuant to the proposal, the official notice to non-AMS carriers and bonded facility operators for transactions for which entry data is furnished through ABI and paper documentation is not required to be filed will be the posting of the computer-generated list of released shipments which will appear at the start of each business day at the customhouse at the Customs port of entry where the cargo was imported.

Ten comments were received regarding this initial proposal. After reviewing the comments, Customs determined that the proposal required modification. Subsequently, on September 13, 1990, Customs republished a modified proposal in the **Federal Register** (55 FR 37716), soliciting further comment.

Discussion of Comments on Modified Proposal

Only two letters were received in response to the modified proposal and both letters raised similar issues to those raised in comments on the previous notice. An analysis of the comments follows:

Comment: The posting of paperless releases for nonautomated ocean carriers should be delayed until most ocean carriers are using AMS.

Response: Customs processes over 60 percent of the ocean bills of lading through AMS at the present time. Seventy-five percent of ocean tonnage imported into the U.S. is carried on AMS carriers. As evidenced by these statistics, this regulation, which affects only those carriers which are not on AMS when the entry data for cargo is transmitted through ABI, will affect release notifications relating only to a small percentage of the merchandise carried by ocean carriers. As the purpose of this regulation is to reduce reliance on paper documents and to promote participation in AMS and the majority of ocean cargo is processed through AMS already, it would be counterproductive to wait for the many small steamship lines to automate. Automated port authorities and service centers are available to serve them.

Comment: The posting of releases processed the previous day denies the carrier timely notice of cargo releases.

Response: Customs agrees that the posting of releases from the previous day is not as timely as electronic release. However, this procedure does not cause an indefinite delay. Carriers will be notified of the release of merchandise under this procedure at the most 24 hours after entry is presented. The timeliness of this procedure does not vary much from the timeliness of receiving a paper release on a Customs Form 3461, which is the system still in effect for carriers who are not on AMS when entry data is not transmitted through ABI.

Comment: Customs should adopt one of the following three options rather than adopt this regulation: (1) Continue to provide non-AMS carriers with a timely paper release; (2) designate the release provided by the broker as "official"; or (3) provide non-AMS carriers and/or their agents the release electronically.

Response: These options are not viable. One of the purposes of this regulation is to give incentive to non-AMS carriers to automate. Accordingly, maintaining the status quo and continuing to provide non-AMS carriers with paper releases would be counter to the purpose of this regulation. Regarding the second suggested option, Customs cannot, pursuant to statute, consider the release provided by the broker as "official." Pursuant to 19 U.S.C. 1448, no merchandise shall be removed from the place of unlading until a permit for its delivery is issued by Customs. Pursuant to 19 U.S.C. 1484(j), merchandise shall be released from Customs custody only to or upon the order of the carrier by whom the merchandise is brought to the port at which entry is made, except that merchandise in a bonded warehouse shall be released from Customs custody only to or upon the order of the proprietor of the warehouse. In other words, pursuant to statute, Customs must provide the release notification to the carrier and it is the carrier (or warehouse proprietor) which is liable for unpaid duties for merchandise which is mistakenly released or misdelivered. Accordingly, the release provided by the broker cannot be deemed "official." Regarding the third option, we fail to understand how one without electronic capability can be electronically notified of release.

Comment: With posting of releases on the customhouse wall, a carrier has no paper document to complete its manifest file to show evidence that Customs released certain merchandise in the event that Customs audits.

Response: Customs maintains the release records for paperless entries. Customs auditors would not generally look for any evidence from carriers unless there is a misdelivery, and in that event, the auditors would be looking for documents like delivery orders rather than notices of release.

Conclusion

After careful consideration of all the comments received and further review of the matter, Customs has determined that the amendment should be adopted. Accordingly, this document provides that a report posted at the customhouse will serve as release notification to vessel carriers, air carriers and bonded facilities when the manifest is not filed through the Automated Manifest System, the entry has been filed through the Automated Broker Interface and Customs determines that paper documentation need not be filed. The only modification to the document is the reference to electronic entry filing. The proposed regulation described the criterion that Customs determines that paper documentation need not be filed as "the cargo qualifies for electronic entry filing". To be consistent with Treasury Decision 90–92, this language has been changed to read, "Customs has approved the cargo for release without submission of paper documents after reviewing the entry data submitted electronically through ABI and its selectivity criteria (see § 143.34)."

Executive Order

This document does not meet the criteria for a "major rule" as defined in section 1(b) of Executive Order 12291. Accordingly, no regulatory impact analysis has been prepared.

Regulatory Flexibility Act

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

Drafting Information

The principal author of this document was Harold M. Singer, Regulations and Disclosure Law Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 4

Carrier, Release of merchandise, Vessels.

Amendments to the Regulations

Part 4 of the Customs Regulations (19 CFR part 4) is amended as set forth below:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The general authority citation for part 4, Customs Regulations (19 CFR part 4) continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1624; 46 U.S.C. App. 3.

2. Section 4.38(a), Customs Regulations, is revised to read as follows:

§ 4.38 Release of cargo.

(a) No imported merchandise shall be released from Customs custody until a permit to release such merchandise has been granted. Such permit shall be issued by the district director only after the merchandise has been entered and, except as provided for in § 141.102(d) or part 142 of this chapter, the duties thereon, if any, have been estimated and paid. Generally, the permit shall consist of a document authorizing delivery of a particular shipment or an electronic equivalent. Alternatively, the permit may consist of a report which lists those shipments which have been authorized for release. This alternative cargo release notification may be used when the mainfest is not filed by the carrier through the Automated Manifest System, the entry has been filed through the Automated Broker Interface, and Customs has approved the cargo for release without submission of paper documents after reviewing the entry data submitted electronically through ABI and its selectivity criteria (see § 143.34). The report shall be posted in a conspicuous area to which the public has access in the customhouse at the port of entry where the cargo was imported.

(1) Where the cargo arrives by vessel, the report shall consist of the following data elements:

(i) Vessel name or code, if transmitted by the entry filer;

(ii) Carrier code;

(iii) Voyage number, if transmitted by the entry filer;

(iv) Bill of lading number;

(v) Quantity released; and

(vi) Entry number (including filer code).

(2) Where the cargo arrives by air, the report shall consist of the following data elements:

(i) Air waybill number;

(ii) Quantity released;

(iii) Entry number (including filer code);

(iv) Carrier code; and

(v) Flight number, if transmitted by the entry filer.

(3) In the case of merchandise traveling via in-bond movement, the report will contain the following data elements:

(i) Immediate transportation bond number;

(ii) Carrier code;

(iii) Quantity released; and

(iv) Entry number (including filer code).

When merchandise is released without proper permit before entry has been made, the district director shall issue a written demand for redelivery. The carrier or facility operator shall redeliver the merchandise to Customs within 30 days after the demand is made. The district director may authorize unentered merchandise brought in by one carrier for the account of another carrier to be transferred within the port to the latter carrier's facility. Upon receipt of the merchandise the latter carrier assumes liability for the merchandise to the same extent as

though the merchandise had arrived on its own vessel.

* * * * *

Carol Hallett,

Commissioner of Customs.

Approved: May 9, 1991.

Peter K. Nunez,

Assistant Secretary of the Treasury.

[FR Doc. 91–11463 Filed 5–14–91; 8:45 am]

BILLING CODE 4820–02–M

Internal Revenue Service

26 CFR Part 301

[T.D. 8342]

RIN 1545–A085

Extension of Time for Making Elections; Correction

AGENCY: Internal Revenue Service.

ACTION: Correction to temporary regulations.

SUMMARY: This document contains a correction to Treasury Decision 8342, which was published in the **Federal Register** on April 5, 1991 (56 FR 14023). The temporary regulations relate to the amendments to the regulations under 26 CFR part 301 concerning the extension of time for making elections for applications for relief when that time is not expressly prescribed by statute.

EFFECTIVE DATE: April 5, 1991.

FOR FURTHER INFORMATION CONTACT: Barbara B. Walker, (202) 566–5985 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations that are the subject of this correction permits the Commissioner to grant taxpayers an extension of time for making these elections or applications under any subtitle of the Code other than subtitle E, governing Alcohol, Tobacco, and Certain Other Excise Taxes; subtitle G, governing the Joint Committee on Taxation; subtitle H, governing the Financing of Presidential Elections; and subtitle I, governing the Trust Fund Code.

Need for Correction

As published, T.D. 8342 contains an error which may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of temporary regulations (T.D. 8342), which was the subject of FR Doc. 91–8078, is corrected as follows:

1. On page 14023, in the preamble under the heading "Explanation of Provisions", column 3, last paragraph, line 3 from the bottom of that column, the language "subtitles now included in § 301.9100–1 of" is corrected to read "subtitles now included in § 301.9100–1T of".

Dale D. Goode,

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

[FR Doc. 91–11209 Filed 5–14–91; 8:45 am]

BILLING CODE 4830–01–M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2619

Valuation of Plan Benefits in Single-Employer Plans; Amendment Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This amendment to the regulation on Valuation of Plan Benefits in Single-Employer Plans contains the interest rates and factors for the period beginning June 1, 1991. The use of these interest rates and factors to value benefits is mandatory for some terminating single-employer pension plans and optional for others. The Pension Benefit Guaranty Corporation adjusts the interest rates and factors periodically to reflect changes in financial and annuity markets. This amendment adopts the rates and factors applicable to plans that terminate on or after June 1, 1991, which will remain in effect until the PBGC issues new interest rates and factors.

EFFECTIVE DATE: June 1, 1991.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Code 22500, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006, 202–778–8850, 202–778–8859 for TTY and TDD only). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: The Pension Benefit Guaranty Corporation's ("PBGC's") regulation on Valuation of Plan Benefits in Single-Employer Plans (29 CFR part 2619) sets forth the methods for valuing plan benefits of terminating single-employer plans covered under Title IV of the Employer Retirement Income Security Act of 1974, as amended ("ERISA"). Under ERISA section 4041(c), all plans wishing to terminate in a distress termination must value guaranteed benefits and "benefit liabilities", i.e., all benefits provided under the plan as of the plan termination date, using the formulas set forth in part 2619, subpart C. (Plans terminating in a standard termination may, for purposes of the Standard Termination Notice filed with PBGC, use these formulas to value benefit liabilities, although this is not required.) In addition, when the PBGC terminates an underfunded plan involuntarily pursuant to ERISA section 4042(a), it uses the Subpart C formulas to determine the amount of the plan's underfunding.

Appendix B in part 2619 sets forth the interest rates and factors that are to be used in the formulas contained in the regulation. Because these rates and factors are intended to reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

The rates and factors currently in use have been in effect since March 1, 1991. This amendment adds to Appendix B a new set of interest rates and factors for valuing benefits in plans that terminate on or after June 1, 1991, which set reflects a decrease of ¼ percent in the immediate interest rate from 7 percent to 6¾ percent.

Generally, the interest rates and factors will be in effect for at least one month. However, any published rates and factors will remain in effect until such time as the PBGC publishes another amendment changing them. Any change in the rates normally will be published in the **Federal Register** by the 15th of the month preceding the effective date of the new rates or as close to that date as circumstances permit.

Finally, three previously published rate sets (numbers 83, 89, and 90) each omitted one day (i.e., the last day of the final month) from the valuation date period. This amendment corrects these errors.

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest rates and factors promptly so that the rates can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation of benefits in plans that will terminate on or after June 1, 1991, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making the rates set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291, because

it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, or innovation.

List of Subjects in 29 CFR Part 2619

Employee benefit plans, Pension insurance, and Pensions.

In consideration of the foregoing, part 2619 of chapter XXVI, title 29, Code of Federal Regulations, is hereby amended as follows:

1. The authority citation for part 2619 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, and 1362 (1988).

2. Rate Sets 83 and 89 through 91 of appendix B are revised and Rate Set 92 of appendix B is added to read as follows. The introductory text is republished for the convenience of the reader and remains unchanged.

Appendix B—Interest Rates and Quantities Used to Value Immediate and Deferred Annuities

In the table that follows, the immediate annuity rate is used to value immediate annuities, to compute the quantity "Gy" for deferred annuities and to value both portions of a refund annuity. An interest rate of 5% shall be used to value death benefits other than the decreasing term insurance portion of a refund annuity. For deferred annuities, k_1, k_2, k_3, n_1, and n_2 are defined in § 2619.45

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities				
	On or after	And, before		k_1	k_2	k_3	n_1	n_2
* * * *		*		*		*		
83	3-1-90	6-1-90	7.50	1.0675	1.0550	1.0400	7	8
* * * *		*		*		*		
89	12-1-90	1-1-91	7.50	1.0675	1.0550	1.0400	7	8
90	1-1-91	3-1-91	7.25	1.0650	1.0525	1.0400	7	8
91	3-1-91	6-1-91	7.00	1.0625	1.0500	1.0400	7	8
92	6-1-91		6.75	1.0600	1.0475	1.0400	7	8

James B. Lockhart III,
Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 91-11484 Filed 5-14-91; 8:45 am]
BILLING CODE 7708-01-M

29 CFR Part 2676

Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal—Interest Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's regulation on Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal (29 CFR part 2676). The regulation prescribes rules for valuing benefits and certain assets of multiemployer plans under sections 4219(c)(1)(D) and 4281(b) of the Employee Retirement Income Security Act of 1974. Section 2676.15(c) of the regulation contains a table setting forth, for each calendar month, a series of interest rates to be used in any valuation performed as of a valuation date within that calendar month. On or about the fifteenth of each month, the PBGC publishes a new entry in the table for the following month, whether or not the rates are changing. This amendment adds to the table the rate series for the month of June 1991.

EFFECTIVE DATE: June 1, 1991.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Attorney, Office of the General Counsel (22500), Pension Benefit Guaranty Corporation, 2020 K Street, NW, Washington DC 20006; 202-778-8820 (202-778-8859 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The PBGC finds that notice of and public comment on this amendment would be impracticable and contrary to the public interest, and that there is good cause for making this amendment effective immediately. These findings are based on the need to have the interest rates in this amendment reflect market conditions that are as nearly current as possible and the need to issue the interest rates promptly so that they are available to the public before the beginning of the period to which they apply. (*See* 5 U.S.C. 553 (b) and (d).) Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

The PBGC has also determined that this amendment is not a "major rule" within the meaning of Executive Order 12291 because it will not have an annual effect on the economy of $100 million or more; or create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 29 CFR Part 2676

Employee benefit plans and Pensions.

In consideration of the foregoing, part 2676 of subchapter H of chapter XXVI of title 29, Code of Federal Regulations, is amended as follows:

PART 2676—VALUATION OF PLAN BENEFITS AND PLAN ASSETS FOLLOWING MASS WITHDRAWAL

1. The authority citation for part 2676 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1399(c)(1)(D), and 1441(b)(1).

2. In § 2676.15, paragraph (c) is amended by adding to the end of the table of interest rates therein the following new entry:

§ 2676.15 Interest.

* * * * *

(c) *Interest Rates.*

For valuation dates occurring in the month	The values for i_k are															
	i_1	i_2	i_3	i_4	i_5	i_6	i_7	i_8	i_9	i_{10}	i_{11}	i_{12}	i_{13}	i_{14}	i_{15}	i_n
•		•		•			•		•			•		•		
June 1991	.07	.06875	.0675	.06625	.065	.06375	.06375	.06375	.06375	.06375	.06125	.06125	.06125	.06125	.06125	.05875

Issued at Washington, DC, on this 9th day of May 1991.

James B. Lockhart III,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 91–11483 Filed 5–14–91; 8:45 am]

BILLING CODE 7708–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 9F3793/R1114; FRL–3890–9]

RIN–2070–AB78

Pesticide Tolerances for Clofentezine

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the insecticide clofentezine (3,6-bis(2-chlorophenyl)-1,2,4,5,tetrazine) in or on walnuts and almonds and for clofentezine and its metabolite 3-(2-cloro-4-hydroxyphenyl)-6-(2-chlorophenyl)-1,2,4,5-tetrazine in or on meat, fat, and meat by-products of cattle, goats, hogs, horses, and sheep and milk. This regulation to establish maximum permissible levels for residues of the insecticide was requested pursuant to a petition submitted by Nor-Am Chemical Co.

EFFECTIVE DATE: May 15, 1991.

ADDRESSES: Written objections, identified by the document control number, [PP 9F3793/R1114], must be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, rm. 3708, 1401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Dennis H. Edwards, Jr., Product Manager (PM) 12, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 202, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-557-2386.

SUPPLEMENTARY INFORMATION: In the Federal Register of November 1, 1989 (54 FR 46119), EPA issued a notice which announced that Nor-Am Chemical Co., P.O. Box 7495, 3509 Silverside Rd., Wilmington, DE 19803, had submitted a pesticide petition (PP 9F3793) to EPA proposing to amend 40 CFR part 180 by establishing a tolerance under section 408 of the Federal Food, Drug, and Cosmetic Act for residues of the insecticide clofentezine ([3,6-bis(2-chlorophenyl)-1,2,4,5-tetrazine]) in or on walnuts at 0.02 part per million (ppm), almond nutmeat at 0.5 ppm, and almond hulls at 5 ppm and for clofentezine and its metabolite 3-(2-chloro-4-hydroxyphenyl)-6-(2-chlorophenyl)-1,2,4,5-tetrazine in or on meat, fat, and meat by products except liver of cattle, goats, hogs, horses, and sheep at 0.05 ppm; liver of cattle, goats, hogs, horses, and sheep at 0.4 ppm; and milk at 0.01 ppm. The metabolite 3-(2-chloro-4-hydroxyphenyl)-6-(2-chlorophenyl)-1,2,4,5-tetrazine is present as an animal metabolite only based on metabolism studies submitted by the petitioner. There were no comments or requests for referral to an advisory committee received in response to the notice of filing. A conditional registration for the use of clofentezine on almonds and walnuts is being issued concurrently with this tolerance. The conditional registration will automatically expire on September 30, 1993. The Agency has reviewed avian reproduction studies and found them to be deficient. The Agency is requiring that the avian reproduction be repeated. The chronic risks of clofentezine to avian species cannot be fully evaluated until new avian reproduction studies are submitted and reviewed by the Agency. However, because of the relatively low exposure rate and duration (only a single application is allowed), its low acute toxicity to birds, and the low acute and chronic toxicity to mammals, the Agency believes that the potential chronic effects to avian species which may occur during the conditional registration period would not be significant.

The Agency has also identified two aquatic studies, an aquatic invertebrate life-cycle study and a fish life-cycle study, that are needed to fully evaluate the potential chronic toxicity of clofentezine to aquatic organisms based on it ovicidal mode of action. Due to the rapid hydrolysis of the compound, the Agency does not expect chronic exposures to occur to aquatic animals. However, since transient exposures to reproducing adults, eggs, or developing embryos from clofentezine could cause some effects, the Agency is requiring the above-described studies.

The Agency is requiring the restricted-use classification for clofentezine as a prudent measure in the absence of data to fully evaluate the chronic toxicity of clofentezine to aquatic and avian organisms. After the data described above have been submitted and evaluated, the Agency will determine if a continued restricted-use classification is warranted for clofentezine.

The toxicological data considered in support of the tolerance include a 1-year dog feeding study with no-observed-effect level (NOEL) of 50 ppm (1.25 mg/kg/day) (effects observed at 1,000 and 20,000 ppm included elevated serum cholesterol and triglyceride levels); a mouse oncogenicity study which was negative at the doses tested, 50 ppm (7.5 mg/kg/day), 500 ppm (75 mg/kg/day), and 5,000 ppm (750 mg/kg/day); a multi-generation rat study with a NOEL of 400 ppm (20 mg/kg/day) (highest dose tested (HDT)); a rat teratology study which was negative at 3,200 mg/kg/day (HDT) and had a developmental NOEL of 3,200 mg/kg/day; a rabbit teratology study which was negative at 3,000 mg/kg/day (HDT) and also has a NOEL of 1,000 mg/kg/day for maternal toxicity (reduced body weight gain and food consumption) and developmental toxicity (reduced litter and fetal body weights); and a 2-year rat chronic feeding/oncogenicity study which showed an increase in the incidence of centrilobular hepatocyte hypertrophy and showed a statistically significant increase in thyroid follicular cell tumors in male rats at 400 ppm (20 mg/kg/day) (HDT). Gene mutation, chromosomal aberrations, and DNA damage tests were negative for genetic toxicity.

The registrant (Nor-Am) also submitted additional thyroid studies intended to show that there was an indirect mechanism for the follicular cell tumor associated with clofentezine's liver toxicity. The Agency has reviewed the data in accordance with criteria outlined in a draft document entitled, "Thyroid Follicular Cell Carcinogenesis: Mechanistic and Science Policy Consideration," prepared by the Technical Panel of the Agency's Risk Assessment Forum (December 15, 1987). While this document is still undergoing Agency review, and the assessment

procedures set forth therein have not been adopted by the Agency, the draft does provide a useful framework in which to consider the issue. Although the additional thyroid function studies suggest the possibility of an indirect mechanism for follicular cell tumor induction that may be associated with clofentezine's liver toxicity, the Agency believes that additional data are necessary to more completely define the mechanism of clofentezine's thyroid tumor induction in terms of the criteria listed in the document cited above. Based on the rat chronic feeding/oncogenicity study, the Agency has classified clofentezine as a possible human carcinogen (Group C). The qualitative designation "C" refers to EPA's weight-of-the evidence classification, which in this case shows clofentezine to be a "possible human carcinogen." The classification is based on the Agency's "Guidelines for Carcinogenic Risk Assessment," published in the **Federal Register** of September 24, 1986 (51 FR 22992). The Agency believes a quantitative risk assessment based on the thyroid incidence is not appropriate for the following reasons:

1. The increased tumor incidence was marginally increased above the control incidence only at the highest dose tested (20 mg/kg/day) in the chronic feeding study.

2. The increased incidence was observed only in male rats.

3. The thyroid tumor incidence in the chronic feeding study's highest dose group (20 percent) was slightly greater than the historical range provided by limited group data (7.5 to 15 percent) from two other studies.

4. The additional thyroid function studies suggest the possibility of an indirect mechanism for follicular cell tumor induction that may be associated with clofentezine's liver toxicity.

5. The mouse was negative for carcinogenic effects at all dose levels, i.e., 50, 500, 5,000 ppm (equivalent to 7.5, 75, and 750 mg/kg/day, respectively).

6. There are no close structural analogs with carcinogenic concerns identified.

7. Clofentezine was not found to be mutagenic in several acceptable studies.

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel (SAP) also reviewed the weight-of-the-evidence consideration and classification of the oncogenic potential of clofentezine. Its review included the additional thyroid studies submitted by Nor-Am that were available at that time. The SAP concluded that thyroid tumors in male rats from the chronic feeding/oncogenicity study with clofentezine did not provide adequate evidence of a potential carcinogenic hazard to humans and that the carcinogenic potential of clofentezine belongs in Group D (not classifiable as to human carcinogenicity).

The Panel's interpretation was based on observed increases in thyroid-stimulation hormone (TSH) levels and the incidence of thyroid follicular cell hyperplasia which may be responses to decrease in blood levels of circulation thyroid hormones (triiodothyroxine (T3) and tetra-iodothyroxine (T4)) observed in clofentezine tested rats. This sequence of reduced circulating thyroid hormones and increased TSH levels and follicular cell hyperplasia is known to lead to thyroid tumors in rats, and thePanel noted, "Exposure to agents that cause this sequence in rats has not resulted in increased TSH, hyperplasia and thyroid tumors in humans." Therefore, the Panel concluded that there was inadequate data for suggesting human carcinogenicity or a quantitative risk assessment.

Nor-Am has since submitted additional thyroid studies intended to show the mechanism of clofentezine's thyroid tumor induction. The Agency has reviewed these data, but as previously stated, the Agency continues to believe that additional data are needed to more completely define the mechanism of clofentezine's thyroid tumor induction and that the available data are not sufficient to change the classification of clofentezine from Category "C" to Category "D." However, the Agency does agree with the SAP that a quantitative risk assessment is not appropriate.

Based on the 1-year dog feeding study with a NOEL of 1.25 mg/kg/day and using a safety factory of 100, the acceptable daily intake (ADI) for humans is 0.013 mg/kg of body weight/day. The theoretical maximum residue contribution (TMRC) for this chemical utilizes 2.3 percent of the ADI. The current action will contribute 0.000517 mg/kg/day of residue to human diet utilizing an additional 1.7 percent of the ADI. This results in a total utilization of 4 percent of the ADI.

The nature of the residue is understood. An adequate analytical method, high-performance liquid chromatography (HPLC), is available for enforcement.

Because of the long lead time from establishing this tolerance to publication of the enforcement methodology in the Pesticide Analytical Manual, Vol. II, the analytical methodology is being made available in the interim to anyone interested in pesticide enforcement when requested from: By mail: Calvin Furlow, Public Information Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW.,Washington, DC 20460. Office location and telephone number: Crystal Mall #2, rm. 242, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-557-4432.

Based on the information cited above, the Agency has determined that the establishment of the tolerance by amending 40 CFR part 180 will protect the public health. Therefore, the tolerance is established as set forth below, with an expiration date of September 30, 1994. After receipt and evaluation the avian reproduction studies, the Agency will consider establishing permanent tolerances without an expiration date for residues of this chemical.

Any person adversely affected by this regulation may, within 30 days after the date of publication 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 other grounds for the objections. If a hearing is granted, the objection 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 (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

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

Dated: April 29, 1991.

Douglas D. Campt,
Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR part 180 is amended as follows:

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

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

2. In § 180.446, by revising paragraph (b) and adding new paragraph (c), to read as follows:

§ 180.446 Clofentezine tolerances for residues.

* * * * *

(b) Tolerances to expire September 30, 1994, are established for the residues of the insecticide clofentezine (3,6-bis(2-chlorophenyl)-1,2,4,5-tetrazine) in or on the following raw agricultural commodities:

Commodity	Parts per million
Almond, hulls	5.0
Almond, nutmeat	0.5
Nectarines	1.0
Peaches	1.0
Walnuts	0.02

(c) Tolerances to expire September 30, 1994, are established for the combined residues of clofentezine and the 3-(2-chloro-4-hydroxyphenyl)-6-(2-chlorophenyl)-1,2,4,5-tetrazine metabolite in or on the following commodities:

Commodity	Parts per million
Cattle, fat	0.05
Cattle, liver	0.4
Cattle, meat	0.05
Cattle, mbyp (except liver)	0.05
Goat, fat	0.05
Goat, liver	0.4
Goat, meat	0.05
Goat, mbyp (except liver)	0.05
Hog, fat	0.05
Hog, liver	0.4
Hog, meat	0.05
Hog, mbyp (except liver)	0.05
Horse, fat	0.05
Horse, liver	0.4
Horse, meat	0.05
Horse, mbyp (except liver)	0.05
Milk	0.01
Sheep, fat	0.05
Sheep, liver	0.4
Sheep, meat	0.05
Sheep, mbyp (except liver)	0.05

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Family Support Administration

Office of Child Support Enforcement

45 CFR Parts 302, 303, and 304

RIN 0970-AA64

Child Support Enforcement Program: $50 Pass-through; Presumptive Support Guidelines; Mandatory Genetic Testing; Paternity Establishment; Laboratory Testing

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Final rule.

SUMMARY: This final rule implements five provisions of the Family Support Act of 1988 (Pub. L. 100-485), signed by the President October 13, 1988, which amend title IV-D of the Social Security Act (the Act), the authority for the Child Support Enforcement program. The provisions amend the Act to require payment to the family, and disregard, for purposes of eligibility for Aid to Families with Dependent Children (AFDC), of the first $50 of child support payments for each month which were made in the month when due; to require that State guidelines be used as a rebuttable presumption of support levels; to require the child and all other parties in a contested paternity case to submit to genetic testing upon request; to specify that the requirement for a State law permitting paternity establishment up to a child's eighteenth birthday also applies to any child for whom a paternity action was previously dismissed under a statute of limitations of less than 18 years; and to provide 90 percent Federal matching for laboratory costs incurred in determining paternity.

EFFECTIVE DATE: May 15, 1991. It should be noted that the statutory effective dates of certain of these provisions occur before the publication date of these final rules. The statutory provisions are effective on these effective dates, regardless of the absence of final implementing regulations.

FOR FURTHER INFORMATION CONTACT: Policy Branch, OCSE, specifically:

Andrew Hagan, (202) 252-5375—$50 pass-through, 90% Federal matching for laboratory costs, mandatory genetic testing, and paternity establishment until age 18.

Craig Hathaway, (202) 252-5367—Presumptive guidelines.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

Public reporting burden for the information collection requirements 45 CFR 302.56 (g) and (h) are estimated to be a one-time burden of 40 hours to develop criteria to determine when application of guidelines would be inappropriate, 10 minutes per case to meet the requirements for findings justifying deviation from the guidelines and a one-time burden of 100 hours to gather data for use in the initial review of a State's guidelines. A notice will be published in the **Federal Register** when the Office of Management and Budget approves these information collection requirements under section 3507 of the Paperwork Reduction Act.

Statutory Authority

This final rule is published under the authority of the following provisions of the Act, as amended by Public Law 100-485: Section 457(b)(1) (with respect to the $50 pass-through), section 467(b) (with respect to presumptive support guidelines), section 466(a)(5) (with respect to State laws and procedures requiring parties to submit to genetic testing and State law and procedures for the establishment of paternity), and section 455(a)(1) (with respect to 90 percent matching for laboratory testing). The final rule is also published under the general authority of section 1102 of the Act, which requires the Secretary to publish regulations that may be necessary for the efficient administration of the functions for which he is responsible under the Act.

Background and Description of Regulatory Provisions

1. Pass-through of Child Support Payments

Section 2640 of the Deficit Reduction Act (Pub. L. 98-369) amended section 457(b)(1) of the Act to require States to pay the first $50 of such amounts collected periodically which represent the monthly support obligation to the AFDC family. The statute also amended section 402(a)(8)(A)(vi) of the Act to require States to disregard "the first $50 of any child support payments received in such month" when determining AFDC eligibility and the amount of the AFDC payment. These changes resulted in

AFDC families having up to $50 of additional disposable income each month.

Section 102 of Public Law 100–485 amends sections 402(a)(8)(A)(vi) and 457(b)(1) of the Act, effective January 1, 1989, to clarify that the first $50 of support payments received in a month which was due for a prior month must be paid to the family if paid by the absent parent in the month when due. Under the new law, the AFDC family may not be denied the $50 payment when the absent parent pays support on-time but there is a delay in transmitting the payment from the point of collection to the agency responsible for distribution.

This is consistent with regulation at 45 CFR 302.51(a) (final regulation published on June 9, 1988 (53 FR 21642)), which provides that the date of collection of a child support payment for purposes of distribution is the date on which payment is received by the State IV–D agency or by the legal entity of any State or political subdivision actually making the collection, whichever is earliest. We expanded the date of collection rule, however, with respect to payments made through wage or other income withholding as indicated below. Regulations were also revised to clarify the applicability of § 302.51(a) and to ensure appropriate information exchange in interstate cases, as follows:

45 CFR 302.51—Distribution of Support Collections

Under § 302.51(a)(1), for purposes of distribution in IV–D cases, amounts collected, other than collections made through Federal or State income tax refund offset, shall be treated first as payment on the required support obligation for the month in which the support was collected and if any amounts are collected which are in excess of such amounts, these excess amounts shall be treated as amounts which represent payment on the required support obligation for previous months. Under § 302.51(a)(2), in AFDC and title IV–E foster care cases in which conversion to a monthly amount is necessary because support is ordered to be paid other than monthly, the IV–D agency may round off the converted amount to whole dollar amounts for the purpose of distribution under §§ 302.51 and 302.52.

Under paragraph (a)(3), amounts collected through Federal or State income tax refund offset must be distributed in accordance with the requirements in §§ 303.72(h) and 303.102(g), respectively. Under paragraph (a)(4), with respect to payments made through wage or other income withholding and received by the IV–D agency on or after January 1, 1989, the date of collection for distribution purposes in all IV–D cases must be the date the wages or other income are withheld to meet the support obligation. This is consistent with instructions published by OCSE on November 18, 1988. See OCSE–AT–88–17. If an employer fails or neglects to report the exact date of withholding, the State agency may impute wages to have been withheld in the month wages were due to be withheld in accordance with the court or administrative order.

Effective June 9, 1988, § 302.51(a)(5)(i) defines the date of collection for distribution purposes in all IV–D cases, other than for those payments made through tax refund offset or withholding and addressed under paragraphs (a) (3) and (4), as the date on which the payment is received by the IV–D agency or the legal entity of any State or political subdivision actually making the collection, whichever is earliest. Under paragraph (a)(5)(ii), effective January 1, 1989, States may use as the date of collection (for collections other than those made through withholding or Federal or State income tax refund offset) either the date of collection as defined under paragraph (a)(5)(i) or the date a payment is mailed, as evidenced by a legible U.S. Postal Service postmark or a legibly dated receipt from a commercial carrier.

The first sentence in § 302.51(b)(1) is revised as follows: Of such amounts as are collected periodically which represent monthly support payments, the first $50 of any payments for a month received in that month and the first $50 of payments for each prior month received in that month which were made by the absent parent in the month when due, shall be paid to the family.

45 CFR 303.7—Provision of Services in Interstate IV–D Cases

The regulation governing provision of services in interstate IV–D cases (which was published as a final rule on February 22, 1988 (53 FR 5246) and amended June 9, 1988 (53 FR 21642)) is amended to require under § 303.7(c)(7)(iv) that the responding State IV–D agency forward support payments to the location specified by the initiating State IV–D agency no later than 15 calendar days from the date of initial receipt in the responding State. In addition, paragraph (c)(7)(iv) is revised to require the responding State IV–D agency to inform the initiating State IV–D agency of the date of collection as defined under § 302.51(a) or that the collection was made through State income tax refund offset.

45 CFR 303.100—Procedures for Wage or Income Withholding

Section 303.100(d)(1)(ii) is amended to require that the IV–D agency's notice to employers concerning wage withholding state that employers must report to the IV–D agency, or such other individual or entity as the State may direct, at the time they forward support withheld from wages or other income, the date such amounts were withheld from the absent parent's wages.

2. State Guidelines for Child Support Award Amounts

Section 18 of the Child Support Enforcement Amendments of 1984 (Pub. L. 98–378) amended title IV–D of the Act to add section 467 requiring each State, as a condition of State IV–D plan approval, to establish guidelines for child support award amounts within the State. The State was required to make the guidelines available to all judges and other officials who have the power to determine awards, but the guidelines were not required to be binding on them.

Section 103 of Public Law 100–485 amended section 467 of the Act, effective October 13, 1989, to delete the clause that the State guidelines need not be binding upon judges or other officials and to require that the State's guidelines be used to create a rebuttable presumption in any judicial or administrative proceeding for the award of child support that the amount of the award which would result from the application of such guidelines is the correct amount of child support to be awarded. The statute further provided that a written finding or specific finding on the record that application of the guidelines would be unjust or inappropriate in a particular case, as determined under criteria established by the State, shall be sufficient to rebut the presumption in that case. The State must review the guidelines at least every four years to ensure that their application results in the determination of appropriate child support award amounts.

In response to the Child Support Enforcement Amendments of 1984, a er of States implemented presumptive guidelines rather than the advisory guidelines required under the statute. Therefore, some States may already be in compliance with the requirement in Public Law 100–485. However, the concern has been raised that some States may have implemented procedures for using guidelines which are more restrictive than the new

requirements. For example, procedures requiring that guidelines be followed in setting all support awards without the possibility of rebuttal appear not to comply with the requirements of the new law. We advise States in this position that changes to their guidelines and accompanying procedures will be necessary to conform to the requirements of Public Law 100–485 unless Congress clarifies an intent to the contrary.

Regulations were revised in response to the requirements under section 103 of Public Law 100–485 outlined above as follows:

45 CFR 302.50—Support Obligations

Under former regulation at § 302.50(b)(2), when there was no court order for support, States were required to establish a support obligation, in an amount determined in writing by the IV–D agency in accordance with a formula which meets criteria prescribed under § 302.53. We replaced the reference to the formula and the criteria under § 302.53 with reference to § 302.56, Guidelines for setting child support awards.

45 CFR 302.53—Formula for Determining the Amount of the Obligation

Former regulation at § 302.53, which required that, for cases without court orders for support, States must utilize a formula in setting support amounts which takes into consideration a er of criteria, is deleted.

45 CFR 302.56—Guidelines for Setting Child Support Awards

Paragraph (a) of 45 CFR 302.56 requires each State, effective October 13, 1989, to establish one set of guidelines by law or by judicial or administrative action for establishing and modifying child support award amounts within the State. Paragraph (b) of this section requires the State to have procedures for making guidelines available to all persons in the State whose duty it is to set child support award amounts.

Paragraph (c) requires that at a minimum the guidelines established under paragraph (a): (1) Take into consideration all earnings and income of the absent parent; (2) be based on specific descriptive and numeric criteria and result in a computation of the support obligation; and (3) provide for coverage of the child(ren)'s health care needs.

Paragraph (d) requires States to include a copy of the guidelines in the State plan.

Paragraph (e) requires that each State review and revise, if appropriate, its guidelines at least once every four years to ensure that their application results in the determination of appropriate child support award amounts.

Paragraph (f) requires States, effective October 13, 1989, to provide that there will be a rebuttable presumption, in any judicial or administrative proceeding for the award of child support, that the amount of the award which would result from the application of the guidelines established under paragraph (a) is the correct amount to be awarded.

Under paragraph (g), only a written or specific finding on the record of a proceeding for the award of child support that the use of the guidelines would be inappropriate in a particular case shall be sufficient to rebut the presumption in that case. Such finding must be predicated on criteria established by the State. While development of the specific criteria for rebuttal is being left to each State's discretion, we require under this paragraph that the State's criteria must take into consideration the best interests of the child. The written findings or findings on the record that rebut State guidelines must clearly state the nature and extent of the variation from the guidelines.

Under paragraph (h), States must gather data and use this information to make any revisions as part of their review and revision of their guidelines.

3. State Laws Providing for Paternity Establishment

Section 466(a)(5) of the Act, added by the Child Support Enforcement Amendments of 1984, Public Law 98–378, requires that States have in effect laws requiring the use of procedures which permit the establishment of the paternity of any child at any time prior to such child's eighteenth birthday. The implementing regulation at 45 CFR 302.70(a)(5) requires, effective October 1, 1985, that the State plan provide that the State has in effect such a law and has implemented such procedures.

Section 111(b) of Public Law 100–485 amends section 466(a)(5) of the Act by redesignating the above requirement as section 466(a)(5)(A) and adding a new requirement under paragraph (B) to require each State to have in effect laws requiring the use of procedures under which the State is required (except in cases where the individual involved has been found under section 402(a)(26)(B) of the Act to have good cause for refusing to cooperate) to require the child and all other parties in a contested paternity case to submit to genetic tests upon the request of any party, effective November 1, 1989. Further, paragraph (c) of section 111 of Public Law 100–485 amends section 454(6) of the Act to allow States to impose a fee for performing genetic tests on any individual who is not an AFDC recipient.

In addition, section 111(e) of Public Law 100–485 amends section 466(a)(5)(A) of the Act (as amended by section 111(b)), retroactive to August 16, 1984 (the effective date of Public Law 98–378), to provide that the State law requirement permitting the establishment of paternity of any child prior to the child's 18th birthday, also applies to any child for whom paternity has not yet been established and any child for whom a paternity action was brought but dismissed because a statute of limitations of less than 18 years was then in effect in the State.

To address these statutory changes we made the following regulatory revisions:

45 CFR 302.70—Required State laws

We amended 45 CFR 302.70 to reiterate the statutory changes outlined above by revising the introductory language in paragraph (a) regarding effective dates and by revising paragraph (a)(5) to redesignate the former contents as § 302.70(a)(5)(i) and adding at the end thereof "including for any child for whom paternity has not yet been established and any child for whom a paternity action was previously dismissed under a statute of limitations of less than 18 years."

We added a new § 302.70(a)(5)(ii) to require that, effective November 1, 1989, States have in effect laws providing for procedures under which the State must, with two exceptions, require the child and all other parties in a contested paternity case to submit to genetic tests upon the request of any party. The exceptions are in AFDC or Medicaid cases in which good cause has been found for refusing to cooperate or, in cases in which, in accordance with § 303.5(b), the IV–D agency has determined that it would not be in the best interest of the child to establish paternity in a case involving incest or forcible rape, or in any case in which legal proceedings for adoption are pending.

45 CFR 303.5—Establishment of Paternity

We amended § 303.5 by adding paragraphs (d) and (e). Section 303.5(d)(1) requires, upon the request of any party in a contested paternity case, the IV–D agency to petition the court or administrative authority to require that all parties submit to genetic testing, unless, in the case of an individual

receiving AFDC or Medicaid, there has been a determination of good cause for refusal to cooperate under §§ 232.40 through 232.49 or 42 CFR 433.147, respectively, or if, in accordance with § 303.5(b), the IV–D agency has determined that it would not be in the best interest of the child to establish paternity in a case involving incest of forcible rape, or in any case in which legal proceedings for adoption are pending. Under paragraph (d)(2), a contested paternity case is any legal action in which the issue of paternity may be raised under State law and one party denies paternity.

Paragraph (e)(1) provides that the IV–D agency may charge any individual who is not receiving AFDC or Medicaid a reasonable fee for performing genetic tests. Under paragraph (e)(2), any fees charged must be reasonable so as not to discourage those most in need of paternity establishment services from seeking them and may not exceed the actual cost of the genetic tests. Paragraph (e)(3) requires that, if paternity is established and genetic testing is performed, the IV–D agency must attempt to obtain a judgment for the costs of the genetic tests from the party who denied paternity or, at State option, from each party so long as the total amount requested does not exceed the actual costs of the genetic tests. A parallel change was made to § 303.7(d) to require the responding State IV–D agency to attempt to obtain a judgment for genetic testing costs from the party who denied paternity, instead of the putative father, who may not be the contesting party in all cases. Paragraph (e)(4) of § 303.5 requires the IV–D agency to use any amount collected under paragraphs (e) (1) and (3) which exceeds the costs of performing genetic tests to reimburse any fee paid under paragraph (e)(1).

4. Increased Federal Financial Participation for Laboratory Testing to Determine Paternity

Section 112 of Public Law 100–485 amends section 455(a)(1) of the Act to provide 90 percent Federal matching for States' costs for laboratory testing to determine paternity. The amendment is effective with respect to laboratory costs incurred on or after October 1, 1988.

45 CFR 304.20—Availability and Rate of Federal Financial Participation

We amended § 304.20 by adding a new paragraph (d) to specify that 90 percent Federal matching is available for laboratory costs of paternity determination incurred on or after October 1, 1988. This matching rate is available for laboratory costs incurred in determining paternity in a specific case, including, for example, the costs of obtaining and transporting blood and other samples of genetic material, repeated testing where necessary, analysis of test results, and the costs for expert witnesses in a paternity determination proceeding, when the expert witness costs are included as part of the genetic testing contract. The same costs may be excluded in determining a State's incentive payments, pursuant to section 458(c) of the Act and the implementing regulation at 45 CFR 303.52(b)(4)(iv), which is redesignated as 45 CFR 304.12(b)(4)(iv) effective October 1, 1990 (54 FR 32284).

The final regulation on standards for program operations, published on August 4, 1989, requires that paternity testing laboratories be selected competitively. Consistent with current Federal requirements, Federal financial participation will be available only for reasonable and necessary costs; costs significantly above market rate are not reasonable. This requirement for competitive selection will also reduce costs to individuals in States that choose to charge fees to the requesting party.

Response to Comments

We received 84 comments on the proposed rule published September 13, 1989, in the **Federal Register** (54 FR 37866). The comments and our responses appear below.

I. Pass-Through of Support Payments

Section 302.51—Distribution of Support Collections

1. *Comment:* One commenter asked if the proposed requirement in the first sentence of § 302.51(a) under which any amount collected must be treated first as payment on the current support obligation, would apply in all circumstances and to all collections. The commenter asked if States would be required to distribute collections derived from certain administrative enforcement remedies such as consumer credit reporting, tax refund offset, and imposition of liens first as current support before applying any of the collection to arrearages. The commenter argued that these measures are by definition undertaken to recoup arrears; however, as written, the proposed regulation would seem to include these types of collections. The commenter also asked, if an obligor making payments represents that a sum paid is to be applied for past-due support, may the agency proceed to classify the collection as current support despite the obligor's directions to the contrary? The commenter indicated that this issue may arise in cases where obligors seek to forestall impending administrative enforcement measures by making payments on arrears, at the expense of ongoing current support payments.

Response: With certain exceptions, any support collected must be applied first to satisfy the current support obligation. To remove ambiguity in the proposed regulation, we have revised the first sentence of § 302.51(a) (redesignated as § 302.51(a)(1)) to exclude collections as a result of Federal or State income tax refund offset. By Federal statute at section 464 of the Act and regulation at § 303.72(h), collections made through the intercept of Federal income tax refund offset must be distributed as past-due support, and "date of collection" is irrelevant. Also by Federal statute at section 466(a)(3) of the Act and regulation at § 303.102(g), collections made through the intercept of State income tax refund offset must similarly be distributed as overdue support.

In response to the commenter's last concern, even if an obligor specifies that a payment is intended to satisfy arrearages, the collections must still be distributed, for purposes of title IV–D, in accordance with Federal statute and regulations.

2. *Comment:* A commenter asked if conversion to a monthly amount in AFDC cases, as referenced in the second sentence of § 302.51(a), is mandatory, and if so, whether a IV–D agency may convert a child support obligation into a monthly amount by using an "actual conversion methodology" (e.g., The absent parent has a weekly support obligation of $20. The monthly support obligation is $80 in a four-week month, and $100 in a five-week month.) Other commenters asked that the final regulation require IV–D agencies to round off dollar amounts below $.50 downward and amounts above $.50 upward, or, alternatively, to leave the requirement as stated in current regulations.

Response: For purposes of distribution and redetermining eligibility in AFDC cases, States are required in OCSE–AT–76–5 dated March 11, 1976, to convert to a monthly amount support that is ordered to be paid more frequently than monthly. Conversion is necessary in AFDC cases to allow the IV–D agency to distribute support collections in accordance with § 302.51(b) (1) through (3), and the IV–A agency to redetermine the family's eligibility for AFDC in accordance with 45 CFR 232.20(b). Conversion is also necessary in title IV–

E foster care cases to allow the IV–D agency to distribute support collections in accordance with § 302.52(b) (1) and (2). Conversion is not required, but allowable, in other IV–D cases.

In order to accomplish the above purposes, the IV–D agency has flexibility regarding the method it uses to convert child support ordered to be paid more frequently than monthly into a monthly amount as required by 45 CFR 302.51(a) and OCSE–AT–76–5. Therefore, the State may use the "actual conversion methodology" suggested above, or any one of the conversion methods set forth on pages 1 and 2 of OCSE–AT–76–5.

We have revised the proposed second sentence of § 302.51(a), which is redesignated as paragraph (a)(4) in this final regulation, to allow the IV–D agency, in AFDC and title IV–E foster care cases in which conversion to a monthly amount is necessary because support is ordered to be paid other than monthly, to round off the converted amount to whole dollar amounts for purposes of distribution under §§ 302.51 and 302.52. This is consistent with longstanding Federal policy in previously-existing regulatory language.

3. *Comment:* A number of commenters stated that the regulation should require that, in cases in which obligors make payments directly to the IV–D agency or its representative, the date of postmark or mailing must be used to determine the month in which the payment was made. They believe Congress clearly intended mailing and not receipt to be the operative date for timely payments.

Response: Current regulations in effect since June 9, 1988 (53 FR 21642) provide that the date of collection for purposes of distribution is the date on which payment is received by the State IV–D agency or by the legal entity of any State or political subdivision actually making the collection, whichever is earliest. This final rule establishes a separate rule with respect to payments in withholding cases, as discussed in more detail in the following comment and response. While we were not convinced by commenters that Congress intended that we should mandate at the Federal level that the date a payment is mailed should be used to determine the month in which the payment is made, we believe that States should be given the option, effective January 1, 1989, to use, on a statewide basis, either: (1) The date a payment is mailed, as evidenced by a legible U.S. Postal Service postmark or a legibly dated receipt from a commercial carrier; or (2) the date of initial receipt by the State IV–D agency or by the legal entity of any State or political subdivision actually making the collection, whichever is earliest. Therefore, we have included that option under § 302.51(a)(5)(ii).

4. *Comment:* We received many comments expressing concern that the additional burden placed on employers of having to report the date of withholding will further erode States' relationships with employers and that, in any case, it will be impossible to ensure employers compliance with the requirement unless State statutes are enacted to do so. Commenters believe that State and local agencies are being placed in a no-win situation because they must rely on the hope that the employers provide the date of withholding. These commenters believe that, if the employer does not adhere to the rule, the local and State agency should not be determined to be out of compliance and subject to possible penalties. They urged that, for purposes of uniformity, the date of collection in cases of withholding remain the same as the date of collection for other payments.

Alternatively, other commenters agreed that for support payments made through wage or income withholding, the date of collection for distribution purposes should be the date the wages are irrevocably withheld. One commenter indicated that this requirement is straightforward and in the best interest of the custodial parent. Another commenter recommended that the date of the employer's check or bank draft for the withheld amounts be used to determine the $50 pass-through.

Commenters also requested that there must be some provision for situations where the date is not reported and that the regulation should state "If the date of withholding is unknown, the date of collection shall be the date of receipt by the IV–D agency." Alternatively, a commenter recommended that there be a presumption in the regulation that when the employer fails to specify the date of withholding, withheld amounts forwarded by employers represent timely payment of amounts due since the previous date the employer forwarded withheld amounts.

Other commenters recommended that the regulation be revised to include more specificity with respect to States' responsibility to monitor employer compliance and to obtain relevant employer information. Commenters asked how the date of withholding should be identified and forwarded; whether the IV–D agencies should presume that the payment was made for the previous month; and how this information will be conveyed to clerks or court/depositories so that it can be transferred in an automated fashion with the payments.

Response: Section 102 of Public Law 100–485 amended sections 402(a)(8)(A)(vi) and 457 (b)(1) of the Act, effective January 1, 1989, to clarify that the first $50 of support payments received in a month which was due for a prior month must be paid to the family if paid by the absent parent in the month when due. Under the new law, the AFDC family may not be denied the $50 payment when the absent parent pays support on time but there is a delay in transmitting the payment from the point of collection to the agency responsible for distribution.

Public Law 100–485 also made significant changes to the Act affecting requirements for income withholding. Immediate income withholding is required in child support orders issued or modified on or after November 1, 1990, and other changes were made which will ensure that income withholding applies in the future on a larger scale than heretofore. From the inclusion in Public Law 100–485 of the amendments concerning the $50 pass-through, and the amendments which will result in payment of support through income withholding in a greater proportion of cases, we conclude that the Congress' intent was to apply the $50 pass-through, after January 1, 1989, to any case in which an absent parent's support payment is irrevocably withheld from his or her wages in the month in which the payment was due. In other words, if an employer withholds child support in the month the support was due and subsequently pays that support to the IV–D agency in a later month, the $50 disregard must be credited for the period during which the withholding actually occurred. Use of the date of the employer's check or the date of receipt by the initial point of receipt in the State does not necessarily ensure distribution of the amount withheld as having been paid in the month it was due and withheld.

Section 302.51(a)(4) requires that, with respect to payments made through wage or other income withholding and received by the IV–D agency on or after January 1, 1989, the date of collection for distribution purposes in all IV–D cases must be the date of the withholding. If the employer fails to report the date of withholding, it will be necessary to reconstruct that date by contacting the employer or comparing actual amounts collected with the pay schedule specified in the court or administrative order. This will give States some flexibility in establishing the date of payment when employers fail or neglect

to report that information. If the State's withholding law includes withholding of other income such as unemployment compensation or pension benefits and such income is withheld to meet a support obligation, the IV–D agency must use the date of collection as defined in § 302.51(a)(4) to determine accurate distribution of the amount withheld.

States may not simply presume that, when the employer fails to specify the date of withholding, withheld amounts forwarded by employers represent timely payment of amounts due since the previous date the employer forwarded withheld amounts. This would not take into consideration the possibility that wages are withheld irregularly because of lay-offs, employee absences, or sporadic work patterns, for example. The wage withholding order will often include provision for payment of arrears accumulated because of such work interruptions and Congress clearly did not intend pass-through payments to issue when back support is finally paid.

States must ensure that they receive data which allows them to distribute amounts withheld accurately. If the employer fails to supply the date of the withholding, States will have to contact the employer for the date or use other verifying information, such as the underlying order, that ensures distribution of the amount paid for the actual month in which withholding occurred. We do not believe this should present a problem in most withholding cases but encourage States to work with employers to impress upon them the need to report the date of withholding and to assist them in developing the least burdensome means of doing so.

5. *Comment:* Several commenters objected to the January 1, 1989 effective date of the requirement that, in withholding cases, the date of collection is the date of withholding. One commenter urged that the effective date for this requirement be delayed for 18 months to allow necessary statutory changes, computer changes and proper notice to employers. Another requested a delayed effective date until 1991. Still another commenter indicated that, if there is evidence of Congressional intent to link "pass-through" payments to the date of withholding, it appears there is sufficient evidence of intent to delay its implementation to November 1, 1990. The commenter also stated that the January 1, 1989 date could be interpreted to be the collection date covered by 53 FR 21642 dated June 9, 1988. Another commenter urged that if recomputation of distribution for purposes other than the $50 pass-through will be required, the effective date should be delayed until 1991. Another commenter recommended that audit criteria established for monitoring this provision take into consideration these implementing issues.

Response: States have been on notice since enactment of Public Law 100–485 of the effective dates of its various provisions; the Congress could have made the effective date for the clarification on the $50 pass-through provision the same as for the immediate withholding provision, but it did not choose to do so. In addition, OCSE–AT–88–17, dated November 18, 1988, notified States of the provisions regarding the $50 pass-through payment, establishment of paternity until the child's 18th birthday, and 90 percent Federal funding for laboratory costs in establishing paternity. That Action Transmittal addressed payment of the $50 pass-through in cases in which an absent parent's child support payment is irrevocably withheld from his or her wages in the month in which the payment was due. Specifically, it read "if an employer withholds child support in the month the support was due and subsequently pays that support to the IV–D agency in a later month, the $50 disregard must be credited for the period during which the withholding actually occurred."

We disagree that the January 1, 1989 statutory effective date of section 102 of Public Law 100–485 should be construed to apply to the date of collection policy established in the final regulation governing the $50 pass-through published on June 9, 1988 (53 FR 21642). That final regulation provided that the date of collection of a child support payment for purposes of distribution and redetermination of AFDC eligibility is the date on which payment is received by the State IV–D agency or by the legal entity of any State or political subdivision actually making the collection, whichever is earliest. Public Law 100–485 did not make any change inconsistent with that administrative rule, nor did Congress indicate the implementation of the existing rule should be delayed. States have been on notice of that regulatory requirement, and its effective date, for over two years and should already be distributing collections based on it.

6. *Comment:* A commenter urged that the explanation of the final regulation clarify that recomputation of distribution is required only for purposes of the $50 pass-through payment. Another commenter argued that, if distribution must be recomputed, adjustments must be made to accounting records. The commenter made all of the following comments: Since it is the norm rather than the exception that a collection is received in a month later than the month in which the support was paid, child support agencies will be forced to make adjustments on a significant number of cases. If the child support program has an automated system, that system will have to be reprogrammed to handle these adjustments. If the State does not yet have an automated system, additional resources will be required to design and program this capability. Collections and statistical reports would have to be adjusted to reflect the adjustments made when the month in which support was paid differs from the month the collection was received. Applying collections to the month in which they are paid rather than the month in which they are received may significantly complicate the process of redetermining AFDC eligibility when child support collections exceed the grant.

Response: In response to the comment that the recomputation of distribution should only be required for purposes of the $50 pass-through, we are reiterating that accurate distribution of support collections in IV–D cases depends on whether the collection is treated as payment on current or past-due support. Distribution of amounts collected in excess of the first $50 of support collected depends on distribution of that first $50. Under section 457 of the Act, governing distribution of support collections, there is an interrelationship among paragraphs (b) (1) through (4) which does not leave room for separating out paragraph (b)(1) payments, relating to the $50 pass-through, for special distribution. Therefore, when payments which were made in the month when due are received in a later month by the IV–D agency responsible for final distribution, that agency must recompute distribution of all collections for the month in which the payments were made on-time, not just the $50 payment.

Some of the statements made by the second commenter may currently be accurate in some States. However, if States forward collections expeditiously after they are received, delays in receiving those collections by entities responsible for final distribution will be limited. In addition, States with automated systems will not necessarily have to reprogram their systems if the system captures two dates with respect to a collection. The first date is the date of collection or payment for the purpose of determining whether a payment is for current support. The second date is the

date of initial receipt in the State for the purpose of starting the timeframes for paying amounts collected to families.

We would also point out that accounting records for previous months need not necessarily be adjusted. While amounts received in a month subsequent to the month the payment was made must be distributed accurately based on the date of collection defined in § 302.51(a), States need not adjust accounting records of distribution of collections in a previous month. Distribution in previous months is completed. The State would merely have to indicate in the current month's accounting record how collections received in the current month were distributed, including applying collections as current support for a previous month if appropriate based on the date of collection as defined in 302.51(a). In addition, statistical reports are based on when collections are received by a State and need not be adjusted to reflect when wages were withheld or the date of initial receipt by the responding State in an interstate case.

It is true that adjustments to AFDC eligibility may be necessary when support payments which exceed the AFDC grant amount are paid but not received timely. However, this has always been the case; it is not a consequence of these regulations, although somewhat more frequent retroactive accounting may be required. In most cases, the amount of the payment will not render the family ineligible for AFDC. These rules will, however, ensure that AFDC families, who are entitled to pass-through payments of up to $50 when support is paid on time, receive such payments. Congress ensured this would be the case through enactment of the clarifications in Public Law 100–485. Consistent with clear congressional intent, efforts have to be made to expedite and improve the collection and distribution of support payments to ensure accurate distribution.

7. *Comment:* One commenter indicated that the proposed change to the date of collection definition retains the "date of collection" as the sole trigger for distribution of the $50 pass-through payments and argues that section 102 of Public Law 100–485 clearly distinguishes between amounts collected in the month of receipt and amounts collected in excess of the amount owed for the month of receipt. The commenter suggested alternative language for both §§ 302.51 (a) and (b)(1). The proposed language for § 302.51(a) would require that the month of payment for distribution purposes be the date of withholding, the date of receipt by another IV–D agency or the legal entity of any State or political subdivision, or the postmark date if paid directly through the United States Postal Service, whichever is earliest. The proposed language for § 302.51(b)(1) would include, for purposes of the $50 pass-through payment, reference to amounts received in one month which were paid timely in a previous month.

Response: As indicated earlier, we are allowing, but not requiring, States to use evidence of the date a payment is mailed to determine the date of collection for distribution purposes in cases in which payments are made through the mail. Therefore, while we did not revise § 302.51(a) to include the language suggested by the commenter, use of the date of collection as defined in § 302.51(a) will help ensure that collections are distributed accurately.

We did revise § 302.51(b)(1) to refer to payments made in the month when due but received in a later month for consistency with sections 402(a)(8)(A)(vi) and 457(b)(1) of the Act. The first sentence of § 302.51(b)(1) is revised to read as follows: "Of such amounts as are collected periodically which represent monthly support payments, the first $50 of any payments for a month received in that month, and the first $50 of payments for each prior month received in that month which were made by the absent parent in the month when due, shall be paid to the family."

8. *Comment:* Two commenters asked whether the State must distribute monies collected within 15 days of the date the money was withheld from the obligor's pay or within 15 days from the date the clerk received the money from the obligor's employer.

Response: The date of initial receipt of a collection in the States under § 302.32(f), effective October 1, 1990, is used to determine the starting date of the timeframe within which all or part of the collection must be sent to the family. The timeframes for sending support payments to families under § 302.32(f) begin with the date of initial receipt in the State, with certain possible exceptions for collections through Federal and State income tax refund offset.

9. *Comment:* A comment from a national association representing child support enforcement professionals and agencies stressed that State agencies can only logically distribute payments at the end of each month. The representative argued that it is neither effective nor efficient to distribute several small payments, when the State receive several small payments within any one month for an individual case.

Response: The commenter is referring to a requirement under §§ 232.20(d) and 302.32(f) which were published as part of the program standards regulation published in final on August 4, 1989 (54 FR 32284). Although those sections of the regulation were not addressed in the proposed regulation being finalized in this document, we believe there is a need to respond to the commenter's concerns because they are representative of many similar concerns raised with respect to §§ 232.20(d) and 302.32(f) since publication of the program standards regulation. We will consider the need for changes to those sections as part of the document currently under development to conform audit regulations to the requirements of the Family Support Act of 1988, including the program standards requirements published in August of 1989.

Effective October 1, 1990, §§ 232.20(d) and 302.32(f) establish timeframes within which States must send child support collections to families. The proposed 302.32(f)(2)(i), published April 19, 1989 (54 FR 15876), would have required States to send any payment under § 302.51(b)(1), i.e., the $50 pass-through payment, to the family within 15 working days of the date of initial receipt in the State. Commenters were quick to point out that this could require as many as four incremental payments during a month if the support was ordered to be paid weekly. In response to the April 19 proposed regulation, most commenters urged that we require States to send payments to AFDC families within 15 days of the end of the month of collection, thereby maintaining consistency with the normal monthly AFDC payment and accounting cycle. To quote the preamble to the final regulation published on August 4, 1989, at 54 FR 32292:

> "Almost every comment we received from a State or local IV–D agency objected to the proposal that payments to the AFDC family under § 302.51(b)(1) be made within 15 working days of the date of initial receipt in the State. Commenters strongly urged that IV–D agencies not be required to pay multiple pass-through payments until $50 is collected in cases in which payments are made weekly. Commenters suggested the timeframe for sending the $50 pass-through to families be tied to the end of the month of collection or the date at least $50 is collected. In addition, commenters indicated that, if finalized, the proposal would require daily distribution of collections which has proven in at least one State to be confusing to AFDC recipients and difficult to administer."

In response to those comments, the final rule at § 302.32(f)(2)(i), published August 4, 1989, requires, effective October 1, 1990:

"When the IV–D agency sends payments to the family under § 302.51(b)(1) of this part, payments to the family must be sent to the family within 15 calendar days of the date of initial receipt in the State of the first $50 of support collected in a month, or, if less than $50 is collected in a month, within 15 calendar days of the end of the month in which the support was collected. When the IV–A agency sends payments to the family under § 302.51(b)(1) of this part, the IV–D agency must forward any amount due the family under § 302.51(b)(1) to the IV–A agency within 15 calendar days of the date of initial receipt in the State of the first $50 of support collected in a month, or, if less than $50 is collected in a month, within 15 calendar days of the end of the month in which the support was collected."

To account for States in which the IV–A agency sends the $50 pass-through payment to the family, §§ 232.20(d) was amended to require the pass-through payment to be send to the family within 20 calendar days of initial receipt in the State of the first $50 of support collected, or if less then $50 is collected in a month, within 20 calendar days of the end of the month in which the support was collected. This would allow the IV–A agency an additional 5 days to sent the payment to the family.

Since publication of this requirement, States have expressed their strong belief, and have presented data gathered through a national survey conducted by the American Public Welfare Association, that the requirement in the final regulation would, certainly for the next several years, place an unreasonable administrative burden on IV–A agencies with no compelling benefit to families to warrant varying the longstanding practice which ties assistance payments, accounting and distribution of collections in AFDC cases to a monthly cycle. In response to this overwhelming reaction to the requirement in the program standards final rule, buttressed by the survey information, we believe the concerns warrant further consideration.

Therefore, we intend to consider changes to §§ 232.20(d) and 302.32(f) as part of the document under development to revise audit requirements for consistency with the Family Support Act of 1988 and program standards requirements. In so doing, we intend that any necessary changes will be made before States are audited for compliance with the program standards requirements.

10. *Comment:* A commenter indicated that immediate approval of Advanced Planning Documents (APDs) or waiver from prior approval of APDs is necessary to allow States to automate and implement the requirements related to the disregard contained in the proposed rule.

Response: Federal matching funds are available for modifications to automated systems necessary to ensure compliance with these requirements. In addition, a proposed rule is under development which will address the automated systems requirements contained in Public Law 100–485, as well as the entire process for review and approval of APDs.

Section 303.7—Provision of Services in Interstate IV–D Cases

1. *Comment:* One commenter asked that the requirement that collections in interstate cases be forwarded to the initiating State within 15 calendar days of initial receipt in the responding State be expanded to address legitimate reasons for not forwarding payments timely, i.e., inability to identify parties or match payments with cases, no good address, disputes over the amount.

Response: We believe that most if not all unidentified payments can be identified within the required timeframes for distribution. However, if a payment is made without information which links it to a specific IV–D case and the State after diligent efforts is unable to determine to whom the payment is owed, the State would not be penalized for failing to meet the timeframe for distribution in that case. As soon as the payment is identified, however, the timeframe for transmittal of the payment would apply. We see no reason for a responding State not to have a good address for the location specified by the initiating State IV–D agency where payments should be forwarded. Neither do we share the commenter's concern with respect to disputes over the amount of the collection. These two circumstances do not appear to be legitimate reasons for failing to transmit collections timely.

2. *Comment:* We received several comments regarding the date of collection in interstate cases. One commenter requested that we clarify that in the absence of information, the initiating State may distribute the $50 pass-through based on the date the responding State forwarded the collection. Another recommended that for purposes of distribution in interstate collection cases involving wage or income withholding, the date of collection for distribution purposes should be the date of initial receipt by the responding State. Finally, another commenter argued that the date of collection in interstate cases should be the date on which the initiating State IV–D agency receives the collection because the IV–D agency should be held accountable only after the collection is under its control.

Response: We believe that responses to previous comments apply to these comments with respect to interstate cases as well. Responding States are required to include the accurate date of collection or indicate that the collection was made through State tax refund offset when collections are forwarded to the initiating State. We did not refer to collections made through Federal income tax refund offset because, effective October 1, 1990, only the initiating State may submit cases for Federal income tax refund offset. (See 54 FR 32303, August 4, 1989.)

Initiating States must distribute the collection as appropriate based on information provided by the responding State.

Initiating States may not use, as suggested by commenters, the date of initial receipt by the responding State in withholding cases, or, in the absence of information from the responding State, the date the collection was forwarded by the responding State.

With respect to the comment that IV–D agencies should be held accountable only after they receive a collection, we reiterate that the date the initiating State receives the collection has no bearing on when the payment was made, which must be determined and used to distribute payments accurately.

State Guidelines for Child Support Award Amounts

A. Section 302.56—Guidelines for Setting Child Support Awards

Effective date of requirements.—Comment: We received many comments expressing concern that the proposed regulation was published just one month before the statutory effective date of October 13, 1989, and that some proposed requirements would cause undue burden on States which had taken steps in good faith to achieve compliance with the statutory mandate. The preponderance of commenters stated that OCSE should not impose additional requirements through regulation long after those requirements should have been known to States. Most commenters indicated that additional legislative amendments to State laws would be necessary to comply with the proposed regulatory requirements. One commenter asked that OCSE determine States with guidelines in effect as of October 13, 1989, which comply with the provisions of Public Law 100–485 to be

in compliance with State plan requirements for mandatory guidelines and that States should not be found retroactively out of compliance when the final rule is published. Other commenters argued that States should be given additional time to enact laws or procedures to comply with the proposed requirements and that States should not be required to meet additional requirements until completing their first four-year review of the guidelines.

Response: We do not believe that Congress, in establishing the effective date of October 13, 1989, for these requirements, intended that State compliance be delayed. However, in response to the concerns raised by commenters, we wish to clarify the following: States are required to submit plan amendments by the end of the calendar quarter in which a State plan requirement is effective. Failure to do so could result in disapproval of the State's plan and loss of all Federal funding of the State's IV–D program. States which are determined to have had laws and procedures that were in conformance with the requirements of section 103 of Public Law 100–485 as of October 13, 1989 will be given interim approval of their State plan amendments governing mandatory guidelines pending publication of the final rule. A determination of whether a plan amendment may be given interim approval is based on whether or not the State's statutes, rules or procedures which have the force and effect of law meet the explicit provisions of the statute, i.e., any statutory requirement which is clear on its face. Therefore, States are not required to meet regulatory requirements before those regulatory requirements are published in final form. Upon publication of this rule in final form, States will be required to submit State plan amendments certifying compliance with all mandatory guidelines' requirements, both statutory and regulatory.

One Set of Guidelines Which Apply to All Orders in the State

1. *Comment:* One commenter asked if the reference to "setting child support awards" in § 302.56(a) covers modifying existing orders as well as setting initial orders.

Response: Section 467(a) of the Act requires States to establish guidelines for child support award amounts in the State. It does not limit the requirement to setting initial orders. Therefore, the guidelines must be used to establish initial support orders and to modify existing orders. In addition, section 103(c) of Public Law 100–485, effective October 13, 1990, requires States to periodically review orders "and adjust such order[s], as appropriate, in accordance with the guidelines established pursuant to section 467(a)." Section 302.56(a) requires, effective October 13, 1989, as a condition for approval of its State plan, a State must establish one set of guidelines by law or by judicial or administrative action for establishing and modifying child support award amounts within the State.

2. *Comment:* One commenter stated that the requirement that guidelines apply to all orders in the State will significantly change the way its State has previously administered guidelines under the IV–D program. This commenter declared that Public Law 100–485 requires only that States establish mandatory guidelines, not a single set of Statewide guidelines.

Response: We believe that the Congress clearly intended that there be one set of guidelines uniformly applied in the State in setting child support award amounts. The Conference Report (Report 100–998, September 28, 1988, p. 92) states, in part, that "* * * officials must use the States' guidelines, uniformly applied, as a rebuttable presumption." Multiple sets of guidelines cannot be uniformly applied to all cases in the State. In many States, the previous optional or discretionary guidelines were not required to be applied in any jurisdiction within the State, and therefore, their varying and inconsistent application, was irrelevant. The new requirement under section 467(b) of the Act that the amount of support determined under the guidelines "shall be a rebuttable presumption, in any judicial or administrative proceeding for the award of child support," on the other hand, establishes a clear evidentiary standard which it would appear, as a rule of law, must be uniformly applied in all jurisdictions within the State. Therefore, § 302.56(a) and (f) require States to establish one set of guidelines for setting and modifying child support award amounts within the State.

3. *Comment:* Another commenter objected to the requirement that guidelines apply to all orders in the State, since its State guidelines provide that they apply only to cases where the parents' combined gross income is under $52,000. According to the commenter, above this level of income the incidence of complex financial trade-offs and an equitable distribution of assets is so frequent as to make guidelines inapplicable. The commenter indicated that the State's goal is to have guidelines apply to 75 percent of the State's population based on personal income, and that as income goes up, the income cap below which guidelines apply also goes up. The commenter said that the regulation should be revised to permit States to determine the target population for the guidelines' application as long as all AFDC cases and a majority of non-AFDC cases are included.

Response: As discussed previously, section 467(b) of the Act clearly requires guidelines to be used as a rebuttable presumption in any judicial or administrative proceeding for the award of child support. Therefore, while States may not simply exempt an entire category of cases with incomes above or below a specific dollar level from application of the guidelines, the application of the guidelines in those cases may be rebutted as unjust or inappropriate on a case by case basis, in accordance with State criteria and Federal requirements. However, we caution States that criteria for rebuttal may not be designed to exclude an inordinate number of cases from application of the guidelines, because to do so would clearly contravene the intent of the statute that guidelines be the norm, not the exception, for determining support awards.

We have deleted the separate requirement under proposed § 302.56(c)(4) that guidelines must apply to all orders in the State because it is duplicative of the clear language in § 302.56 (a) and (f) that guidelines be used as a rebuttable presumption in any judicial or administrative proceeding for the award of child support, i.e., in establishing and modifying all support awards in the State.

4. *Comment:* One commenter complained that OCSE, in requiring that guidelines apply to all orders in the State, has not taken into account States which have separate administrative and judicial systems for establishing support awards where different procedures may apply. This commenter felt that requiring the guidelines to apply equally to all orders would eliminate State authority to provide for differences in judicial and administrative systems. Another commenter indicated that requiring a single Statewide guideline ignores the economic realities of large States where diverse economies may dictate different standards.

Response: These requirements do not preclude States from having parallel administrative and judicial systems with procedures which are appropriate to each system. However, these parallel systems must use one common set of guidelines. To allow the guidelines to be

applied differently depending on whether a judicial or administrative process is used, would be inequitable and inconsistent with congressional intent, which clearly requires one set of guidelines in the State.

With respect to the comment regarding economic realities of large diverse States where differing economies may dictate different standards, we believe even a large State can develop a set of guidelines which adequately addresses economic realities while ensuring equity and an adequate level of support. In fact, a number of large States already have one set of mandatory guidelines in use in setting all orders in the State.

5. *Comment:* A commenter stated that by requiring a single Statewide guideline OCSE is mandating specific components to be included in guidelines instead of providing technical assistance, as called for in section 467(c) of the Act. The commenter indicated that OCSE is impinging on State authority to set its own policy and that section 467(a) does not require a single Statewide guideline.

Response: As explained previously, section 467 does require one set of guidelines in the State. Further, we believe that the minimum requirements contained in this regulation provides States with great flexibility in establishing guidelines. In addition, OCSE has been providing, and will continue to provide, technical assistance to States in this area.

Minimum Components of Guidelines

1. *Comment:* Several commenters complained that OCSE, in proposing minimum components under § 302.56(c) for States' guidelines, is imposing requirements that are overly broad, is exceeding Federal authority, and is ignoring congressional intent to allow States flexibility in establishing guidelines.

Response: We are using our authority under section 1102 of the Act to establish these requirements, and believe that, as written, they do not limit States' flexibility to establish guidelines. As stated in the preamble to the proposed rule, we are establishing only minimum components for guidelines and did not impose more specific requirements because States are generally in a better position to determine specific considerations for families residing in their jurisdictions.

2. *Comment:* Several commenters asked that the regulation require that guidelines establish a minimum amount of support based on the level of Federal foster child guidelines, and be adjusted at each three percent increment of the Consumer Price Index (CPI). They also recommended that the level of support required by the guidelines should be that amount necessary to maintain the child(ren) at the standard of living they would have enjoyed had the marriage or relationship remained intact. These commenters also asked that the regulation prohibit States from exempting those with income above a certain level from application of the guidelines and reducing support amounts below a minimum standard when the obligor takes on the responsibility of additional children, quits a job or becomes a full-time student. Commenters recommended that the minimum standards also address the custodial parent's income in calculating awards. Other commenters asked that the guidelines address child care expenses and circumstances of second families with respect to treatment of income of a new spouse and expenses related to other dependents. Another commenter suggested that States be required to ensure that guidelines be reasonably related to economic data on costs of child rearing.

Response: We have established only minimum components for guidelines in this Federal regulation and believe it is appropriate for States to develop guidelines' specifics. However, section 467 of the Act does prohibit States from explicitly limiting application of the guidelines to those with income above or below a specific level; the guidelines must be used as a rebuttable presumption in setting all award amounts in the State. Deviation from the guidelines is allowed only if, based on a written or specific finding on the record, the application of the guidelines would be unjust or inappropriate in a particular case. Therefore, while deviation from the guidelines is allowable in cases with income above a specific level if the above condition is met, States may not categorically excuse cases with income above or below a certain level from application of the guidelines.

While we have not included the other recommendations as part of the required minimum elements of guidelines, we believe that they represent policy options which States could use in constructing guidelines, and encourage States to consider them in establishing and revising their guidelines.

3. *Comment:* One commenter suggested that we clarify that where a defendant was properly served and fails to appear or to produce financial information, nothing should be construed in the guidelines requirement to prohibit a temporary order, subject to modification based on the production of subsequent information.

Response: We agree with the commenter but do not believe it is necessary to revise the regulation because nothing in the regulation would prohibit a State from entering a temporary order in the circumstances described by the commenter.

4. *Comment:* Many commenters strongly objected to the inclusion of resources of the absent parent as one of the required components of guidelines. Several commenters complained that the word "resources" was not adequately defined and asked if courts must hire appraisers to assess the value of resources. Others pointed out that availability of resources should be used as a possible factor for rebutting the amount called for by the guidelines. One commenter pointed out that most existing State guidelines are now primarily income-based and deal with resources only insofar as they produce (or are imputed to produce) income. Another commenter stated that the income-shares model for guidelines, which does not address resources, had been adopted by his State partly because it was included as one of a number of models described in a study on guidelines funded by OCSE. One commenter applauded the inclusion of resources, particularly as it would apply to self-employed obligors or obligors who receive commissions. Another commenter supported the use of resources, but recommended that States be given additional time to comply.

Response: We agree with commenters that requiring the inclusion of resources as part of required elements of guidelines would be inconsistent with widely-accepted guidelines' models which do not consider resources and that the existence of valuable resources should more appropriately be used in rebutting guidelines amounts. Consequently, we have deleted this requirement from § 302.56(c)(1) in the final rule. However, States which currently consider resources as part of their guidelines' formula may continue to do so. Also, States, in developing or revising existing guidelines, may establish elements, including consideration of resources, in addition to the minimum Federal requirements. While supporting studies and technical assistance, OCSE has not and does not now endorse or favor any particular guidelines model, leaving that choice to State discretion.

5. *Comment:* We received many critical comments regarding the proposal that States' guidelines provide for coverage of the child or children's health care needs, including health insurance when available to either

parent at reasonable cost as defined in § 306.51(a). Several commenters felt it was inappropriate to require that the custodial parent provide health insurance coverage under the guidelines. A number of commenters pointed out that it would be necessary to seek legislation, long after the statutory effective date of mandatory guidelines, for the authority to implement this proposed requirement, which could jeopardize the entire guidelines. These commenters urged that the requirement be dropped, or that States, at the very least, not be required to meet this provision until guidelines are revised as a result of the first mandatory four-year review. Several commenters argued that this health care provision is not authorized by either the Child Support Enforcement Amendments of 1984 or Public Law 100–485. Others agreed that the medical support requirement, while a positive step forward, could not have reasonably been inferred from the statutory language governing guidelines.

Some commenters emphasized that current Federal regulation at § 306.51 requires States in AFDC or Medicaid-only cases, and with the custodial parent's consent in non-AFDC cases, to petition the court or administrative authority to include health insurance that is available to the absent parent at reasonable cost in new or modified support orders. These commenters argued that addressing health care needs in guidelines is duplicative and unnecessary and that extending this policy to all new and modified orders in the State (not just orders in IV–D cases) is a major change which should be based on a congressional mandate. One commenter, however, indicated that it is especially important to include consideration of children's health care needs, while stressing that States should have discretion in determining how to provide for such needs.

Response: Section 104 of Public Law 100–485 requires that all support orders in the State (i.e., orders in non-IV–D as well as IV–D cases) be established using guidelines as a rebuttable presumption that the amount which would result from the application of the guidelines is the correct amount of child support to be awarded. We do not believe that we have exceeded our authority under section 1102 of the Act by requiring State guidelines to take into consideration the child(ren)'s health care needs. Medical support, i.e., providing for a child's health care needs, is an integral part of any child support award, and as such, should be addressed as part of the State guidelines for setting all child support award amounts in the State.

The Federal regulation at § 303.31 does require, unless the custodial parent and child(ren) have satisfactory health insurance other than Medicaid, IV–D agencies to petition for health insurance that is available to the absent parent at reasonable cost in seeking new or modified support orders in IV–D cases. A 1984 Urban Institute study found that 10% to 15% of all children without any health coverage have absent parents who pay child support but have not included their children on their employer-subsidized health insurance.

After reviewing comments and the various ways some States have addressed medical support, we have decided not to require health insurance to be included in the guidelines at this time. Section 302.56(c)(3) now requires guidelines to provide for the child(ren)'s health care needs, through health insurance coverage or other means. Some States, for example, have health insurance in their laws that are separate from, but equal to, their guidelines. We will carefully monitor States' progress in including health insurance in child support orders. If States do not show significant progress within a year, we will issue a notice to amend the final rule incorporating health insurance into the guidelines.

Including employer subsidized health insurance at a low cost to the employee is a cost effective way to provide medical support.

Many absent parents have new families; they can often cover their non-custodial children at no added cost to themselves. Additionally, many employers provide family coverage at no or nominal cost to the employee.

Some State guidelines allocate uninsured health costs between parents, without making health insurance a presumption. Omitting health insurance increases the financial risk on both absent and custodial parents. Omitting health insurance also increases work loads for State Medicaid agencies' third party liability units. It is much easier for these agencies to collect from an insurance company than absent parents.

6. *Comment:* Several commenters asked whether the guidelines themselves need to address health insurance if the State provided a mechanism in another part of State law to accomplish this purpose.

Response: The guidelines themselves must provide for the health care needs of the child(ren) as required under § 302.56(c)(3).

7. *Comment:* A commenter asked if the proposed requirement means that health care needs and insurance premiums must be factored into the guidelines formula itself or that the judge or referee should be made aware of the need to address such needs in the order.

Response: States have flexibility to determine how their guidelines will provide for the health care needs of the child(ren) as long as the requirements of § 302.56(c)(3) are met. The health care needs and insurance premiums need not be factored into the formula itself as long as the guidelines in some way address the child's or children's health care needs.

8. *Comment:* Several commenters suggested that Federal regulations should require non-custodial parents to provide information regarding health insurance coverage, including necessary claim forms and insurance identification numbers, at the time the order is established to ensure that the child benefits from the coverage.

Response: We do not believe that Federal regulations should establish such specific requirements to be addressed in States' guidelines. Therefore, we have not included the suggestion in this regulation. However, it would be appropriate and desirable for non-custodial parents to provide such information. We recommend that States consider the practice suggested, and we will explore other options to achieve the same end.

9. *Comment:* A commenter asked how the guidelines should provide for coverage of health care needs if health insurance is not available to either parent at a reasonable cost. This commenter asked if the support order should provide for cash payment for medical needs.

Response: The regulation does not specify how health care needs should be addressed, because we want to allow States flexibility to determine policy in this area. Using this discretion, if health insurance is not available, States may choose to require cash payments for medical costs, devise a formula for determining a percentage of medical costs for which either parent is responsible, or adopt other approaches which provide for the health care needs of the child(ren).

10. *Comment:* A commenter asked if establishment and enforcement of health care obligations would be an allowable IV–D cost.

Response: Yes, Federal funding is available for costs associated with medical support activities required under Federal regulations.

11. *Comment:* One commenter requested action at the Federal level to

remedy situations in which employers, in efforts to reduce costs, have restricted dependent coverage to situations where children reside in the obligor's home. The commenter indicated that the result is that many children are covered only by Medicaid in AFDC cases, and have no coverage at all in non-AFDC cases.

Response: We agree that such restrictions can prevent obligors from providing health insurance coverage which would otherwise be available for their children. However, this problem cannot be addressed in this regulation and would more likely require State or Federal legislation to prohibit such practices.

Four-year Review of Guidelines

1. *Comment:* A commenter asked that the regulation at § 302.56(e) clarify that the guidelines must not only be reviewed, but modified, as appropriate, every four years.

Response: We agree that the intent of four-year review of guidelines is to ensure that the guidelines remain relevant to the needs of children. Consequently, we have added a requirement that guidelines be modified, if appropriate, at least once every four years.

2. *Comment:* One commenter asked for clarification about when the first four-year review would have to be conducted: four years from October 1, 1987, the discretionary guidelines effective date, or from October 13, 1989, the effective date for mandatory guidelines.

Response: The initial four-year review and revision of guidelines must be completed by October 13, 1993.

Findings That the Guidelines Amount Would be Unjust or Inappropriate in a Particular Case

1. *Comment:* We received many comments regarding the proposed regulatory language at § 302.56(g) which required a written finding on the record to justify the rebuttal of the guidelines in a particular case. These commenters pointed out that the statutory language at section 467(b)(2) provided for "a written finding or specific finding on the record," and argued that Congress intended that not all findings of rebuttal be in written form as long as they are part of the administrative or judicial record. Other commenters pointed out that under most State rules of civil procedure, either party may request written findings.

Response: We agree with these commenters and have added the words "or specific" to § 302.56(g) to clearly reflect the statutory language.

2. *Comment:* A number of commenters felt that § 302.56(g) should not include language which would allow States to develop criteria for rebuttal. These commenters reasoned that State input should be limited to establishing guidelines which are as comprehensive as possible so that a deviation, or rebuttal, would be rarely needed. They maintained that rebuttal should be determined by the courts, since reasons for rebuttal would be so unusual that no set of criteria could adequately define such reasons. Another commenter stated that developing all-inclusive written criteria is an impossible goal and asked for clarification of the extent and meaning of the requirement that rebuttal be based on criteria established by the State. The commenter urged that the State be required to establish a broad-based set of criteria which allow for actual consideration of the facts in a particular case (i.e., that the findings themselves be specific, not the criteria for rebuttal).

Response: Section 103(a) of Public Law 100–485 requires a finding that application of the guidelines would be unjust or inappropriate in a particular case, as determined under criteria determined by the State. Therefore, we cannot delete the requirement from the regulation.

We agree that the guidelines developed by the State should be as comprehensive as possible so as to minimize the number of cases which would be subject to rebuttal. While it is up to States to determine how specific State criteria should be, rebuttal criteria should be established in consultation with the courts and administrative review authorities to ensure fairness in the rebuttal process.

3. *Comment:* We received many comments regarding our proposed requirement that any criteria for rebuttal must be based on the best interests of the child. Many commenters were critical of this provision because they felt that Congress intended States, not the Federal government, to develop criteria for rebuttal. In addition, commenters stated that the provision was in conflict with the statutory authority that application of the guidelines would be considered unjust or inappropriate in a particular case.

These commenters believe that Congress intended that there would be cases where application of the guidelines would be unjust or inappropriate for the obligor and that rebuttals would generally result in amounts below those required under the guidelines. They argued that providing a lesser amount of support would never be in the best interests of the child, while providing a higher support award would always be in the best interests of the child. Several commenters suggested that the language be changed to "State criteria to determine the appropriateness of applying the guidelines should include, but not be limited to, the child's best interests."

Response: Since support awards are established to provide for children's needs, we believe that requiring States to include consideration of the child's best interests is basic to any criteria for rebuttal and, therefore, not inconsistent with congressional intent that States establish criteria for rebuttal.

While we agree that there may be circumstances that warrant an award amount lower than that required by guidelines, we believe that such an award could be justified by the individual case circumstances and still be in the best interests of the child.

We have, however, revised the language in paragraph (g) to require State criteria for rebuttal to take into consideration the best interests of the child. Taken as a whole, the grounds for rebuttal may not be inconsistent with the best interests of the child. This will ensure that the child's best interests are a primary consideration in any decision to deviate from the guidelines amount, while allowing for other valid factors to be considered.

4. *Comment:* Other commenters were concerned that requiring the criteria for rebuttal to be based on the best interests of the child was not sufficient. They recommended that the regulation specify that States cannot tie support to visitation; that guidelines should not be used in joint custody situations; and that second families of the obligor not constitute grounds for rebuttal.

Response: Since visitation and child support are separate issues and should be considered separately, payment of support should not be conditioned on visitation rights. With respect to joint custody situations, States should consider such arrangements in developing their guidelines and rebuttal criteria. Because the Congress required that guidelines be applied to all orders in the State and directed States to establish rebuttal criteria, we have not revised this regulation to address criteria for rebuttal beyond reference to consideration of the child's best interests. Therefore, it is up to the individual States to consider obligors' second families and non-traditional custody arrangements in developing guidelines and rebuttal criteria.

5. *Comment:* Many commenters felt that courts would be required to go into too much detail to justify rebuttal, and

were concerned that the regulatory requirements for written findings would constitute an undue burden on courts and administrative review authorities. Many were also concerned that, contrary to congressional intent, these burdens would severely limit judicial discretion, create extraordinary workloads and staggering cost increases to taxpayers, and cause lengthier court hearings, findings and orders. In addition, they were concerned that the requirements may result in loss of good will by judges towards guidelines, resulting in lack of compliance. One commenter acknowledged that such strict requirements would limit the circumstances under which the courts will order any variation from the guidelines amount. Others argued that OCSE, by specifying detailed requirements for the content of findings justifying deviation from the guidelines, was usurping a decision process Congress gave to the States by requiring States to establish criteria for such findings. One commenter strongly opposed such strenuous criteria for rebutting guidelines at such a late date and urged that the requirement be delayed at least 6 to 12 months to allow development of procedures.

Many commenters were concerned that including the value of property in the findings to rebut the guidelines, proposed under § 302.56(g), would cause courts serious problems in attempting to ascertain the property value and how it related to other support. Another commenter urged that we eliminate reference in paragraph (g) to "value of any property" and "in cases where items of value are conveyed in lieu of a portion of the support presumed under the guidelines, the estimated value of items conveyed." The commenter maintained that including this language would encourage judges and attorneys to permit trade-offs between child support amounts and property settlements. The commenter stated that such trade-offs can screen evasion of the guidelines and complicate a periodic review and adjustment process, even if the value of an initial trade-off is clearly stated. Finally, the commenter indicated that this approach is a problematical legal practice since child support is under the continuing jurisdiction of the court, and is therefore theoretically modifiable at any time, whereas a property settlement cannot be modified retroactively (absent fraud or misrepresentation).

Response: As one commenter acknowledged, the requirements for findings rebutting the guidelines amount are intended to limit the circumstances under which deviations will be allowed. Deviations from the guidelines amount should occur only in a limited number of cases because Congress required guidelines to be applied as a rebuttable presumption in setting support awards. Therefore, deviations from those guidelines should only occur infrequently and then only when judges or other officials can justify them. If deviation is truly warranted, justifying the deviation should certainly be possible.

However, we agree that the regulation as proposed imposed a considerable burden on courts and administrative authorities. We have, therefore, revised paragraph (g) to delete reference to the value of property and items conveyed in lieu of support and now require findings that rebut the guidelines to state the amount of support that would have been required under the guidelines, and include a justification of why the order varies from the guidelines.

6. *Comment:* A number of commenters were concerned that the requirements for findings of rebuttal would create major problems in cases where both parties reach a stipulated agreement and currently there is no hearing or finding made on the record.

Commenters asked if the requirements in § 302.56 (f) and (g), with respect to using guidelines as a rebuttable presumption in any judicial or administrative proceeding for the award of child support and findings justifying deviation from the guidelines, apply to orders reached through stipulated agreement. These commenters maintained that requiring judges or administrative hearing officers to detail a rebuttal of the guidelines in these instances, where both parties agree beforehand, would significantly increase the amount of time spent on such cases, to the detriment of other, more complex cases. The commenters suggested that we add clarifying language that limits application of paragraphs (f) and (g) to matters in which there is a dispute.

One commenter suggested that application of the guidelines not be construed to impair the rights of parties to enter into stipulated agreements and orders reached through stipulated agreement not be subject to detailed rebuttal as long as certain conditions designed to protect the children are met. The commenter suggested conditions contained in its State law under which (1) parties acknowledge that they are fully informed of their rights and declare that the children's needs will be adequately met; and (2) rights to support have not been assigned to the State and no public assistance application is pending. The commenter also indicated that under its State law, if the support amount agreed to is below the guidelines amount, no change in circumstances is necessary to obtain a modification.

Response: Under paragraph (f), the State must provide that there shall be a rebuttable presumption, in any judicial or administrative proceeding for the award of child support, that the amount of the award which would result from the application of the State's guidelines is the correct amount of child support to be awarded. Paragraph (g) requires a written finding or specific finding on the record that the application of the guidelines would be unjust or inappropriate in a particular case. That finding must state the amount of support that would have been required under the guidelines and must include a justification of why the order varies from the guidelines. We do not believe that support orders entered as a result of stipulated agreements are, or should be, excluded from the requirements of paragraphs (f) and (g). The State's guidelines must be a rebuttable presumption in any award of child support in the State. That includes support obligations ordered by the court or administrative authority as a result of stipulated agreements reached by the parties. Once the court or administrative entity empowered to set support orders enters an enforceable support order, all requirements under § 302.56 apply, regardless of whether or not the amount ordered was reached through stipulated agreement.

We disagree, however, that this should be a burden on the courts. Since the amount indicated under the guidelines must be a rebuttable presumption in any child support order, most obligations reached through stipulated agreements should be in the amount specified under the guidelines. In those instances that they are not, States could require the parties or their representatives to indicate in the agreement the amount that would have been required under the guidelines and a justification of why the amount agreed upon varies from the guidelines. Entering the order and including the rationale for deviation provided by the parties in the record would meet the requirements under paragraphs (f) and (g). In this way, the court or administrative authority's role is limited to a decision, based on the submitted rationale, that the deviation is warranted and that the child's needs will be met.

We agree that application of the guidelines does not impair the rights of

parties to enter into stipulated agreements. However, orders entered as a result of stipulated agreements are nevertheless child support orders in the State and subject to the guidelines requirements. In addition, a statement by the parties that they were fully informed of their rights, that they were not coerced into the agreement, or that the children's needs will be adequately met does not satisfy the statutory requirement that guidelines must apply to all orders entered in the State and that the amount indicated by the guidelines must be a rebuttable presumption in ordering support.

We agree with the commenter that modification should be allowed in these cases, regardless of whether or not there is a change in circumstances, if the support award amount agreed to by the parties is below that which is required under the guidelines. Therefore, we encourage States to adopt laws and procedures under which inconsistency with the guidelines amount is adequate grounds for modification of such orders upon request. States should also note that section 103(c) of Pub. L. 100–485 requires periodic review of support orders and modification, if appropriate, in accordance with State guidelines for support award amounts, effective October 13, 1990. While final regulations implementing this provision have not yet been published, the statute, on its face, requires modification of support orders which are inconsistent with a State's guidelines.

7. *Comment:* Several States were concerned regarding the cautionary language in the preamble to the NPRM regarding problems where some States have "more restrictive" procedures with respect to allowing deviations from the guidelines amount. One State believed that the language could be read to bring into question its clear and convincing evidentiary standard for rebuttal of its guidelines. Several other commenters felt that Congress intended to set minimum standards for rebuttal, but not to forbid stronger standards, including the absence of any grounds for rebuttal. The commenter indicated that six States have already adopted standards that do not allow deviations from the guidelines, particularly with regard to administrative orders, or that severely limit deviations.

Response: States have considerable leeway in establishing criteria for rebuttal, as long as these criteria are established by the State and take into consideration the best interests of the child. However, the absence of any grounds for rebuttal would appear to be inconsistent with the statutory language and the intent of Congress that guidelines be used as a rebuttable presumption in the establishment and modification of all orders in the State. Section 467 of the Act does not allow State guidelines which are applied in all cases with no opportunity for rebuttal of the amount indicated under the guidelines.

8. *Comment:* One commenter indicated that its State law currently requires judges to make written findings of fact when deviations from the guidelines are made. However, this commenter claimed that a review of orders showed that judicial compliance is sporadic, and asked how IV–D agencies can assure compliance by judges who are not under IV–D control.

Response: State law, not the State IV–D agency, compels compliance by judges. However, there may be a need for judicial education to foster awareness of the seriousness of the non-support problem, and IV–D agencies should appeal rulings which are not in conformance with State Law regarding application and rebuttal of guidelines. Further, a determination as a result of an audit in the future that the State's IV–D program fails to comply with Federal requirements governing mandatory guidelines could result in assessment of a financial penalty against the State of between one and five percent of Federal funding under the State's AFDC program.

Data Collection and Analysis for First Four-year Review of Guidelines

1. *Comment:* Many commenters urged us to delete the requirements for collection and analysis of data regarding the proportion of orders being issued under the guidelines that have been rebutted and the reasons for rebuttal. These commenters strongly objected to this requirement as excessive, inefficient, and an infringement on judicial powers. They argued that it would impose an unreasonable burden on the judicial and administrative systems, including a major financial impact. Many felt that it would necessitate an entirely new system of recordkeeping and that the data would have to be compiled manually for every support order, because, although the number of cases and deviations is measurable, measuring the "reason" for deviation is extremely labor intensive. Other commenters responded that the data collection and analysis would be possible only if statistical sampling techniques were allowed or if additional Federal resources are provided. Another commenter asked if the gathering of data must be from all State jurisdictions, or if States have the flexibility to select a smaller number. One commenter urged that the requirement be deleted and that the focus of the regulation be to require that deviations only be made in unusual cases. The current rule in this commenter's State defines categories for "unusual circumstances" as "clear and convincing evidence that manifest injustice would result." A commenter stated that the proposal failed to recognize that States are fully capable of reviewing and revising guidelines as appropriate to State circumstances.

Response: There is no intent in this regulation to limit judicial discretion. The purpose of establishing guidelines as a rebuttable presumption is to ensure that each State has a consistent policy which provides for adequate support of children. Congress would not have provided for rebuttal of the guidelines' amount if it intended to limit judicial discretion.

In response to the commenter's concern that the regulation focus on limiting deviations and delete data analysis of application of the guidelines, we offer the following. This regulation does limit deviations to unusual circumstances. However, we believe that any legitimate review of guidelines would include analysis of case data on the application of their guidelines, as well as analysis of current economic data on the costs of raising children, to determine if the guidelines are adquate or should be modified in any way and that deviations are limited and justified. Requiring such analysis will ensure informed decisionmaking as a result of the review process.

While we believe that data analysis is integral to any review and modification of guidelines, we agree that States should determine how to conduct their data gathering and analysis. Consequently, we have revised paragraph (h) to require States, as part of any review of guidelines, to analyze economic data on the costs of raising children and case data, gathered through statistical sampling or otherwise, on application of, and deviations from, the guidelines. Under this approach, States may sample cases within a representative sample of jurisdictions within the State. We believe that this approach would be an efficient use of State resources.

2. *Comment:* A commenter asked whether the State would be expected to lower guidelines' levels if the data indicates that judges are consistently ordering amounts less than the guidelines. This commenter stated that it is rare for rebuttals to be for higher amounts.

Response: Each State will be responsible for gathering and analyzing data. The State must determine, using its analysis, if the data supports no change, a reduction, or an increase in guidelines' amounts. Guidelines must be revised, if appropriate, based on the State's analysis and decisionmaking process.

3. *Comment:* One commenter asked if the review is limited to IV–D cases only, or all cases, and indicated that the IV–D agency lacked authority to gather data on non-IV–D cases.

Response: The gathering and analysis of data, subject to sampling techniques discussed above, must focus on all support awards in the State. How the State meets this requirement is up to the State. However, Federal funding of allowable costs of meeting the requirement will be available.

Paperwork Reduction Act

Comment: One commenter claimed that the Paperwork Reduction Act estimate of 20 hours is totally inadequate and unrealistic because of the increase in documentation necessary for findings justifying deviations from guidelines' amounts. The commenter indicated that the one-time workload does not address the four-year reviews of guidelines, much less that initial review under paragraph (h) includes non-IV–D as well as IV–D cases. Another commenter argued that development of criteria is not a one-time burden and that the data collection requirement has not been addressed.

Response: In response to these comments we have revised the one-time burden associated with establishing criteria for rebuttal to 40 hours and added a burden of 10 minutes per case for findings of rebuttal. We continue to hold that establishment of the rebuttal criteria is a one-time burden, which must be accomplished at the time the guidelines are established. As indicated at the outset of this preamble, comments on these information collection requirements may be submitted to OCSE or OMB. Compliance with these burdens is not required until they are approved by OMB at which time a notice will be published in the **Federal Register.**

With respect to the burden of written findings of rebuttal, we believe the burden is not excessive because deviations from guidelines amounts should be the exception not the rule, and findings and records of judicial or administrative proceedings are already required under State law. The Federal requirements are not specific or extraordinary enough that they would not already be included in findings developed to justify judicial or administrative determinations in awarding child support. We have estimated the burden as follows. Based on census data, 1.5 million orders were established in the United States in 1989. We estimate rebuttal of the guidelines in only 10 percent of those orders or 150,000 orders a year. Because any records of a hearing to establish a support order would contain the rationale for reaching a specified amount, the main burden placed on States by this rule is to include in the findings the amount that would have been ordered under the guidelines. If the time needed to meet this requirement is approximately 10 minutes per case, the total burden for all States as a result of the requirements for the contents of findings of rebuttal in paragraph (f) would be about 25,000 hours.

In addition, in response to the comment that the 100-hour burden to gather data for analysis of guidelines does not take into consideration the fact that both non-IV–D and IV–D cases must be included, we have retained the 100-hour burden estimate because by allowing sampling, the burden on States should be limited.

III. State Laws Providing for Paternity Establishment

Section 302.70—Required State Laws

Comment: One commenter pointed out that a State Supreme Court recently had rendered an opinion that a proposed State law reviving previously dismissed paternity cases would be unconstitutional under the State Constitution. The commenter asked if that State will be required to amend its constitution and what OCSE would do if the State legislature enacts the required law and it is struck down by the State Supreme Court.

Response: Section 466(a)(5) of the Act, as amended by section 111(b) of Public Law 100–485, and the implementing regulation at § 302.70(a)(5)(i) require the State to enact legislation and implement procedures for the establishment of paternity for any child at least to the child's 18th birthday, including any child for whom paternity has not yet been established and any child for whom a paternity action was previously dismissed under a statute of limitations of less than 18 years. This requirement is effective August 16, 1984, the enactment date of the Child Support Enforcement Amendments of 1984 (Pub. L. 98–378).

A State that does not comply with this State plan requirement, through enactment and implementation of required State laws or approval of an exemption from doing so in accordance with § 302.70, could be found not to have an approval State IV–D plan which is a prerequisite to receipt of Federal funding under title IV–D of the Act. Instructions for applying for an exemption are set forth in OCSE–AT–88–19, dated December 22, 1988. The State could also lose a portion of Federal funding under title IV–A of the Act for failure to have an approved State IV–A plan, a condition of which is having an approved State IV–D plan.

Section 303.5—Establishment of Paternity

1. *Comment:* Several commenters expressed concern over the provision in § 303.5(d) that the IV–D agency shall require all parties to submit to genetic testing upon the request of any party to the contested paternity. Several commenters requested that we revise § 303.5(d) to require the court or administrative process rather than the IV–D agency to be responsible for requiring the parties to submit to genetic testing. A commenter stated that its State does have a law in effect to meet the requirement in section 111(b) of the Family Support Act of 1988 for requiring the genetic tests upon request but the court rather that the IV–D agency has the authority to compel parties to submit to the genetic tests. Commenters argued that the IV–D agency does not have the authority to order genetic testing; only a judge can impose such an order. The commenter noted that the IV–D agency, however, can (and does) seek such an order. Finally, a commenter suggested we replace in § 303.5(d) the term "the IV–D agency" with the term "the State."

Response: Section 466(a)(5)(B), added by Public Law 100–485, requires each State to have in effect laws requiring the use of procedures under which the State is required, with certain exceptions, to require the child and all other parties to submit to genetic tests upon the request of any party, effective November 1, 1989. That requirement is implemented in § 302.70(a)(5)(ii). Therefore, State law must require the State to mandate such testing upon request, and any entity (the court or otherwise) with the authority to order such tests must do so in accordance with State law. However, in response to the commenter's concerns, we revised proposed § 303.5(d) (redesignated as paragraph (d)(1)) to require the IV–D agency, if the agency lacks the authority to require such tests, to petition the court or administrative process authority to require all parties in a contested paternity case to submit to genetic testing upon the request of any party.

2. *Comment:* One commenter requested clarification about whether

the IV–D agency may request genetic testing of all parties in a contested paternity case or whether requests are limited to the mother, alleged father or child. Another commenter asked if the IV–D agency, when it is a party in a contested paternity case, must submit to genetic tests.

Response: The IV–D agency may be a party to a contested paternity case in IV–D cases, and may request the other parties to submit to genetic testing. The IV–D agency is not required to submit to the genetic testing itself, for obvious reasons.

3. *Comment:* One commenter recommended that the exemption from genetic testing for AFDC recipients who have been determined to have good cause for failure to cooperate under 45 CFR 232.40 through 232.49 should also include Medicaid recipients who have been determined under 42 CFR 433.147(c) to have good cause for failure to cooperate.

Response: We are using our authority under section 1102 of the Act, which requires the Secretary to make and publish such rules and regulations, not inconsistent with the Act, as may be necessary to the efficient administration of the Act, to revise §§ 302.70(a)(5)(ii) and 303.5(d). Therefore, under those paragraphs, the IV–D agency is not required to petition the court or administrative authority to require all parties to a contested paternity case to submit to genetic testing in the case of a Medicaid recipient who, under 42 CFR 433.147, is determined to have good cause for refusing to cooperate. We also clarified in those paragraphs that IV–D agencies need not petition for genetic tests in any case in which it has determined that establishing paternity would not be in the best interest of the child in any case involving incest or forcible rape, or in any case in which legal proceedings for adoption are pending. This is consistent with the current language in § 303.5(b).

4. *Comment:* One commenter objected to the requirement that testing should automatically proceed upon "request." The commenter argued that a mere request, without other foundation, cannot suffice as a basis for court-ordered blood testing; such an order requires a preliminary showing of probable cause. The commenter urged that, at the very least, a verified complaint or sworn affidavit signed by the moving party should be required before testing can be ordered.

Several commenters requested clarification about whether children who are born in wedlock, or who otherwise have had paternity established, would be exempt from mandatory genetic testing. One commenter requested clarification about whether a State law which presumes paternity for children conceived after the date of a valid marriage would be valid under the proposed rule. Another commenter cited case law under which, once paternity has been established (through acknowledgment, a previous contested case or by describing the child as a marital child in a divorce decree), the father cannot later challenge a child's paternity. This commenter also said that there has been an increasing number of third-party challenges, although courts have been reluctant to allow these challenges. One commenter expressed concern that the requirement for paternity testing not be used as a springboard for requests for testing in the face of contempt or modification proceedings.

An additional commenter cited the example where, to overcome the presumption of legitimacy of a child born in wedlock, proof beyond a reasonable doubt is required, so the husband must be tested to exclude the possibility of his paternity of the child before any other alleged father would be tested. The commenter also indicated that the testing may be inappropriate if the husband had been holding himself out as the father and/or if the husband has created a parent-child relationship that constitutes paternity by estoppel.

Several commenters suggested we defined "contested paternity action" in the regulation to be any action in which the issue of paternity may be validly raised under State law and explain in the preamble that a "contested paternity action" not include an action in which the issue of paternity is foreclosed by res judicata or by applicable State law regarding estoppel and presumptions of paternity. One commenter suggested we add the phrase "which is allowable under State law" in § 303.5(d) after "upon the request of any party in a contested paternity case." Another commenter suggested we define a contested paternity case to be a case in which there has been a child born out of wedlock, where the putative father refuses to admit his paternity in the context of a pending administrative or judicial proceeding to adjudicate parentage, and where State law creates neither a presumed father nor a situation giving rise to paternity by estoppel.

Response: In response to these concerns, we added § 303.5(d)(2) under which a contested paternity case is defined as any legal action in which the issue of paternity may be raised under State law and one party disputes paternity.

If paternity has already been established, it stands to reason that no party to the prior paternity action, nor any third party, can later request the IV–D agency to require all parties to submit to genetic testing because there is no contested paternity case. We believe this would preclude a request for genetic testing when a case with paternity already established is in contempt or modification proceedings.

We do not believe that a contested paternity action would include an action in which the issue of paternity is foreclosed by res judicata or by applicable State law regarding estoppel and presumptions of paternity. A State's definition of a contested paternity case as a case in which there has been a child born out of wedlock, where the putative father refuses to admit his paternity in the context of a pending administrative or judicial proceeding to adjudicate parentage, and where State law creates neither a presumed father nor a situation giving rise to paternity by estoppel would be allowable under the regulation. Given differing State laws on this issue, we believe it is best to allow States to define a contested paternity action.

5. *Comment:* Some commenters asked how the IV–D agency is to proceed with paternity establishment cases in which the AFDC agency has sanctioned the AFDC recipient for failure to cooperate.

Response: The IV–A agency is required, in § 232.45(c), to promptly report to the IV–D agency all cases in which the IV–A agency has determined that there is not good cause for refusing to cooperate. The IV–D agency must then proceed to attempt to establish paternity. If a putative father has been identified, the IV–D agency should petition the court or administrative authority to require all parties to submit to genetic testing.

6. *Comment:* Several commenters recommended that children under six months of age be excluded from mandatory genetic testing. Commenters suggested we allow deferral of testing until the child is six months of age if the custodial parent, doctor or the laboratory determines the delay is in the child's best interest. One commenter recommended that the preamble explain that genetic tests should be performed as soon as possible after a request for such tests, when consistent with scientific standards applicable to the particular test involved. Other commenters pointed out that the immediate genetic testing of infants conflicts with the case processing standards for paternity establishment in Federal regulations which allow a State

to wait six months after birth to commence testing and requested we revise the provision to be in line with the program standards final rule.

Response: We realize that the genetic tests used by some States require the child to be at least six months old. At this time, we are not mandating the use of DNA testing which does not require the child to be six months old. Instead, we believe that genetic tests should be performed as soon as possible after a request for such tests, consistent with the scientific standards applicable to the particular test involved.

We would point out that the requirement for mandatory genetic testing under § 303.5(d) does not include a timeframe for performing those tests. However, § 303.5(a)(2), which was published as part of the final program standards regulation in the Federal Register on August 4, 1989 (54 FR 32284) and is effective October 1, 1990, includes the timeframe for paternity establishment, or exclusion of an alleged father as a result of genetic tests, and will permit a delay in genetic testing until the child is six months old. Therefore, we do not believe any change to § 303.5(d) is necessary.

7. *Comment:* One commenter suggested we revise the cooperation regulations in 45 CFR 232.12 and 42 CFR 433.147(e) to clarify that: (1) The custodial parent would not be held responsible for the refusal to submit to genetic testing by the alleged father or by the child; (2) the custodial parent's refusal to have genetic testing done on a child under six months of age would not be considered failure to cooperate; and (3) the genetic testing must be done at a reasonable time and place with the custodial parent provided transportation costs to the test site.

Response: Revising the AFDC and Medicaid regulations on recipient cooperation in establishing paternity and obtaining support is beyond the scope of this regulation. While it is logical that genetic testing be done at a time and place convenient for the custodial parent, it is up to the individual State to determine genetic testing procedures.

8. *Comment:* Several commenters requested we require States to enact laws mandating courts to admit genetic test results as evidence in contested paternity cases. Other commenters requested that the genetic tests be admissable in court or administrative proceedings as presumptive evidence of paternity. But another commenter pointed out that genetic test results alone are not necessarily conclusive on the question of paternity, since additional evidence could also be considered, such as evidence concerning the conception date and testimony that the mother and alleged father had a sexual relationship during the period of conception.

Another commenter recommended that the regulation direct the IV–D agency to submit the genetic tests results to the court pursuant to State laws, and that OCSE encourage States to provide for admissibility of genetic test results, since it would be counterproductive to require genetic tests and not allow the admissibility of their results.

Response: Although the House bill would have required the use of a 95 percent probability index from blood tests as a rebuttable presumption of paternity, the Congress did not adopt the provision as part of the Family Support Act of 1988. While we are not requiring States to enact legislation mandating courts to admit genetic tests as presumptive evidence of paternity, we encourage them to do so and agree that it would be counterproductive for courts to require genetic testing and not allow the admissibility of their results.

9. *Comment:* One commenter asked if an alleged father who is excluded by conventional blood testing could be required to submit to other advanced forms of genetic testing if requested by a party to the action, and if so, under what conditions would the subsequent testing be required.

Response: The State may determine whether the alleged father excluded by conventional blood testing would be required to submit to other advanced forms of genetic testing if so requested by another party to the paternity action. The State's decision would be based upon State law, case law, or the policies and procedures of the agency with authority to compel submission to the tests.

10. *Comment:* One commenter requested that a mechanism be developed where non-AFDC IV–D applicants who pay for genetic tests be reimbursed if they later go on welfare or medical assistance. Additionally, this commenter requested clarification about whether an individual who is receiving IV–D services and who is on medical assistance would be charged any fees for genetic testing

Response: In response to the latter comment, we revised the proposed first sentence in § 303.5(e), redesignated as paragraph (e)(1), to exempt Medicaid recipients from the fee for the costs of performing genetic tests, using our authority under section 1102 of the Act to do so.

The IV–D agency is required to reimburse non-FDC IV–D applicants who pay for genetic tests and then later receive AFDC or Medicaid when the costs of the tests are recovered from the party who denied paternity in accordance with §§ 303.5(e) (3) and (4).

11. *Comment:* One commenter suggested that the fee for performing genetic tests should be limited to $25, as is the practice with other parts of the statute where fees are authorized, and that the fee be based upon a sliding scale based on income. The commenter cited court cases where prohibitive fees were found to be unconstitutional if they prevented the mother or the alleged father from using the option of obtaining lab results. One commenter recommended that we encourage, in the preamble, that States which elect to charge a fee should establish a fee schedule, based on the parent's income, that does not exceed the actual costs of performing the tests. Several commenters expressed concern that States opting to charge non-AFDC IV–D clients fees for genetic testing could actually discourage paternity establishment and could force some low-income families onto AFDC. Several commenters objected to the language in the preamble that they thought implied that mothers are frivolously taking actions to establish paternity.

Response: Section 454(6) of the Act, which governs provision of IV–D services in non-AFDC cases, imposes statutory limits of $25 for the application fee and $25 for the Federal income tax refund offset process. Section 454(6) of the Act, as revised by Public Law 100–485, did not set such a limit for the fee for performing genetic tests, which are more costly than $25, but rather allowed a fee which is in accordance with regulations of the Secretary of HHS. Any individual who is not a recipient of AFDC or Medicaid may be charged the genetic testing fee. In an AFDC or Medicaid case, a State may charge an alleged father, who is not an AFDC or Medicaid recipient himself, the genetic testing fee.

States electing to charge such fees may set a flat fee or may establish a fee schedule based on income. However, we are requiring, under § 303.5(e)(2), that any fee charged must be reasonable so as not to discourage those in need of paternity establishment services and may not exceed the actual costs of the genetic tests.

Finally, we did not intend for commenters to infer that IV–D recipients make frivolous accusations of paternity. As indicated in the preamble to the proposed rule, we believe that charging a fee for genetic tests would reduce the incidence of contested cases by

reducing frivolous denials, as well as accusations, of paternity.

12. *Comment:* One commenter suggested we address the issue of fees where genetic tests are performed on multiple parties, for example, in cases of a third party defendant.

Response: The State's procedures, which must be consistent with § 303.5(e), should address who is responsible for any fees charged in situations of multiple alleged fathers or third party defendants.

13. *Comment:* Several commenters requested that we require that States pay for genetic tests when the mother and/or alleged father is unable to do so.

Response: States have the option under section 454(6)(D) of the Act whether or not to impose a fee for the genetic tests on any individual not eligible for AFDC. Any fee charged must be applied Statewide. However, as discussed above, we added § 303.5(e)(2) under which any fee charged must be designed so as not to discourage requests by those in need of paternity establishment services and may not exceed the actual costs of the genetic tests.

14. *Comment:* Several commenters requested that we allow States to charge only 10 percent of the costs of genetic testing since the Federal government pays the other 90 percent as Federal funding.

Response: While the Congress provided for 90 percent Federal funding of laboratory costs related to paternity establishment in section 112 of Public Law 100–485, it authorized States to charge individuals not receiving AFDC a fee for genetic tests in section 111(c) of that law. In so doing, it appears that Congress acknowledged that those who are not receiving public assistance may be held responsible for genetic testing costs.

15. *Comment:* One commenter requested we revise the last sentence of § 303.5(e) to require the IV–D agency to attempt to obtain a judgment for the costs of the genetic tests from the contesting party because, in some cases if may be the mother who is denying the paternity of the father, and the mother in such a case should be the one against whom the costs should be sought.

Response: We agree that there may be instances in which a mother denies the claim of a man that he is the father of her child and insists upon genetic testing, and the genetic test results indicate that he is the father. Therefore, we have replaced "putative father" with the words "party who denied paternity" in paragraph (e)(3) to ensure that a judgment is sought against the contesting party in these instances. We also revised the regulation to give States the option to obtain a judgment from each party as long as the total requested does not exceed actual costs. For consistency, we are making a similar change to § 303.7(d)(3) which required a responding State IV–D agency to attempt to obtain a judgment for the costs of genetic testing from the putative father if paternity is established in the responding State.

16. *Comment:* Two commenters requested clarification about whether, when paternity has been established and genetic testing was used, there will be a presumption that paternity was established as a result of genetic tests or the case record will have to state that paternity was established as a result of genetic testing before the IV–D agency is required to pursue a judgment for the costs. One of the commenters recommended we revise § 303.5(e) to require the IV–D agency to attempt to obtain a judgment for the costs of the genetic tests from the putative father in any case where paternity is established and genetic testing was completed, since courts do not establish paternity on the basis of genetic tests alone.

Response: In response to comments, we are requiring under paragraph (e)(3) that the IV–D agency must attempt to obtain a judgment for the costs of the genetic tests from the party who denied paternity or, at State option, from each party in any case in which paternity is established and genetic tests were performed. This revision clarifies that the case record would not need to indicate a presumption that paternity was established as a result of genetic testing before the IV–D agency is required to attempt to obtain a judgment for the costs of the genetic testing.

17. *Comment:* Several commenters suggested we add specific regulatory language and audit criteria to prevent States from claiming Federal funding for the costs of genetic tests already collected from the mother and/or alleged father. Additionally, several commenters asked if the mother would receive any reimbursement of fees she paid to the State if the State recouped any of the costs of the genetic tests from the putative father.

Response: Section 304.50 requires the IV–D agency to exclude from its quarterly expenditure claims an amount equal to all fees which are collected during the quarter under the title IV–D State plan and all interest and other income earned during the quarter resulting from services provided under the IV–D State plan. Therefore, States are already precluded from claiming Federal funding for the costs of genetic tests that the State has already collected from the mother and/or alleged father.

In response to the concern that custodial parents be reimbursed for fees paid if genetic test costs are ultimately recouped, we added paragraph (e)(4) that requires the IV–D agency to use any amount collected under paragraphs (e)(1) and (3) that exceeds the costs for performing genetic tests to reimburse any fee paid under paragraph (e)(1).

18. *Comment:* Several commenters requested we require that the paternity establishment fees or costs be paid by the alleged father since the genetic tests are part of the defense against paternity.

Response: We are not requiring States to charge only the alleged father the fee for genetic testing. It is up to the State to establish its policy for genetic test fees. However, under § 303.5(e)(3), if paternity is established and genetic tests are performed, the IV–D agency is required to attempt to obtain a judgment for the costs of the genetic tests from the party who denied paternity or at State option, from each party.

19. *Comment:* Several commenters requested clarification about whether the IV–D agency is required to attempt to obtain a judgment for the costs of the genetic test from the putative father, even if the IV–D agency has opted, under § 302.33(d), to not recover costs. One commenter recommended we allow States the flexibility provided under § 302.33(d) to determine whether or not and from whom to collect costs in these cases. Another commenter wanted the State IV–D agency to be free to negotiate on all relevant factors to reach the best settlement on a case. This commenter also objected to the additional costs of tracking compliance, claiming that the administrative cost would likely negate a good portion of any recovery.

Response: The IV–D agency is required, under § 303.5(e)(3), to attempt to obtain a judgment for the costs of the genetic test from the party who denied paternity or, at State option, from each party if paternity is established and genetic tests were performed, even if the IV–D agency has opted, under § 302.33(d), not to recover costs. Recoupment of the costs of genetic testing under § 303.5(e) is a separate requirement from optional cost recovery in non-AFDC cases under § 302.33(d). The requirement in § 303.5(e)(3) is similar to the requirement in § 303.7(d) under which the responding State in an interstate case must attempt to obtain a judgment for the costs of genetic tests from the party who denied paternity or from each party if paternity is established.

We do not believe that requiring States to attempt to obtain a judgment for costs will negate a State's ability to negotiate for the best settlement in a case. Further, we believe that responsibility for payment of the costs of genetic testing may deter unwarranted requests for genetic tests from any party contesting paternity, whether it is the alleged father or the mother.

The administrative costs of tracking compliance need not be cumbersome. The State IV–D agency would only need to indicate in the individual case record that a judgment for the costs of genetic testing was entered. Enforcement of that judgment would be required as for any other judgment under State law.

Section 304.20—Availability and Rate of Federal Financial Participation

1. *Comment:* Several commenters requested that 90 percent Federal funding be available for expert witness costs as a reasonable program expense whether or not included as a part of the genetic testing contract.

Response: We believe that most genetic testing contracts that are negotiated will address the costs of expert witnesses. We do not believe it is reasonable to reimburse, at the 90 percent Federal matching rate, expert witness fees which are not negotiated as part of the genetic testing contract. Federal funding at the regular matching rate is available for such costs.

2. *Comment:* One commenter suggested that 90 percent Federal funding should be available for expert witness testimony from persons, not otherwise included in the genetic testing contracts, such as obstetricians, gynecologists, or any other person whose testimony would enhance the probability of obtaining a paternity determination.

Response: Ninety percent Federal funding is not available for all witnesses in a paternity case whose testimony would enhance the probability of obtaining a paternity determination. The Family Support Act of 1988 provides enhanced Federal funding for the laboratory costs of paternity establishment, not for all costs associated with paternity establishment.

3. *Comment:* One commenter recommended we revise §§ 304.20(b)(2)(i)(B) and (iii) by deleting the word "blood" and inserting the word "genetic."

Response: These suggested revisions have already been made in the final regulation for standards for program operations, published in the **Federal Register** on August 4, 1989 (54 FR 32284), with an effective date of October 1, 1990. However, we have replaced the word "blood" with the word "genetic" wherever it appears in § 303.7(d) in this final rule because we neglected to do so in the proposed rule.

Regulatory Flexibility Analysis

Under the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), we are required to prepare a regulatory flexibility analysis for those rules which would have a significant economic impact on a substantial number of small entities. While this regulation requires States to notify employers that they must indicate the date wages are withheld when forwarding wages to the State, this would not have a significant economic impact on employers because they are already required to comply with wage withholding requests, and supplying this date when forwarding withheld wages would not significantly increase the economic burden placed on them. Because the impact of this regulation is primarily on States, this regulation would not have a significant economic impact on a substantial number of small entities and a regulatory flexibility analysis is not required.

Regulatory Impact Analysis

The Secretary has determined, in accordance with Executive Order 12291, that this rule does not constitute a "major" rule for the following reasons:

(1) The annual effect on the economy would be less than $100 million;

(2) This rule would not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and

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

List of Subjects

45 CFR Parts 302 and 303

Child support, Grant programs—social programs, Reporting and recordkeeping requirements.

45 CFR Part 304

Child support, Grant programs—social programs, Federal financial participation.

(Catalog of Federal Domestic Assistance Program No. 13.783, Child Support Enforcement Program)

Dated: August 16, 1990.

Jo Anne B. Barnhart,

Director, Office of Child Support Enforcement.

Approved: January 28, 1991.

Louis W. Sullivan,

Secretary.

For the reasons set out in the preamble, title 45 chapter III of the Code of Federal Regulations is amended to read as follows:

PART 302—STATE PLAN REQUIREMENTS [AMENDED]

1. The authority citation for part 302 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 660, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p) and 1396(k).

§ 302.50 [Amended]

2. Section 302.50(b)(2) is amended by removing the words "a formula which meets the criteria prescribed in § 302.53" and adding the words "the requirements of § 302.56".

3. Section 302.51 is amended by revising paragraph (a) and the first sentence of (b)(1) to read as follows:

§ 302.51 Distribution of support collections.

* * * * *

(a)(1) For purposes of distribution in a IV–D case, amounts collected, except as provided under paragraphs (a)(3) of this section, shall be treated first as payment on the required support obligation for the month in which the support was collected and if any amounts are collected which are in excess of such amount, these excess amounts shall be treated as amounts which represents payment on the required support obligation for previous months.

(2) In AFDC and title IV–E foster care cases in which conversion to a monthly amount is necessary because support is ordered to be paid other than monthly, the IV–D agency may round off the converted amount to whole dollar amounts for the purpose of distribution under this section and § 302.52 of this part.

(3) Amounts collected through Federal and State income tax refund offset must be distributed as arrearages in accordance with §§ 303.72(h) and 303.102(g) of this chapter, respectively.

(4) With respect to payments made through wage or other income withholding and received by the IV–D agency on or after January 1, 1989, the date of collection for distribution purposes in all IV–D cases must be the date the wages or other income are withheld to meet the support obligation. If the employer fails to report the date of withholding, the IV–D agency must reconstruct that date by contacting the employer or comparing actual amounts

collected with the pay schedule specified in the court or administrative order.

(5) Except with respect to those collections addressed under paragraph (a) (3) and (4) of this section:

(i) Effective June 9, 1988, the date of collection for distribution purposes in all IV–D cases shall be the date on which the payment is received by the IV–D agency or the legal entity of any State or political subdivision actually making the collection, whichever is earliest; and

(ii) Effective January 1, 1989, a State may use on a statewide basis either the definition of the date of collection in paragraph (a)(5)(i) of this section or the date the payment is mailed, as evidenced by a legible U.S. Postal Service postmark or a legibly dated receipt from a commercial carrier, as the date of collection in all IV–D cases.

(b) * * *

(1) Of such amounts as are collected periodically which represent monthly support payments, the first $50 of any payments for a month received in that month, and the first $50 of payments for each prior month received in that month which were made by the absent parent in the month when due, shall be paid to the family. * * *

* * * * *

§ 302.53 [Removed]

4. Section 302.53 is removed.

5. In section 302.56, paragraphs (a) through (c) are revised and paragraphs (e) through (h) are added, to read as follows:

§ 302.56 Guidelines for setting child support awards.

(a) Effective October 13, 1989, as a condition of approval of its State plan, the State shall establish one set of guidelines by law or by judicial or administrative action for setting and modifying child support award amounts within the State.

(b) The State shall have procedures for making the guidelines available to all persons in the State whose duty it is to set child support award amounts.

(c) The guidelines established under paragraph (a) of this section must at a minimum:

(1) Take into consideration all earnings and income of the absent parent;

(2) Be based on specific descriptive and numeric criteria and result in a computation of the support obligation; and

(3) Provide for the child(ren)'s health care needs, through health insurance coverage or other means.

(d) * * *

(e) The State must review, and revise, if appropriate, the guidelines established under paragraph (a) of this section at least once every four years to ensure that their application results in the determination of appropriate child support award amounts.

(f) Effective October 13, 1989, the State must provide that there shall be a rebuttable presumption, in any judicial or administrative proceeding for the award of child support, that the amount of the award which would result from the application of the guidelines established under paragraph (a) of this section is the correct amount of child support to be awarded.

(g) A written finding or specific finding on the record of a judicial or administrative proceeding for the award of child support that the application of the guidelines established under paragraph (a) of this section would be unjust or inappropriate in a particular case shall be sufficient to rebut the presumption in that case, as determined under criteria established by the State. Such criteria must take into consideration the best interests of the child. Findings that rebut the guidelines shall state the amount of support that would have been required under the guidelines and include a justification of why the order varies from the guidelines.

(h) As part of the review of a State's guidelines required under paragraph (e) of this section, a State must consider economic data on the cost of raising children and analyze case data, gathered through sampling or other methods, on the application of, and deviations from, the guidelines. The analysis of the data must be used in the State's review of the guidelines to ensure that deviations from the guidelines are limited.

6. Section 302.70(a) is amended by revising the introductory language to add after *"Required laws."* and before the word "Effective" the clause "Unless otherwise indicated," and by revising paragraph (a)(5) to read as follows:

§ 302.70 Required State laws.

(a) *Required laws.* Unless otherwise indicated, effective October 1, 1985,

* * *

(1) * * *

(5)(i) Procedures for the establishment of paternity for any child at least to the child's 18th birthday, including any child for whom paternity has not yet been established and any child for whom a paternity action was previously dismissed under a statute of limitations of less than 18 years; and

(ii) Effective November 1, 1989, procedures under which the State is required (except in cases where the individual involved has been found under §§ 232.40 through 232.49 of this title or 42 CFR 433.147 to have good cause for refusing to cooperate or if, in accordance with § 303.5(b) of this chapter the IV–D agency has determined that it would not be in the best interest of the child to establish paternity in a case involving incest or forcible rape, or in any case in which legal proceedings for adoption are pending) to require the child and all other parties in a contested paternity case to submit to genetic tests upon the request of any such party, in accordance with §§ 303.5 (d) and (e) of this chapter.

* * * * *

PART 303—STANDARDS FOR PROGRAM OPERATIONS [AMENDED]

1. The authority citation for Part 303 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 660, 663, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396(k).

2. Section 303.5 is amended by adding new paragraphs (d) and (e) to read as follows:

§ 303.5 Establishment of paternity.

* * * * *

(d)(1) Upon the request of any party in a contested paternity case, the IV–D agency, if the agency lacks the authority to order such tests, shall petition the court or administrative authority to require all parties to submit to genetic tests unless, in the case of an individual receiving aid under the State's title IV–A or XIX plan, there has been a determination of good cause for refusal to cooperate under §§ 232.40 through 232.49 of this title or 42 CFR 433.147, respectively, or if, in accordance with § 303.5(b), the IV–D agency has determined that it would not be in the best interest of the child to establish paternity in a case involving incest or forcible rape, or in any case in which legal proceedings for adoption are pending.

(2) A contested paternity case is any legal action in which the issue of paternity may be raised under State law and one party denies paternity.

(e)(1) The IV–D agency may charge any individual who is not a recipient of aid under the State's title IV–A or XIX plan a reasonable fee for performing genetic tests.

(2) Any fee charged must be reasonable so as not to discourage those in need of paternity establishment services from seeking them and may not exceed the actual costs of the genetic tests.

(3) If paternity is established and genetic tests were performed, the IV–D agency must attempt to obtain a judgment for the costs of the genetic tests from the party who denied paternity or, at State option, from each party so long as the total amount requested does not exceed the actual costs of the genetic tests.

(4) The IV–D agency must use any amount collected under paragraphs (e)(1) and (3) of this section that exceeds the costs of performing genetic tests to reimburse any fee paid under paragraph (e)(1) of this chapter.

3. Section 303.7 is amended by revising paragraph (c)(7)(iv) to read as follows:

§ 303.7 Provision of services in interstate IV–D cases.

* * * * *

(c) * * *

(7) * * *

(iv) Collecting and monitoring any support payments from the absent parent and forwarding payments to the location specified by the IV–D agency in the initiating State no later than 15 calendar days from the date of initial receipt in the responding State. The IV–D agency must include sufficient information to identify the case, indicate the date of collection as defined under § 302.51(a) of this chapter or that the payments were made through State income tax refund offset, and include the responding State's identifying code as defined in the Federal Information Processing Standards Publication (FIPS) issued by the National Bureau of Standards or the Worldwide Geographic Location Codes issued by the General Services Administration.

* * * * *

4. Section 303.7(d) is amended by replacing the word "blood" with the word "genetic" and the phrase "putative father" with the phrase "party who denied paternity, or, at State option, from each party so long as the total amount requested does not exceed the actual costs of the genetic tests", wherever they appear.

5. Section 303.100(d)(1)(ii) is amended by adding the following words before the semicolon at the end:

§ 303.100 Procedures for wage or income withholding.

* * * * *

(d) * * *

(1) * * *

(ii) * * *, and must report to the State (or to such other individual or entity as the State may direct) the date on which the amount was withheld from the absent parent's wages;

PART 304—FEDERAL FINANCIAL PARTICIPATION

1. The authority citation for part 304 continues to read as follows:

Authority: 42 U.S.C. 651 through 655, 657, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396(k).

2. Section 304.20 is amended by adding a new paragraph (d) as follows:

§ 304.20 Availability and rate of Federal financial participation.

* * * * *

(d) Federal financial participation at the 90 percent rate is available for laboratory costs incurred in determining paternity on or after October 1, 1988, including the costs of obtaining and transporting blood and other samples of genetic material, repeated testing when necessary, analysis of test results, and the costs for expert witnesses in a paternity determination proceeding, but only if the expert witness costs are included as part of the genetic testing contract.

[FR Doc. 91–11289 Filed 5–14–91; 8:45 am]
BILLING CODE 4190–11–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 567

[Docket No. 91–24, Notice 1]

Certification

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Technical amendments; final rule.

SUMMARY: This notice makes several technical amendments to conform the language of Part 567, Certification, to new regulations, issued in September 1989, regarding the importation of motor vehicles not originally manufactured in compliance with the Federal Motor Vehicle Safety Standards. As amended, part 567 cites the new regulations, instead of the prior ones, and refers to "Registered Importers" instead of "importers."

EFFECTIVE DATE: The amendments are effective on May 15, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. George Shifflett, Office of Enforcement, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. (202) 366–5307.

SUPPLEMENTARY INFORMATION: The Imported Vehicle Safety Compliance Act of 1988, (the 1988 Act), Public Law 100–562, amended the National Traffic and Motor Vehicle Safety Act (the Vehicle Safety Act) to give the Department of Transportation sole rulemaking authority regarding regulations governing the importation of vehicles not originally manufactured to comply with the Federal motor vehicle safety standards. Among the amendments made by the 1988 Act were ones revoking sections 108(b)(3) and (b)(4) of the Vehicle Safety Act, effective January 31, 1990. These sections authorized the issuance of regulations jointly by the Secretaries of Transportation and Treasury to prohibit the importation of motor vehicles and equipment not complying with the Federal motor motor vehicle safety standards, except under such terms and conditions as the two Departments may specify to ensure that a noncomplying vehicle or equipment item will be brought into conformance or will be exported or abandoned to the United States. Pursuant to this authority, the two Secretaries issued an implementing regulation, 19 CFR 12.80, which governed the importation of merchandise subject to Federal motor vehicle safety standards beginning in 1968, and continued to do so through January 31, 1990. In place of the deleted sections, the 1988 Act added new sections which include authority vested alone in the Secretary of Transportation to establish new regulations regarding importation.

In addition, the 1988 Act amended the Vehicle Safety Act to permit a motor vehicle not originally manufactured to conform to Federal motor vehicle safety standards to be imported only by a person who has registered with this agency, or by an individual who has a contract with a registered importer for making the modifications necessary for bringing the vehicle into conformance with applicable safety standards.

Pursuant to the amendments made to the Vehicle Safety Act by the 1988 Act, the agency issued final rules on September 29, 1989, establishing 49 CFR Part 591, "Importation of Vehicles and Equipment Subject to Federal Motor Vehicle Safety Standards" (54 FR 40078), and Part 592, "Registered Importers of Vehicles Not Originally Manufactured to Conform to the Federal Motor Vehicle Safety Standards" (54 FR 40063). Part 591 superseded the prior joint regulation of the Departments of Treasury and Transportation on importation statements and documentation at 19 CFR § 12.80 promulgated jointly by the Customs Service, Department of the Treasury, and NHTSA. In part 592, the

agency set forth procedures and requirements regarding the registration of importers and the duties and obligations of Registered Importers.

To supplement those 1989 final rules, the agency needs to make conforming amendments to another NHTSA regulation referring to or relying on NHTSA's importation regulations. Specifically, it desires to amend 49 CFR Part 567, "Certification." Part 567 specifies requirements for certification by manufacturers, including importers, of the compliance of motor vehicles with applicable Federal Motor Vehicle Safety Standards, the Bumper Standard (Part 581) and the Theft Prevention Standard (Part 541), as required by section 114 of the Vehicle Safety Act (15 U.S.C. 1403) and by sections 105(c)(1) and 606(c) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1915(c) and 2026(c)). Part 567 contains special certification requirements for importers of motor vehicles that were not originally manufactured to conform to the Federal Motor Vehicle Safety Standards and Theft Prevention Standard, but are nevertheless presented for importation into the United States. However, those special requirements currently contain references to 19 CFR 12.80 instead of part 592, and to "importers," instead of "Registered Importers."

This notice amends part 567 to reflect the supersession of 19 CFR § 12.80 by part 591 and the necessity for an importer to be a Registered Importer or to have a contract for modification with a Registered Importer.

Because the amendments are technical in nature and have no substantive impact, it is hereby found that notice and comment thereon are unnecessary. Further, because the amendments are technical in nature and have no substantive impact, it is hereby found for good cause shown that an effective date earlier than 180 days after issuance of the rule is in the public interest, and the amendments are effective upon publication in the Federal Register. As the amendments make no substantive changes, they do not affect any of the impacts previously considered in the promulgation of part 567.

List of Subjects in 49 CFR Part 567

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, part 567 of 49 CFR is amended as follows:

PART 567—[Amended]

1. The authority citation for Part 567 continues to read as follows:

Authority: 15 U.S.C. 1392, 1397, 1401, 1403, and 1407; 15 U.S.C. 1912 and 1915; 15 U.S.C. 2021, 2022, and 2026; delegation of authority at 49 CFR 1.50.

§ 567.2 [Amended]

2. Section 567.2(b) is revised to read as follows:

(b) In the case of imported motor vehicles, the requirement of affixing a label or tag applies to Registered Importers of vehicles admitted to the United States under 49 CFR 591.5(f) to which the required label or tag is not affixed.

§ 567.4 [Amended]

3. The last sentence of the introductory text of § 567.4(g)(1) is revised to read as follows:

(g)(1) * * * In the case of imported vehicles, where the label required by this section is affixed by the Registered Importer, the name of the Registered Importer shall also be placed on the label in the manner described in this paragraph, directly below the name of the final assembler.

§ 567.4 [Amended]

4. The first sentence of § 567.4(l)(1) is revised to read as follows:

(l)(1) In the case of a passenger car imported into the United States under 49 CFR 591.5(f) which does not have an identification number that complies with paragraph S4.2, S4.3, and S4.7 of 49 CFR 571.115 at the time of importation, the Registered Importer shall permanently affix a label to the vehicle in such a manner that, unless the label is riveted, it cannot be removed without being destroyed or defaced. * * *

Issued on: May 10, 1991.

Jerry Ralph Curry,

Administrator.

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Proposed Rules

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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

Commodity Credit Corporation

7 CFR Part 1468

Payment Program for Shorn Wool, Wool on Unshorn Lambs and Mohair (1991-1995)

AGENCY: Commodity Credit Corporation (CCC), USDA.
ACTION: Proposed rule.

SUMMARY: This proposed rule would set forth regulations at 7 CFR part 1468 for the implementation of the 1991–1995 wool and mohair payment programs as authorized by the National Wool Act of 1954, as amended (the Wool Act). Currently, the wool payment program regulations are set forth in 7 CFR part 1472. However, since the majority of the provisions for the wool and mohair programs are identical, it is proposed for efficiency that both payment program provisions be set forth in 7 CFR part 1468. This proposed rule would provide among other requirements: (1) The criteria for a producer's eligibility for price support payments for wool and mohair; (2) place a limit on the amount of payments that a producer may receive under each program; (3) require that a nonrefundable deduction of one (1) percent be made from the amount of payment due a producer of wool and mohair; and (4) provide that the producer has no more than sixty (60) days after the end of the marketing year to file for a wool or mohair price support payment.

DATES: Comments must be received on or before June 14, 1991 in order to be assured consideration.

ADDRESSES: Interested persons are invited to submit written comments to: Director, Emergency Operations and Livestock Programs Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, P.O. Box 2415, Washington, DC 20013. Written comments must be received by June 14, 1991 to be assured consideration. All written submissions made pursuant to this proposed rule will be made available for public inspection in room 4091 South Building, USDA, between the hours of 8:15 a.m., and 4:45 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Harry D. Millner, Program Specialist, EOLPD, ASCS, USDA, P.O. Box 2415, Washington, DC 20013, Telephone (202) 475–3605.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under Department of Agriculture (USDA) procedures established in accordance with provisions of Departmental Regulations 1512–1 and Executive Order 12291 and has been classified as "not major." It has been determined that these program provisions will not result in: (1) An annual effect on the economy of $100 million or more, (2) major increases in cost or prices for consumer, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal assistance program to which this proposed rule applies are: Title—Commodity Loans and Purchases; Number—10.051; as found in the Catalog of Federal Domestic Assistance.

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

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

The Office of Management and Budget has approved the information collection requirements contained in the current regulations at 7 CFR parts 1468 and 1472 under the provisions of 44 U.S.C., chapter 35 and OMB Number 0560–0023 has been assigned.

The information collection requirements at 7 CFR part 1468 have not changed as a result of this proposed rule. The information collection required by 7 CFR part 1468 has been approved by OMB through August 31, 1993.

Public reporting burden for the information collections contained in these regulations are estimated to be 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Discussions of Proposed Changes

The regulations in 7 CFR parts 1468 and 1472 set forth the provisions of the mohair and wool programs, respectively, for the 1986–1990 marketing years. Since numerous provisions of parts 1468 and 1472 are identical, it has been determined that it would be more efficient to combine the wool and mohair program provisions in one part. This consolidation would also result in greater program uniformity and ease in administration. This action would not result in the imposition of additional regulatory provisions other than those proposed in this proposed rule. However, obsolete regulations would be deleted under the proposed rule and would not be included in this proposed regulation part 1468. This proposed action would result in reduced paperwork and recordkeeping by producers and wool and mohair entities.

Section 703(a) of the Wool Act was amended by the Food, Agriculture, Conservation and Trade Act of 1990, (Pub. L. 101–642) (the 1990 Act), to authorize the Secretary of Agriculture (the Secretary) to support the price of wool and mohair marketed through December 31, 1995. Section 703(a) of the Wool Act provides that the Secretary shall support the prices of wool and mohair to producers by means of loans, purchases, payments or other operations. Section 704 of the Wool Act provides that if payments are utilized as a means of price support, the payments shall be such as the Secretary

determines to be sufficient, when added to the national average price received by all producers, to give producers a national average return for the commodity equal to the support level. It is proposed that the price of wool and mohair will be supported for the 1991 through 1995 marketing years by means of payments to producers.

The 1990 Act amended section 704 of the Wool Act by adding a new subsection to provide for payment limitations on the total amount of payments that a person shall be entitled to receive for wool or mohair for any marketing year beginning with the 1991 marketing year. The 1990 Act amendment requires that the payment received by a person under each of the wool and mohair programs, respectively, shall not exceed:

(1) $200,000 for the 1991 marketing year;

(2) $175,000 for the 1992 marketing year;

(3) $150,000 for the 1993 marketing year;

(4) $125,000 for the 1994 and subsequent marketing years.

This proposed rule would set forth at § 1468.4 the maximum amount of payments that a person shall be entitled to receive under this Part.

The 1990 Act amended the Wool Act to provide that in administering the wool and mohair payment limitation provisions that the Secretary shall issue regulations defining the term "person" that shall be consistent with regulations issued by the Secretary in accordance with sections 1001, 1001A, and 1001B of the Food Security Act of 1985. Currently, the wool and mohair price support programs has a broad definition of who may be eligible to receive a price support payment. The only requirement for receiving such a payment is that the producer must have owned the livestock for a minimum of 30 days in the United States. A large number of wool and mohair producers own the livestock, but not the land on which they are grazed. These include minors, Indians on reservations where tribal counsels own the land, or other producers that graze their livestock on government-owned land. Thus, this proposed rule would amend § 1468.3 to provide that the terms "person", "family member", and "producer" be defined in a manner consistent with the payment limitation regulations at 7 CFR part 1497.

The current regulation at 7 CFR § 1468.112 and 7 CFR 1472.1541 provides that an application for payment shall be filed as soon as possible after completion of the producer's sales of wool, unshorn lambs, or mohair in a specified marketing year, but in no event shall an application be filed later than three (3) years after the end of that specified marketing year. A review of wool and mohair application filings conducted by the Agricultural Stabilization and Conservation Service (ASCS) revealed that less than three (3) percent of all wool and mohair producers filing applications for payment do so after payments for the current marketing year are issued (usually by the second week in April of the subsequent year).

It is extremely difficult for ASCS prsonnel to verify producers' sales documents that are filed after the marketing year. Therefore, this proposed rule would provide at 7 CFR 1468.9 that, beginning with the 1991 wool and mohair marketing year, an application for payment shall be filed as soon as possible after completion of the producer's sales of wool and mohair in a specified marketing year. In no event shall the application be filed later than 60 days after the end of the specified marketing year.

The Omnibus Budget Reconciliation Act of 1990 (the 1990 Budget Act) amended section 704 of the Wool Act to provide that effective only for each of the 1991 through 1995 marketing years for wool and mohair, that the Secretary must deduct from the payment to be made available to producers of wool and mohair, a nonrefundable marketing assessment equal to one (1) percent of the payment due such producers. The purpose of such assessment is to provide for reductions in outlays for agricultural programs. Thus, 7 CFR 1468.15 is added to provide for the nonrefundable marketing assessment.

List of Subjects in 7 CFR Part 1468

Assistance grant programs—Agriculture, Livestock.

Accordingly, it is proposed that chapter XIV of title 7 of the Code of Federal Regulations be amended to read as follows:

1. Part 1468 is revised to read as follows:

PART 1468—WOOL AND MOHAIR

Subpart—Payment Program for Wool, Wool on Unshorn Lambs, and Mohair (1991–1995)

Sec.

1468.1 Applicability.
1468.2 Administration.
1468.3 Definitions.
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1468.5 Bona fide marketing within a specified marketing year.
1468.6 Contents of sales documents.
1468.7 Report of unshorn lambs.
1468.8 Computation of payment.
1468.9 Filing application for payment.
1468.10 Preparation of application.
1468.11 Joint producers.
1468.12 Successors-in-interest.
1468.13 Payment.
1468.14 Deductions for promotion.
1468.15 Assessment.
1468.16 Offsets.
1468.17 Assignment of payments.
1468.18 Maintenance and inspection of records.
1468.19 Misrepresentation, scheme or device.
1468.20 Refunds to CCC; joint and several liability.
1468.21 Appeals.
1468.22 OMB Control numbers assigned pursuant to the Paperwork Reduction Act.

Authority: 7 U.S.C. 1781–1787; 15 U.S.C. 714b and 714c.

Subpart—Payment Program for Shorn Wool, Wool on Unshorn Lambs and Mohair (1991–1995)

§ 1468.1 Applicability.

This part sets forth the terms and conditons of the price support program for producers of wool and mohair. The level of price support for shorn wool, wool on unshorn lambs, and mohair shall be determined and announced annually by CCC. For each marketing year, price support will be furnished on pulled wool at such level, in relationship to the support price for shorn wool, as CCC determines will maintain normal marketing practices for pulled wool, such support shall be made by means of payments to the producer on the amount of wool and value of such wool on live unshorn lambs that are sold or moved to slaughter in a specified marketing year. Payments will not be made on the sale of the pelts or hides of sheep or lambs or wool removed from such pelts or hides.

§ 1468.2 Administration.

(a) The wool and mohair programs shall be administered by the Agricultural Stabilization and Conservation Service ("ASCSA") under the general supervision and direction of the Executive Vice President of CCC. The program shall be carried out in the field, by the State and county Agricultural Stabilization and Conservation committees ("State and county committees").

(b) State and county committees and representatives and employees thereof, do not have authority to modify or waive any of the provisions of this part.

(c) The State committee shall take any action required by this part which has not been taken by the county committee. The State committee shall also:

(1) Correct, or require a county committee to correct, any action taken

by such county committee which is not in accordance with this part; or

(2) Require a county committee to withhold taking any action which is not in accordance with this part.

(d) No provision or delegation herein to a State or county committee shall preclude the Executive Vice President, CCC, or a designee, from reversing or modifying any determination made by a State or county committee.

(e) The Deputy Administrator may authorize State and county committees to waive or modify deadlines and other program requirements in cases where lateness or failure to meet such other requirements does not affect adversely the operation of the programs.

§ 1468.3 Definitions.

The definitions set forth in the section shall be applicable for all purposes of program administration. The terms defined in part 719 of this title shall also be applicable except where those definitions conflict with the definitions set forth in this section.

Approving Official means a representative of CCC who is authorized by the Executive Vice President, CCC, to approve an application for payment made in accodance with this part.

ASCS means the Agricultural Stabilization and Conservation Service.

CCC means the Commodity Credit Corporation.

DASCO means the Deputy or Acting Deputy Administrator, State and County Operations, ASCS, U.S. Department of Agriculture.

Family member means a family member as determined in 7 CFR part 1497.

Goat means an Angora goat or a kid of an Angora goat.

Grease mohair means mohair as it comes from the Angora goat or the kid of an Angora goat before applying any process to remove the natural oils or fats.

Grease wool means wool as it comes from the sheep or lambs before applying any process to remove the natural oils or fats.

Lamb means a young ovine animal which has not cut the second pair of permanent teeth. The term includes animals referred to in the livestock trade as lambs, yearlings, or yearling lambs.

Liveweight is the weight of live lambs which a producer purchase or sells. In the event the price for the lambs is based on weight, the weight actually used in determining the total amount payable shall be considered the liveweight.

Local shipping point means the point at which the producer delivers wool or mohair to a common carrier (including any carrier that serves the public in transporting goods for hire whether or not such carrier is requird to be licensed by some government authority to do so) for further transportation or, if the wool or mohair is not delivered to a common carrier, the point at which the producer delivers it to a marketing agency or a purchaser.

Marketing agency with reference to shorn wool or shorn mohair means a person who sells a producer's wool or mohair for the producer's account, or buys the producer's wool or mohair for the account of the marketing agency, and with reference to lambs, it means a commission firm, auction market, pool manager, or any other person who sells lambs for the account of a producer.

Marketing year means the period beginning January 1 and ending the following December 31, both dates inclusive.

Mohair means the hair of the Angora goat and also includes the hair of a kid of Angora goat.

Producer of shorn wool, wool unshorn lambs, or mohair means a *person*, as defined in part 719 of this title, who as owner or as a party to an agreement under which the party furnishes labor with regard to the production of the wool or mohair in return for the wool or mohair or in the proceeds of such wool or mohair.

Pulled wool means wool obtained from the pelts or hides of dead sheep. Pulled wool is not eligible for a price support payment. CCC has determined that to maintain normal marketing practices for pulled wool that a payment will be made on sales of wool on lambs that have never been shorn. The payment rate will be at a rate prer hundredweight of live lambs to compensate for the wool grown on such lambs while owned by the producer. This payment is subject to adjustment by CCC to avoid duplication of payments on the same wool.

Sales document means the account of sale, invoice, bill of sale, or other related document signed by the purchaser evidencing the sale by the producer of shorn wool, unshorn lambs, or shorn mohair to the purchaser.

Shorn mohair means grease mohair sheared from a live Angora goat or the kid of an Angora goat. Shorn mohair does not include pelts or hides or mohair shorn from pelts or hides, scoured, carbonized, or dyed mohair or yarn, skeins or other terms which identify the mohair as being other than in its natural greasy state.

Shorn wool means grease wool sheared from live sheep or lambs. Shorn wool does not include pelts or hides or wool sheared from pelts or hides, scoured, carbonized, or dyed wool or yarn, skeins or other terms which identify the wool as being other than in its natural greasy state.

Slaughterer means a commercial slaughterer, that is, a person who slaughters for sale as distinguished from a person who slaughters for home consumption.

§ 1468.4 Eligibility for payments.

(a) To be eligible for a payment made under this part, all requirements of this Part must be fulfilled. Payment shall be made only with respect to producers of: Shorn wool; wool on unshorn lambs; and shorn mohair.

(b) The rate of payment for wool on unshorn lambs will be 80 percent of the difference between the national average price per pound received by producers for shorn wool during a specified marketing year and a support price for pound for shorn wool multiplied by the average weight of wool per hundredweight of animals (5 pounds).

(c) The total amount of payments which a "person", as defined in part 1497 of this chapter may receive under this part for wool and mohair, respectively, may not exceed:

(1) $200,000 for the 1991 marketing year;

(2) $175,000 for the 1992 marketing year;

(3) $150,000 for the 1993 marketing year; and

(4) $125,000 for the 1994 and subsequent marketing years.

(d)(1) To be eligible for price support, shorn wool and shorn mohair must have been shorn in the United States. If wool or mohair is shorn from imported sheep or lambs, or goats while they are held in quarantine in connection with their importation into the United States, such wool or mohair shall not be considered to have been shorn in the United States.

(2) To be eligible for price support on wool on unshorn lambs, the wool must be on lambs that have never been shorn at the time of sale, or in the case of a slaughter, at the time of moving to slaughter.

(e)(1) With respect to shorn wool and shorn mohair, the producer must have owned the wool or mohair at the time of shearing and must have owned in the United States the sheep or lambs, or goats from which the wool or mohair was shorn for not less than 30 days at any time prior to the filing of the application.

(2) With respect to wool on unshorn lambs, the producer must have owned the lambs on which the wool is growing for 30 days or more in the United States and title must have passed to the buyer

of the lambs within the specified marketing year. If a slaughterer is to qualify for a payment, the slaughterer must have owned the lambs for 30 days or more in the United States prior to their moving to slaughter and they must have moved to slaughter within the specified marketing year.

(3) Ownership does not include an interest as the result of a person having a security interest, mortgage, or lien.

(f) If sheep, lambs, or angora goats are imported into the United States, the 30-day period of required ownership shall begin after their importation and, if they were quarantined in connection with such importation, the period shall begin after their release from quarantine.

(g) Beneficial interest in the shorn wool or shorn mohair must always have been in the producer from the time the wool or mohair was shorn up to the time of its sale. A producer has beneficial interest in wool or mohair:

(1) When the producer owns it and has not authorized any other person to sell or otherwise dispose of it, or

(2) When the producer has authorized another person to sell or otherwise dispose of such wool or mohair but continues to be entitled to the proceeds from any such sale or disposition.

(h) Payments will not be made with respect to the marketing of shorn wool, shorn mohair, or wool on unshorn lambs from imported sheep, lambs, or goats if any documentation states that the importation of such sheep, lambs, or goats is for slaughter.

(i) Payments shall only be made with respect to bona fide marketings of shorn wool or shorn mohair. The sale of shorn wool or shorn mohair which has been altered in any manner through processing, other than scouring or carbonizing as provided in § 1468.6(a)(4), or any other process or act that results in a wool or mohair product, as determined by CCC, is not eligible for a payment.

§ 1468.5 Bona fide marketing within a specified marketing year.

(a) This section is applicable only to shorn wool and shorn mohair. Marketings shall be deemed to have taken place in a specified marketing year if, pursuant to a sale or contract to sell in the process of marketing the last of the following four events was completed in that marketing year:

(1) Title passed to the buyer;

(2) The wool or mohair was delivered to the buyer physically or through documents that transfer control to the buyer;

(3) The information needed to determine the total purchase price payable by the buyer is known to the producer, the producer's marketing agency; and

(4) The full amount due the producer in connection with the marketing of the wool or mohair has been paid to the producer. A promissory note or other promise to pay, as well as a check not honored for any reason, shall not be considered as a payment to the producer unless CCC makes a determination that:

(i) The producer acted in good faith in marketing the wool or mohair;

(ii) A bona fide marketing occurred;

(iii) The wool or mohair was not returned to the producer;

(iv) At the time of acceptance of the document, the producer was not aware and had no reason to suspect that the document tendered in payment for the wool or mohair was not valid; and

(v) The producer made a diligent effort to obtain payment for the wool or mohair from the purchaser.

(b) The price utilized for the purpose of computing the net sales proceeds under the provisions of § 1468.8 shall not exceed the fair market value of the wool or mohair as determined by CCC.

(c) A bona fide marketing shall be deemed to occur when a producer relinquishes title to the shorn wool or shorn mohair in exchange for a specific amount of money per pound of wool or mohair tendered, or for services or merchandise of a specific monetary value as provided in paragraph (d) of this section. A sale of wool or mohair by a producer shall constitute a bona fide marketing if:

(1) The wool or mohair is sold to a person or business which is in the business of purchasing grease basis wool or mohair; and

(2) The producer selling the wool or mohair does not sell the wool or mohair to a family member or to any business in which the producer and/or family member has more than a 20 percent interest.

(d) The exchange of wool or mohair for merchandise or services of a nature other than wool or mohair or wool or mohair products will be considered as a bona fide marketing if a definite price for the wool or mohair is established by the parties prior to the exchange. Such price, or whatever other price CCC determines is the fair market value for such wool or mohair, whichever is lower, shall be used for the purpose of computing the net sales proceeds under the provisions of § 1468.8.

(e) The delivery of wool or mohair on consignment to a marketing agency to be sold for the producer's account does not constitute a marketing whether or not a minimum sales price is guaranteed or an advance against the prospective sales price is given by the consignee except wool or mohair delivered to a marketing agency on consignment is deemed to have been marketed if the marketing agency:

(1) Has guaranteed a minimum sales price;

(2) Is unable to sell the wool or mohair for more than the minimum sales price; and

(3) Takes possession of the wool or mohair at the minimum sales price with the producer's consent. The producer shall be deemed to have consigned the wool or mohair when the wool or mohair has been transferred to a marketing agency and the producer provides that such agency shall market the wool or mohair and that the producer shall be entitled to the proceeds of such marketing.

§ 1468.6 Contents of sales documents.

(a) The sales documents issued with respect to a producer's shorn wool, shorn mohair, or unshorn lambs which is attached to each application for payment must contain a final accounting and meet the requirements of this section. Contracts to sell and tentative settlements are not acceptable sales documents.

(b) Each sales document must include:

(1) The name, address and zip code of the seller;

(2) The name, address and zip code of the purchaser or marketing agency which issues the sales document;

(3) The date of sale. If the sale of shorn wool or shorn mohair is by a marketing agency in parts within a marketing year, the date when final settlement is make within that marketing year for such wool or mohair that was sold within that marketing year may be shown on the sales document as the date of sale instead of the various dates on which the sales actually took place. Such document shall contain a statement that the wool or mohair was marketed during that marketing year.

(4) For shorn wool and shorn mohair, the net weight of wool or mohair sold on a grease basis. If the wool or mohair was sold as scoured or carbonized, the original grease weight must be shown as well as the scoured or carbonized weight.

(5) For shorn wool and shorn mohair sold at a farm, ranch or shipping point, the net amount received by the seller;

(6) For shorn wool and shorn mohair sold at other points:

(i) The gross amount paid to the seller on a grease basis. In addition, the net amount paid to the seller after the deduction of marketing deductions must be shown on the sales document.

(ii) Such marketing deductions may be itemized or as a composite amount for all marketing charges with an explanation of what services are included in that amount. If it is the practice of a marketing agency to show, on the sales document, only the net proceeds after marketing deductions, the gross sales proceeds and the amount of the marketing deductions need not be shown, provided the sales document contains a statement reading substantially as follows:

The net sales proceeds after marketing deductions shown herein were computed by deducting from the gross sales proceeds charges for the following marketing services: _____. Details of these charges will be furnished on request.

All the services for which deductions are made shall be enumerated in the blank space indicated. If a sales document shows charges without specifying their nature, they will be considered marketing charges. Association dues are marketing deductions if they include compensation for marketing services.

(iii) If a sales document contains a figure for net proceeds after marketing deductions, computed for a location other than the producer's farm, ranch, or local shipping point, the person preparing the sales document shall show thereon the name of the location for which the net proceeds have been computed. If a marketing agency has guaranteed a minimum sales price for the wool or mohair, is unable to sell the wool or mohair for a higher price, and therefore settles with the producers on the basis of such guaranteed minimum price, regardless of a lower price at which the agency may sell the wool or mohair. In such a case, the marketing agency shall indicate on the sales document that the price is the guaranteed minimum sales price.

(7) For shorn wool and shorn mohair, any nonmarketing deductions, such as charges for bags, storage, interest, association dues which do not include compensation for marketing services, or other charges not directly related to the marketing of shorn wool or mohair.

(8) If issued with respect to a sale in which the sale proceeds are other than in cash, a clear statement that the transaction is on the basis of the exchange of merchandise or services rather than cash.

(9) The original handwritten signature of the entity, or entity's agent, purchasing the shorn wool, shorn mohair, or unshorn lambs. Carbon or other facsimile copies of such signature are not acceptable except as approved by CCC.

(10) For wool on unshorn lambs:

(i) The number of unshorn lambs sold which are the source of such wool. If the sales document does not clearly identify the lambs as having never been shorn at the time of sale, the person issuing the sales document shall add a statement to that effect. If the sales document refers to the animals as "unshorn lambs", this will indicate that the lambs were never shorn. If the document issued in connection with the sale of unshorn lambs also covers the sale of other animals, the person preparing the sales document shall clearly indicate therein the number and the liveweight of unshorn lambs included in the sale.

(ii) The liveweight of unshorn lambs sold. If the weight is not determined by scales, this weight may be an estimated weight agreed to by the purchaser and the producer.

(iii) The scale ticket which was issued with respect to such sales. Such scale ticket must contain the date of issuance, the number of lambs weighed, the classification and weight by classification of the lambs, the place of weighing, the name of the weigher and scale ticket number if any is normally made by the weigher.

§ 1468.7 Report of unshorn lambs.

(a) Producers who submit an application for payment on shorn wool or wool on unshorn lamb payment shall provide the information required by this section with respect to the purchase of unshorn lambs.

(b) For shorn wool payments:

(1) If the application includes wool removed in the first shearing of lambs purchased unshorn, and the producer is able to identify the lambs from which such wool was shorn, the producer shall report the number and liveweight of such lambs at time of purchase, including those from which wool was removed after death.

(2) If the producer knows that the application does not include any wool which was removed in the first shearing of lambs purchased unshorn, the producer shall state that there are no purchases of unshorn lamb related to the sale of such wool.

(3)(i) If a producer does not know whether the application includes wool removed in the first shearing from lambs purchased unshorn, or a producer knows that such wool is included but is unable to identify the lambs from which such wool was shorn, the producer shall report in chronological order (i.e., on a "first in, first out" basis) the number and liveweight at the time of purchase of a quantity of lambs purchased unshorn equal to the number of sheep and lambs from which wool was shorn and included in the application. This reporting of purchased lambs shall be continued in applications for the current and subsequent marketing years for payments on shorn wool and for payments on unshorn lambs until the producer has accounted for all lambs purchased unshorn not reported in previous applications. However, the producer need not report those lambs with respect to which the producer can establish that no price support application for either shorn wool or pulled wool has been made in the current or a subsequent marketing year.

(ii) If the application for payment on the sale of shorn wool is made after a producer has accounted for the total purchases of unshorn lambs, the producer shall state that there are no purchases of unshorn lambs rated to such sale.

(c) For wool on unshorn lamb payments:

(1) If the application is based on the sale or slaughter of lambs purchased unshorn and the producer is able to identify such lambs, the producer shall report the number of lambs purchased and their liveweight at the time of purchase.

(2) If the producer knows that the application is not based on the sale or slaughter of such lambs purchased unshorn, the producer shall state that there are no purchases of unshorn lambs related to the sale or slaughter of such lambs.

(3)(i) If a producer does not know whether the application is based on the sale or slaughter of lambs purchased unshorn, or knows that such lambs are included but is unable to identify such lambs, the producer shall report in chronological order (i.e., on a "first in, first out" basis) the number and liveweight at the time of purchase of a quantity of lambs purchased unshorn equal to the number of lambs on which the application is based. This reporting of purchased lambs shall be continued in applications for the current and subsequent marketing years for payments on shorn wool on unshorn lambs and shorn wool until the producer has accounted for all lambs purchased unshorn that were not reported in previous applications. However, the producer need not report those lambs with respect to which the producer can establish that no price support application for either shorn wool or wool on unshorn lambs has been made in the current or a subsequent marketing year.

(ii) If the application for payment on wool on unshorn lambs is based on the sale or slaughter of unshorn lambs after

a producer has accounted for the total purchases of unshorn lambs, the producer shall state that there are no purchases of unshorn lambs related to such sale or slaughter.

(d) If purchased lambs which the producer is required to report were imported, the liveweight required to be reported shall be the liveweight of the lambs at the time of import, or, if they were quarantined in connection with the importation, at the time of release from quarantine. For the purpose of reporting imported lambs, whether they were purchased or raised by the producer, they shall be treated as if they had been purchased. Any report in an application of purchased lambs and their liveweight as required by this paragraph shall be deemed to include lambs both purchased and raised by the producer.

(e) Additional information. The producer shall furnish any additional details requested by CCC concerning any report made pursuant to this section.

§ 1468.8 Computation of payment.

(a)(1) The amount of the shorn wool or shorn mohair price support payment shall be computed by applying the rate of payment to the net sales proceeds for the wool or mohair marketed during the specified marketing year, less the assessment due as specified in § 1468.15. For shorn wool payments, if there is a purchase by the producer of unshorn lambs, the result amount shall be reduced, by an amount resulting from multiplying the liveweight of such lambs reported in the application for payment by the calculated wool on shorn lambs price support for such marketing year. If the amount of the reduction exceeds the payment computed on the shorn wool marketed, the liveweight of lambs which corresponds to the excess amount shall be carried forward and used to reduce payments on unshorn lambs marketed or slaughtered or shorn wool marketed in the current or subsequent years.

(2) Except as provided in § 1468.6(b)(6) with respect to a guaranteed minimum sales price, the net sales proceeds for shorn wool and shorn mohair shall be determined by deduction from the gross sales proceeds of the wool or mohair all marketing expenses, such as any charges paid by or for the account of the producer for transportation, handling (including commissions), grading, scouring, or carbonizing. The figures so arrived at will express the net proceeds received by the producer at the farm, ranch, or local shipping point.

(b) The amount of the wool price support payment due to a producer for wool on unshorn lambs shall be computed by applying the rate of payment to the liveweight of the lambs sold or moved to slaughter during the specified marketing year, reduced, on account of the purchase or importation by the producer of unshorn lambs, by the liveweight of such lambs reported in the application for payments, less the assessment due as specified in § 1468.15. If the amount of the reduction exceeds the liveweight of the unshorn lambs sold or moved to slaughter during said marketing year, such excess liveweight shall be carried forward and used to reduce payments on the wool on unshorn lambs marketed or slaughtered or shorn wool marketed in the current or subsequent years.

(c) All applications filed by a producer in the same county office during the specified marketing year, shall be considered together for the purpose of determining the amount of payments due. At CCC's discretion, all such applications filed in different county offices may be considered together in determining such total payment.

§ 1468.9 Filing application for payment.

(a) Applications for payment shall be filed by the producer with the county office serving the county where the headquarters of the producer's farm, ranch, or feed lot, as the case may be, is located. If the producer has more than one farm, ranch, or feed lot, with headquarters in more than one county, separate applications for payment shall be filed with the county office serving each such headquarters covering only the wool and lambs produced at each such farm, ranch, or feed lot, except that:

(1) If the producer sells the entire clip of wool or mohair in a single sale or if the entire clip is sold for the producer's account by one marketing agency, the producer may file the application for payment on shorn wool or shorn mohair in any one of those country offices; or

(2) If the producer includes in one sale unshorn lambs that were ranged, pastured, or fed in more than one county, the producer may file the application for payment on the wool on such unshorn lambs in any one of those county offices. In the event all business transations are conducted from the producer's residence or office, and the farm or ranch has no other headquarters, the office or residence may be considered the farm or ranch headquarters.

(b) An application for payment shall be filed as soon as possible after completion of the producer's sales of shorn wool, or unshorn lambs, or mohair in a specified marketing year, or in the case of slaughter, as soon as possible after the last of the lambs moved to slaughter in the specified marketing year, but in no event shall an application be filed later than 60 days after the end of the respective marketing year.

(c)(1) A producer may request permission from CCC to withdraw an application for payment of shorn wool which constitutes the full first shearing of purchased wool, or for wool on unshorn lambs when, as a result of such application containing the necessary report of purchases of unshorn lambs, there is excess liveweight carried forward which would be used to reduce payment in the current or future marketing years. A producer may also request permission to amend the application by omitting sales of those lots of wool constituting the full first shearing of unshorn lambs reported. These requests must be accompanied by such supporting evidence as may be required by CCC. If the application was signed jointly by two or more producers, the request for withdrawal or amendment must be signed by each producer. To be considered a full shearing, the wool must constitute the complete fleece, and not merely tags, clippings, trimmings around the eyes, or other off-wools.

(2) If CCC determines that such conditions described in paragraph (c)(1) of this section exist, CCC may grant the request. If the producer has filed additional shorn wool or shorn mohair applications in other county offices, the requests may be granted only if it is determined that such additional applications do not include any wool or mohair removed in the full first searing of the lambs or goats which will not be reported as a result of the withdrawal or amendment.

§ 1468.10 Preparation of application.

(a) Application for price support for shorn wool, shorn mohair, and wool on unshorn lambs must be submitted by completion of Form CCC—1155, "Application for Payment (National Wool Act)." Marketing agencies may assist producers in filling out applications by inserting the information on sales of wool and mohair and sending sales documents to the appropriate county office, but the producer must sign the application and is responsible for the requirements as to the time and manner of filing the application. If the producer paid marketing charges not shown on the sales document, such charges shall be considered with the marketing charges

shown on the sales document in arriving at the net proceeds.

(b) The application shall be supported by the original sales document evidencing the sale of wool, unshorn lambs, and mohair. The processing of shorn wool or shorn mohair by a process or act which, as determined by CCC, produces a wool or mohair product, shall make the wool or mohair ineligible for a price support payment. Payment shall not be made on marketings of wool or mohair products, including, but not limited to, items identified as yarn, wool or mohair yarn, skeins, or novelty items. Trimming, skirting, and cleaning by scouring or carbonizing, procided the grease basis weight is established, does not disqualify the wool or mohair for a price support payment.

(c) If the producer does not wish the original sales document to remain with the county office, a carbon, photocopy, or other copy of the original document may be submitted. However, the producer must submit the original document to the county office where the statements on the copy will be confirmed by comparison with the original. The original sales document shall be appropriately stamped or marketed to indicate that it had been used in support of an application for payment under this program and shall be returned to the producer.

(d) If it is the practice of the person or firm preparing the sales document to furnish a carbon, photocopy, or other copy to the seller in the place of the original, the producer may submit that copy in support of the application, provided the copy bears a signature of the person or of the representative of the firm preparing the original sales document. Such copy shall be treated as an original for the purposes of this section.

(e) If the original sales document has been lost or destroyed, the producer may submit a copy, certified by the buyer or the producer's marketing agency, and such certified copy shall be treated as an original for the purposes of this section.

§ 1468.11 Joint producers.

In the case of a joint application for payment, each applicant must be an eligible producer of shorn wool, pulled wool, or shorn mohair. Each applicant must be signed by the producer or a person approved by CCC to sign on behalf of the producer. All of the joint producers must sign any application based on the sale of shorn wool or shorn mohair regardless of whether the wool or mohair was divided among such producers prior to sale or was sold without division. All of the joint producers must sign any application based on the sale of unshorn lambs regardless of whether the lambs were divided among such producers prior to sale or were sold without division. When the application shows such joint production and one or more of the joint producers refuse to join in the application, if each such joint producer signs a form approved by CCC releasing CCC from any obligation to make a payment to such a joint producer, CCC shall make payment of the amount due the remaining joint producers who sign the application. Such release shall be attached to the application. Then any joint producer is entitled to sign an application but fails to do so, and the application does not show this interest as a joint producer, the producer shall have no claim against CCC for any portion of the payment made pursuant to the application.

§ 1468.12 Successors-in-interest.

(a) In the case of death, incompetency, or disappearance of any producer eligible to receive payment under this part, before marketing the shorn wool, unshorn lambs, or shorn mohair or before filing an application, the successors or representatives authorized to receive payment as set forth in part 707 of this title may make application for such payment by complying with the provisions of part 707 of this title.

(b) If a producer who earned a payment under this part and filed an application therefore dies, disappears, or is declared incompetent, either before CCC has issued a check in payment or after CCC has issued a check in payment but before the draft is negotiated, the provisions of part 707 of this title shall be applicable.

(c) If an Indian who is incompetent earned a payment under this part, an application for payment may be filed on the Indian's behalf by the Superintendent of the Indian Field Service of the reservation on which the Indian resides or by the authorized representative of such Superintendent. Such application for payment will be filed in the county office where the headquarters of the Indian's farm or ranch is located.

§ 1468.13 Payment.

(a) Payments under this part shall be made only on the basis of the net sales proceeds received for wool or mohair or the calculated amount of wool grown on unshorn lambs sold or moved to slaughter. No payment shall be made on that part of any sale which has been canceled or on the basis of prices or weights which have been fraudulently increased for the purpose of obtaining higher payments. No payment shall be made on sales to a wool or mohair growers association, which is not a cooperative marketing association, by its producer-members on the basis of net sales proceeds in excess of the fair market value of the wool or mohair (grease basis), as determined by CCC.

(b) Notwithstanding any other provision of this part, price support payments shall not be made with respect to that portion of the sales proceeds received by a producer for eligible wool or mohair which is based on sales prices in excess of the maximum sales price per pound for wool or mohair as determined by CCC. CCC shall determine the maximum sales price per pound for wool or mohair marketed in each marketing year on the basis of the national average market price for wool or mohair computed for each marketing year. The maximum sales price shall be an amount which CCC determines will encourage the continued domestic production of wool or mohair at prices fair to both producers and consumers in a manner which would assure a viable domestic wool or mohair industry. The maximum sales price shall be publicly announced by CCC at the end of each marketing year for wool or mohair.

(c) If it is determined by CCC that a producer knowingly made a false statement in the application, including failure to report accurately purchases of unshorn lambs, no payment shall be made with respect to such application.

(d) If CCC subsequently determines that available evidence does not establish the producer's right to all or any part of the payment made, the amount of such payment shall immediately become due and repayable to CCC.

(e) If CCC rejects in whole or in part an application for payment or, after a payment has been made, determines that the available evidence does not establish the producer's right to the payment or any part thereof, the county office shall mail a notice specifying the reason for such determination to the producer.

§ 1468.14 Deductions for promotion.

Deductions for advertising and sales promotion programs may be made from payments made under this part pursuant to promotion agreements executed by a designee of the Secretary. Such deductions are assignments by the producer to the person or agency designated in such agreements. The rate of such deductions for the specified marketing year will be announced and

the appropriate deduction will be made from each payment due under this part for such specified marketing year.

§ 1468.15 Assessment.

Effective for each of the marketing years beginning January 1, 1991, and ending December 31, 1995, a nonrefundable deduction of one (1) percent will be made from the amount of payment made under this part.

§ 1468.16 Offsets.

Any payment or portion thereof due any person under this part shall be allowed without regard to questions of title under State law, and without regard to any claim or lien against the wool, the sheep or unshorn lambs, the mohair or the angora goats thereof, or proceeds thereof, in favor of the producer or any other creditors except agencies of the U.S. Government. The regulations governing offsets and withholdings found at part 1403 of this chapter shall be applicable to this part.

§ 1468.17 Assignment of payments.

Payments which are earned by a producer under the payment program for wool, unshorn lambs, and mohair may be assigned in accordance with the provisions of 7 CFR part 1404.

§ 1468.18 Maintenance and inspection of records.

(a) The producer filing an application for a payment under this part and the marketing agency who furnishes evidence to such producer for use in connection with the application, shall maintain books, records, and accounts pertaining to the marketing of the commodity on which the application is based, for 3 years following the end of the specified marketing year during which the marketing took place. The producer shall maintain books, records, and accounts pertaining to the production of wool, sheep, lambs, mohair and goats, and the shearing thereof, with respect to which the producer applies for payment, for 3 years following the end of the specified marketing year during which the marketing took place. The producer shall also maintain books, records, and accounts showing the purchases of lambs for 3 years following the end of the specified marketing year during which any such lambs have been marketed. If the producer is required to report purchases of unshorn lambs on a "first in, first out" basis, the producer shall maintain such books, records, and accounts of such lambs for 3 years following the end of the specified marketing year for which such lambs are to be reported.

(b) If an application is based on the sale of wool shorn from imported sheep or lambs, or on the sale of imported unshorn lambs, or if lambs required to be reported as purchased unshorn were imported, the books, records, and accounts required by paragraph (a) of this section to be maintained by the producer shall show the details of such importation, including the date of arrival of the lambs in the United States and the liveweight on such date, and if the lambs were quarantined, the date when they were released from quarantine and their liveweight on such date.

(c) With respect to any application for payment filed after the end of the specified marketing year, instead of maintaining the books, records, and accounts for the time specified in paragraph (a) of this section, such books, records, and accounts shall be maintained for 3 years following the date on which the application is filed.

§ 1468.19 Misrepresentation, scheme or device.

(a) Whoever issues a false sales document or otherwise acts in violation of the provisions of this program so as to enable a producer to obtain a payment to which such producer is not entitled, shall become liable to CCC for any payment which CCC may have made in reliance on such sales document or as a result of such other action.

(b) The issuance of a false sales document or the making of a false statement in an application for payment or other document, for the purpose of enabling the producer to obtain a payment to which such producer is not entitled, will subject the person issuing such document or making such statement to liability under applicable Federal civil and criminal statutes.

§ 1468.20 Refunds to CCC; joint and several liability.

(a) In the event there is a failure to comply with any term, requirement, or condition for payment arising under this part, and if any refund of a payment to CCC shall otherwise become due in connection with this part, all payemnts made under this part to any producer shall be refunded to CCC, together with interest as provided for in part 1403 of this chapter.

(b) All producers shall be jointly and severally liable for any refund, including related charges, which is determined to be due CCC for any reason under the terms and conditions of this part.

(c) Producers who receive a shorn wool, shorn mohair, or wool on unshorn lambs price support payment must refund to CCC any excess payment made by CCC with respect to such payment.

(d) In the event that a shorn wool, shorn mohair, or wool on unshorn lambs price support payment was made as a result of erroneous information provided by any producer to the county office or was erroneously computed by such office, the payment due the producer shall be recomputed and any payments made or due shall be corrected as necessary. Any refund of payments which are determined to be required as a result of such recomputations shall be remitted to CCC with any applicable interest.

§ 1468.21 Appeals.

Any producer who is dissatisfied with a determination made with respect to this part, may make a request for reconsideration or appeal of such determination in accordance with the appeal regulations set forth at part 780 of this chapter.

§ 1468.22 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in these regulations (7 CFR part 1468) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB Number 0560–0023.

PART 1472—[REMOVED]

2. Part 1472 is removed.

Signed this 8th day of May 1991.

Keith D. Bjerke,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 91–11518 Filed 5–14–91; 8:45 am]

BILLING CODE 3410–05–M

Agricultural Marketing Service

7 CFR Parts 907 and 908

[Docket No. FV–91–249]

Navel Oranges Grown in Arizona and Designated Part of California; Valencia Oranges Grown in Arizona and Designated Part of California; Amendment to Referenda Order

AGENCY: Agricultural Markeing Service, USDA.

ACTION: Amended Referenda Order.

SUMMARY: This action amends the Referenda Order for the California-Arizona navel and Valencia orange marketing orders which was published in the **Federal Register** on April 1, 1991 (56 FR 13290), by revising the dates during which the referenda will be

conducted from May 1–31 to June 1–29. This action further revises the Referenda Order published on April 1 by clarifying the criteria for determining whether an order should continue or be terminated. The referenda will be conducted among eligible growers of navel and Valencia oranges grown in Arizona and designated parts of California to determine whether they favor continuance of the marketing orders regulating the handling of navel and Valencia oranges grown in the respective production areas.

DATES: The representative production periods are from November 1, 1989, through October 31, 1990, for navel oranges. The referenda will be conducted from June 1 through June 29, 1991.

ADDRESSES: Copies of the text of the aforesaid marketing orders may be examined in the office of the referendum agents at 2202 Monterey Street, suite 102B, Fresno, California, 93721, or in the Office of the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456.

FOR FURTHER INFORMATION CONTACT: Maureen T. Pello, Marketing Specialist, MOAB, F&V, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 447–8139.

SUPPLEMENTARY INFORMATION: Pursuant to Marketing Order Nos. 907 and 908 (7 CFR parts 907 and 908), hereinafter referred to as the "orders," and the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act," it is hereby directed that referenda be conducted within the period June 1 through June 29, 1991, among growers in the respective production areas who, during the periods November 1, 1989, through October 31, 1990, for navel oranges, and February 1, 1990, through January 31, 2991, for Valencia oranges (which periods are hereby determined to be representative periods for purposes of such referenda), were engaged in the production of navel or Valencia oranges covered by the said marketing orders to ascertain whether continuance of each order is favored by the respective growers.

This action amends the Referenda Order for the California-Arizona navel and Valencia orange marketing orders that was published in the **Federal Register** on April 1, 1991, (56 FR 13290), by revising the dates when the referenda will be conducted from May 1–31 to June 1–29. Postponing the referenda by one month will give interested persons additional time to utilize the U.S. Department of Agriculture's (USDA) mailing service. The USDA is providing a mailing service prior to the referenda to assist interested persons in disseminating information on the orders to growers. The interest generated by the mailing service warrants postponing the referenda until June.

This action further revises the Referenda Order published on April 1 by clarifying the criteria for determining whether an order should continue or be terminated. The Secretary of Agriculture has determined that continuance referenda are an effective means for ascertaining whether growers favor continuation of marketing order programs. The percentages for determining whether either California-Arizona orange marketing order continues are prescribed by the orders and are identical to the required percentages set forth in the Act with respect to producer approval of a marketing agreement and order regulating the handling of citrus fruits grown in California. As provided in §§ 907.83 and 908.83 of the marketing orders, for either order to continue, the respective program would have to be approved by three-fourths of the navel or Valencia orange growers voting in that referendum, or by growers who account for at least two-thirds of the volume of navel or Valencia oranges represented in that referendum. If the referendum results for an order are below the requisite percentages for both criteria, the Secretary would terminate that order.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the ballot materials that will be used in the referenda herein ordered have been submitted to an approved by the Office of Management and Budget (OMB) and have been assigned OMB Nos. 0581–0116 and 0581–0121, respectively, for navel and Valencia oranges. It has been estimated that it will take an average of 20 minutes for each of the approximately 4,070 growers of navel oranges and 3,500 growers of Valencia oranges to participate in the voluntary refernda balloting.

Mr. Robert J. Curry and Mr. Kurt J. Kimmel, California Marketing Field Office, Fruit and Vegetable Division, Agricultural Marketing Service, USDA, will hereby remain as referendum agents of the Secretary of Agriculture to conduct such referenda. The procedure applicable to the referenda shall be the "Procedure for the Conduct of Referenda in Connection With Marketing Orders for Fruits, Vegetables, and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended" (7 CFR 900.400 *et seq.*) (Rules of Practice). The definitions for all voting entities as provided in the Rules of Practice will be applied in the referenda.

Ballots will be mailed to all eligible producers of record on or about May 31, 1991. Producers not receiving ballots may obtain them from the referendum agents, their appointees, and local county farm advisors. All valid ballots received by June 29, 1991, or postmarked no later than June 29, 1991, and received by July 8, 1991, will be counted in the referenda. Agents of the Secretary will review all ballots cast to determine their validity. A representative from the Regional Inspector General for Audit of the Office of Inspector General will observe the ballot counting process to ensure compliance with the Rules of Practice and will check for errors in the tabulation process.

The Act provides authority for a cooperative association of producers to vote in such referenda on behalf of its producers who are members of, stockholders in, or under contract with that association. If a cooperative chooses to bloc vote on behalf of its members, it must do so for all of its members. Any cooperative intending to vote on behalf of its producer-members should notify the USDA of its intention to do so by May 20, 1991. Such early notification will assist in the administrative efficiency of the referenda and reduce confusion in the industries. For the purposes of these referenda, a cooperative marketing association may bloc vote for its producers who are eligible producers now, and who, during the representative period, were members of, stockholders in, or under contract with, such cooperative association, and who marketed more than 50 percent of their production through that cooperative during that period. A cooperative marketing association may also bloc vote for its producers who are eligible producers now, but who, during the representative period, were not members of, stockholders in, or under contract with, such cooperative association, but have made contractual commitments to market more than 50 percent of their current season's production through that cooperative. A Ballot Handling Procedure manual is available from the referendum agents which describes in greater detail how the ballots will be handled.

List of Subjects in 7 CFR Parts 907 and 908

Marketing agreements, Reporting and recordkeeping requirements.

Authority: Agricultural Marketing Agreement Act of 1947, as amended, Secs. 1–19, 49 Stat. 31, as amended; 7 U.S.C. 601–674.

Dated: May 10, 1991.

Daniel Haley,

Administrator.

[FR Doc. 91–11561 Filed 5–13–91; 3:56 pm]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91–NM–81–AD]

Airworthiness Directives; British Aerospace Viscount Model 744, 745D, and 810 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to all British Aerospace Viscount Model 744, 745D, and 810 series airplanes, which would require repetitive non-destructive testing (NDT) inspections to detect cracks on wing flap guide rails, and to detect corrosion on wing flap guide rails and flap end ribs, and repair, if necessary. This proposal is prompted by reports of cracking on an inboard flap guide rail, and of corrosion at the abutment face of a guide rail and a flap end rib. This condition, if not corrected, could result in reduced structural integrity of the landing flaps.

DATES: Comments must be received no later than July 8, 1991.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Airworthiness Rules Docket No. 91–NM–81–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. The applicable service information may be obtained from British Aerospace, PLC Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041–0414. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM–113; telephone (206) 227–2148. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 91–NM–81–AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The United Kingdom Civil Aviation Authority (CAA), in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on all British Aerospace Viscount Model 744, 745D, and 810 series airplanes. There have been recent reports of cracking on an inboard flap guide rail, and of corrosion at the abutment face of a guide rail and a flap end rib. This condition, if not corrected, could result in reduced structural integrity of the landing flaps.

British Aerospace has issued Preliminary Technical Leaflet (PTL) No. 301, Issue 2, dated November 2, 1989, applicable to all Viscount Model 700 series airplanes, and PTL No. 170, Issue 2, dated November 2, 1989, applicable to all Viscount Model 810 series airplanes. These service bulletins describe procedures for repetitive non-destructive testing (NDT) inspections to detect cracks on the wing flap guide rails and corrosion at the abutment face of flap guide rails and flap end ribs; and repair, if necessary. The United Kingdom CAA has classified these service bulletins as mandatory.

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

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would require repetitive NDT inspections to detect cracks on guide rails and to detect corrosion at the abutment face of flap guide rails and flap end ribs, and repair, if necessary, in accordance with the PTL's previously described.

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

It is estimated that 29 airplanes of U.S. registry would be affected by this AD, that it would take approximately 8 manhours per airplane to accomplish the required actions, and that the average labor cost would be $55 per manhour. Based on these figures, the total impact of the AD on U.S. operators is estimated to be $12,760.

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

For the reasons discussed above, I certify that this proposed regulation (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) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration

proposes to amend 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:

British Aerospace: Docket 91-NM-81-AD.

Applicability: All Viscount Model 744, 745D, and 810 series airplanes, certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To prevent reduced structural integrity of the landing flaps, accomplish the following:

(a) Within 180 days after the effective date of this AD, or prior to the accumulation of 500 landings after the effective date of this AD, whichever occurs first, and thereafter at intervals not to exceed 360 days, perform non-destructive testing (NDT) inspections to detect cracks in the wing flap guide rails, and to detect corrosion at the abutment face of flap guide rails and flap end ribs on all landing flaps on the left and right wings, in accordance with Preliminary Technical Leaflet (PTL) No. 301, Issue 2, dated November 2, 1989, or PTL No. 170, Issue 2, dated November 2, 1989, as applicable.

(b) If cracks are found, prior to further flight, repair in a manner approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

(c) If corrosion is found, prior to further flight, remove the guide rail from the landing flap end rib for visual confirmation, rectification rework, and reprotection of both the guide rail and flap end rib abutment surfaces in accordance with paragraph 2.3.1 of PTL No. 301, Issue 2, dated November 2, 1989, or PTL No. 170, Issue 2, dated November 2, 1989, as applicable.

(1) Local corroded areas must be blended out to a maximum depth of 0.06 inch. The blended areas should extend beyond the corroded area by a minimum of 0.2 inch where the depth of corrosion is less than 0.03 inch, and a minimum of 0.3 inch where the depth of corrosion is greater than 0.03 inch, but must not exceed 70 percent of the local abutment face width.

(2) Following blending, perform a dye penetrant inspection of the abutment surfaces to ensure that all traces of corrosion have been removed.

(3) Following repair, and prior to reinstallation of the guide rail, apply protective treatment in accordance with paragraph 2.5 of the appropriate PTL.

(4) If corrosion found is in excess of the limitations specified in the appropriate PTL, prior to further flight repair in a manner approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

(d) 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.

(e) 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.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on May 7, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-11499 Filed 5-14-91; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91-CE-33-AD]

Airworthiness Directives; Mitsubishi Heavy Industries MU-2B Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD) that would be applicable to Mitsubishi Heavy Industries MU-2B series airplanes. This proposed action would require a modification to the rudder trim tab leading edge. A field report revealed that the rudder trim tab could interfere with the rudder trailing edge when full right rudder and full left rudder trim tab are applied simultaneously during single-engine operation. The actions specified in this proposed AD are intended to prevent interference between the rudder and the rudder trim tab that could result in aerodynamic vibration and possible loss of control of the airplane.

DATES: Comments must be received on or before July 15, 1991.

ADDRESSES: Mitsubishi Heavy Industries Service Bulletin No. 211, dated November 20, 1990, that is discussed in this AD may be obtained from Mitsubishi Heavy Industries, Nagoya Aerospace Systems, 10, Oyecho, Minato-Ku, Nagoya, Japan. This information also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91-CE-33-AD, Room 1558, 601 E 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. William Roberts, Aerospace Engineer, Airframe Branch, Transport Airplane Directorate, 3229 E. Spring Street, Long Beach, California 90806-2425; Telephone (213) 988-5228.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91-CE-33-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Japanese Civil Aviation Bureau (JCAB), which is the airworthiness authority for Japan, recently notified the FAA that an unsafe condition may exist on Mitsubishi Heavy Industries MU-2B series airplanes. The JCAB advises that the rubber trim tab could interfere with the rudder trailing edge when full right

rudder and full left rudder trim tab are applied simultaneously during single-engine operation. This could result in aerodynamic vibration and possible loss of control of the airplane. Mitsubishi Heavy Industries has issued Service Bulletin No. 211, dated November 20, 1990, which specifies a modification to the rudder trim tab on Mitsubishi Heavy Industries MU–2B series airplanes. The JCAB approved this service bulletin and issued JCAB AD No. TCD–3378–90 in order to assure the airworthiness of these airplanes in Japan. The airplanes are manufactured in Japan and are type certified for operation in the United States. Pursuant to a bilateral airworthiness agreement, the JCAB has kept the FAA totally informed of the above situation.

The FAA has examined the findings of the JCAB, reviewed all available information and determined that AD action is necessary for products of this type design that are certificated for operation in the United States. Since this condition could exist or develop in other Mitsubishi Heavy Industries MU–2 series airplanes of the same type design, the proposed AD would require a one-time modification to the rudder trim tab in accordance with the instructions in Mitsubishi Heavy Industries Service Bulletin No. 211, dated November 20, 1990.

It is estimated that 122 airplanes in the U.S. registry would be affected by the proposed 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. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $53,680.

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

For the reasons discussed above, 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) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed 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

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 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 adding the following new AD:

Mitsubishi Heavy Industries: Docket No. 91–CE–33–AD.

Applicability: Models MU–2B–10, MU–2B–15, and MU–2B–20 airplanes (serial numbers (S/N) 008 through 211), Model MU–2B–30 airplanes (S/N 502 through 542), and Model MU–2B–36 airplanes (S/N 501), certificated in any category.

Compliance: Required within the next 200 hours time in service after the effective date of this AD, unless already accomplished.

To prevent interference between the rudder and rudder trim tab that could result in aerodynamic vibration and possible loss of control of the airplane, accomplish the following:

(a) Modify the rudder trim tab in accordance with the instructions in Mitsubishi Heavy Industries Service Bulletin No. 211, dated November 20, 1990.

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

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3229 E. Spring Street, Long Beach, California 90806–2425. The request should be forwarded through an FAA Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles Aircraft Certification Office.

(d) All persons affected by this directive may obtain copies of the document referred to herein upon request to Mitsubishi Heavy Industries, Nagoya Aerospace Systems, 10, Oyecho, Minato-Ku, Nagoya, Japan; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on May 7, 1991.

J. Robert Ball,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–11498 Filed 5–14–91; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 91–CE–41–AD]

Airworthiness Directives; Piper Model PA–24–260 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD) that would be applicable to Piper Model PA–24–260 airplanes equipped with nonturbocharged fuel-injected engines. This action would supersede AD 91–02–06, which currently requires the installation of a manually controlled heated alternate air induction system on all Piper Model–24–260 airplanes to prevent inadvertent engine stoppage while flying in weather conditions that are conducive to induction system icing. This proposed action should only apply to those airplanes that are equipped with nonturbocharged fuel-injected engines because of design differences between these airplanes and those that are turbocharged and are not fuel-injected.

DATES: Comments must be received on or before July 15, 1991.

ADDRESSES: Piper Service Bulletin No. 861, dated May 5, 1987, that is discussed in this AD may be obtained from the Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960; Telephone (407) 567–4361. This information also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91–CE–41–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Will H. Trammell, Aerospace Engineer, FAA, Propulsion Branch, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349; Telephone (404) 991–3810.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date of comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91–CE–48–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

Airworthiness Directive (AD) 91–02–26, Amendment 39–6849 (56 FR 634, January 8, 1991) currently requires the installation of a manually controlled heated alternate air induction system on all Piper Model PA–24–260 airplanes to prevent inadvertent engine stoppage while flying in weather conditions that are conducive to induction system icing. The FAA has determined that this action should only be applicable to airplanes that are equipped with nonturbocharged fuel-injected engines because of design differences between these airplanes and those that are turbocharged and nonfuel-injected, i.e., carbureted.

Since this condition is likely to exist or develop in other products of the same type design, the proposed AD would supersede AD 91–02–06 by limiting its applicability to those Piper Model PA–24–260 airplanes that are equipped with nonturbocarged fuel-injected engines. The proposed modification to the air induction system would be required in accordance with the instructions in Piper Service Bulletin No. 861, dated May 4, 1987.

It is estimated that 732 airplanes in the U.S. registry would be affected by this AD, that it would tax approximately 7.5 hours per airplane to accomplish the proposed action, and that the average labor rate is approximately $55 an hour. Parts cost approximately $554 per airplane. Based on these figures, the total cost impact of the Ad on U.S. operators is estimated to be $707,478.

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

For the reason 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) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed 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

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 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 removing AD 91–02–06, Amendment 39–6849 (56 FR 634, January 8, 1991) and adding the following new AD:

Piper Aircraft Corporation: Docket No. 91–CE–41–AD. Applicability Model PA–24–260 airplanes (serial number (S/N) 24–3642, S/N 24–4000 through 24–4255, S/N 24–4257 through 24–4782, and S/N 24–4784 through 24–4803) that are equipped with nonturbocharged fuel-injected engines, certificated in any category.

Compliance: Required within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent inadvertent engine stoppage while flying in weather conditions conducive to induction system icing, accomplish the following:

(a) Modify the airplane by the installation of a manually controlled heated alternate air door in the engine air induction system in accordance with the instructions in Piper Service Bulletin No. 861, dated May 4, 1987.

(b) The installation of the heated alternate air door does not constitute approval for flight in icing conditions.

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

(d) An alternative method of compliance that provides an equivalent level of safety may be approved by the Manager, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta Aircraft Certification Office.

(e) All persons affected by this directive may obtain copies of the document referred to herein upon request to the Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960; Telephone (407) 567–4361; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on May 3, 1991.

Henry A. Armstrong,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–11497 Filed 5–14–91; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

Proposed Customs Regulations Amendment To Relocate the North Carolina Customs District Headquarters at Charlotte

AGENCY: U.S. Customs Service.

ACTION: Proposed rule.

SUMMARY: This document proposes to change the field organization of the Customs Service by relocating the North

Carolina Customs District headquarters from Wilmington, North Carolina, to Charlotte, North Carolina. This proposed relocation is prompted by the dramatic shift in the volume of Customs activity which has occurred within this district in recent years. Customs operational services in Wilmington, which would remain a Customs port of entry, would not be impaired, should the proposed relocation become effective. The proposed change is part of Customs continuing program to obtain more efficient use of its personnel, facilities and resources, and to provide better overall service to carriers, importers, and the general public.

DATES: Comments must be received on or before July 15, 1991.

ADDRESSES: Comments (preferably in triplicate) should be submitted to and may be inspected at the Regulations and Disclosure Law Branch, U.S. Customs Service, 1301 Constitution Avenue NW., room 2119, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Jackie Motley, Office of Inspection and Control, (202–566–8157).

SUPPLEMENTARY INFORMATION:

Background

As part of a continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public, Customs proposes to relocate the North Carolina Customs District headquarters from Wilmington to Charlotte, North Carolina. The proposed relocation is based on the fact that there has been a dramatic shift in the volume of Customs activity within North Carolina in recent years.

Specifically, over the past five years, Charlotte has experienced very significant commercial growth which, in turn, has stimulated large increases in Customs activities there. For example, since 1985, the number of Customs entries in Charlotte has increased from over 23,000 to nearly 40,000. During the corresponding period in Wilmington, the number of Customs entries decreased from over 13,000 to below 11,000. Duty collections in 1989 in Charlotte amounted to over $70 million, while duty collections in Wilmington amounted to $51 million. All Customs projections in various activity categories (including duty collections) strongly point to a continuation of increased Customs volume in Charlotte.

Given this workload growth, Customs believes that relocation of the North Carolina Customs District headquarters to Charlotte, North Carolina, will result in more economical and efficient use of its personnel and resources in carrying out the Customs mission.

The planned relocation, however, if implemented, will affect only district management and support personnel. Wilmington, North Carolina, will remain a Customs port of entry, with existing levels and hours of commercial operations continuing to meet the needs of the Wilmington trade community. In this connection, Customs operational services in Wilmington would not be impaired, should the proposed relocation become effective.

The Secretary of the Treasury is advised by the Commissioner of Customs in matters affecting the field organization of the Customs Service. The change currently under consideration is proposed under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR 1949–1953 Comp., Ch. II), and pursuant to authority provided by Treasury Department order No. 101–5, dated February 17, 1987 (52 FR 6282).

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to the Customs Service. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m., at the Regulations and Disclosure Law Branch, Room 2119, Headquarters, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, DC.

Executive Order 12291 and Regulatory Flexibility Act

Because this document is related to agency organization and management, it is not subject to E.O. 12291. Also, for the same reason, although Customs is soliciting public comments, no notice of proposed rulemaking is required under 5 U.S.C. 553(a)(2). Accordingly, this document is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

Drafting Information

The principal author of this document was Russell Berger, Regulations and Disclosure Law Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 101

Customs duties and inspection, Exports, Imports, Organization and functions (Government agencies).

Proposed Amendment

It is proposed to amend part 101, Customs Regulations (19 CFR part 101), as set forth below.

PART 101—GENERAL PROVISIONS

1. The authority citation for Part 101 would continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 2, 66, 1202 (General Note 8, Harmonized Tariff Schedules of the United States), 1623, 1624.

2. It is proposed to amend the list of Customs regions, districts and ports of entry in § 101.3(b) by removing "Wilmington, N.C.", directly below "Norfolk, Va." under the column titled "Name and headquarters", and inserting in its place, "Charlotte, N.C." and by repositioning "Charlotte (T.D. 56079)", at the head of the column titled "Ports of entry", in the Charlotte, North Carolina, District, and, in appropriate alphabetical order thereunder, "Wilmington, including townships of Northwest, Wilmington, and Cape Fear (E.O. 7761, Dec. 3, 1937, 2 FR 2679, and territory described in E.O. 10042, Mar. 10, 1949, 14 FR 1155)".

Carol Hallett,

Commissioner of Customs.

Approved: March 29, 1991.

John P. Simpson,

Acting Assistant Secretary of the Treasury.

[FR Doc. 91–11464 Filed 5–14–91; 8:45 am]

BILLING CODE 4820–02–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 206, 207, and 314

[Docket Nos. 88P–0330 and 89P–0163]

Imprinting of Oral Solid Dosage Form Drug Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to require that human drugs in solid oral dosage form (e.g., tablets and capsules) be imprinted with a product specific code. Drug imprinting helps poison control and other health professionals identify drugs in drug overdose emergencies. Drug imprinting also

assists patients having prescriptions refilled recognize whether a different manufacturer's product has been dispensed, or if their prescription has been incorrectly filled. This proposed action responds to citizen petitions from the National Association of Pharmaceutical Manufacturers (NAPM) and the Nonprescription Drug Manufacturers Association (NDMA) and to congressional concerns.

DATES: Written comments by August 13, 1991. FDA proposes that any final rule based on this proposal become effective 1 year after its date of publication in the **Federal Register**.

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

FOR FURTHER INFORMATION CONTACT: Steven H. Unger, Center for Drug Evaluation and Research (HFD–362), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8046.

SUPPLEMENTARY INFORMATION: FDA is proposing to require that human drug products in solid oral dosage form be imprinted. Under the proposal, each covered drug product would be required to bear a code imprint that identiifes the drug product and the holder of its approved application for marketing. If the product is not subject to premarket approval, the proposal would require the identification of the manufacturer or distributor. The code imprint consists of a combination of letters, numbers, or symbols assigned by the manufacturer or distributor to identify the drug product. The proposal would apply to both nonprescription (over-the-counter (OTC)) and prescription drugs.

Drug identification by imprinting serves a number of public health purposes related to FDA's responsibilities under the Federal Food, Drug, and Cosmetic Act (the Act). Imprinted drug codes are used by poison control centers and others to identify drug products in drug overdose emergencies. Drug identification by imprinting also assists patients and health professionals in determining when different manufacturers' products are dispensed, helps patients identify prescriptions that are incorrectly filled, aids in the battle against drug abuse, helps drug regulatory officials trace counterfeit and defective drug products, and helps hospitals, nursing homes, and community pharmacies operate their drug distribution accounting systems.

I. Background

Imprinting is already in wide use. Between 90 and 95 percent of solid oral dosage form prescription drug products and approximately 70 percent of solid oral dosage form OTC drug products are now being imprinted. A number of drug manufacturers have adopted imprinting in response to State statutory requirements. At this time, 23 States require imprinting of prescription drugs. However, only one, the State of Washington, now requires imprinting of OTC drugs.

The typical State law requires solid dosage form prescription drug products to be clearly marked or imprinted with an individual symbol, number, company name, words, letters, marking, or national drug code number identifying the drug and its manufacturer or distributor.

A. Previous Consideration of the Need for Federal Action

Congress and FDA have periodically considered adopting a Federal imprinting requirement. A number of drug imprinting bills have died in Congress. Although in the past, FDA has acknowledged the value of drug imprinting, it has previously concluded that a Federal regulatory requirement was not needed.

B. 1986 Citizen Petition

In a citizen petition (86P–0244) dated May 28, 1986, a generic drug industry trade association, the National Association of Pharmaceutical Manufacturers (NAPM), requested that FDA issue a regulation requiring imprinting of solid dosage form prescription drugs. NAPM asked that imprints identify products by active ingredient using an alphanumeric code as the identification system. NAPM urged Federal action, arguing that there were conflicting requirements among the States.

In a response dated October 13, 1987, FDA denied the petition, stating that voluntary drug imprinting was preferable to Federally-imposed drug imprinting. The agency did not find conflicting requirements among the States, and considered the specific imprinting code recommended by NAPM to be infeasible because it would not accommodate the number of products then on the market. In addition, FDA found NAPM's recommended identification system inadequate because it was not product specific, i.e., it would not require identification of the specific product or its manufacturer and thus would not meet State imprinting laws.

C. Congressional Inquiries

In 1988, FDA received a letter from several members of Congress, urging FDA to require that all drug products be marked to disclose the manufacturer and active ingredient. According to the members of Congress, some patients may have received one brand of an anticonvulsive drug in place of another without the knowledge of either the patient or physician. The members suggested that a switch in anticonvulsive drug products may have been responsible for reported breakthrough seizures in epilepsy patients. They urged that FDA require imprinting to increase the likelihood that patients will be alerted to generic substitutions.

D. Resubmission and Update of the NAPM Petition

On October 31, 1988, NAPM resubmitted its petition (88P–0380/CP) to FDA. On December 1, 1988, NAPM supplemented the petition. The petition noted that the Defense Logistics Agency requires as part of its drug procurement contracts that "each solid oral dosage form (tablet or capsule as specified) shall be marked/embossed with a product identification code to identify the active ingredient(s), strength, and manufacturer." The supplement urged that FDA require that drug products bear a product-specific identification code, i.e., a code that identifies both a product's active ingredient and its manufacturer.

E. Submission of the NDMA Petition

On May 5, 1989, the Nonprescription Drug Manufacturers Association (NDMA) (at that time called the Proprietary Association) submitted a petition (89P–0163/CP) to FDA. NDMA represents the interests of many manufacturers of OTC drug products. The petition made reference to a March 17, 1989, Washington State law that requires imprinting on OTC products marketed after January 1, 1993. Although 23 States have laws requiring code imprinting on prescription drug products, the Washington State law is the first to require imprinting on OTC drug products. The petition asked that FDS require identification of solid dosage drug products, and urged adoption of a system sufficiently flexible to permit manufacturers to continue to use current imprints.

F. Continuing Interest and Demand

At its 1987 and 1989 annual meetings, the American Medical Association House of Delegates adopted resolutions urging "that a coding system be

developed for the identification of all solid medication forms." This resolution applies to both OTC and prescription drug products. In a letter to FDA dated July 12, 1989, the American Medical Association urged that FDA mandate such a requirement.

G. Additional Data and Information

Based on continuing expressions of interest in a Federally-mandated drug imprinting program, FDA has concluded that it should reconsider its earlier decision to undertake Federal rulemaking. To provide a factual basis for its reconsideration, FDA requested data and information, in letters dated June 6, 1989, on imprinting from poison control centers, health officials, trade associations, and consumer groups. FDA specifically sought data and information on three principal matters: data and information that would justify the need for a Federal imprinting requirement; the information to be revealed by an imprinting code; and the advantages and disadvantages of a uniform imprinting code.

All respondents strongly supported Federal action to require imprinting of tablets and capsules. Respondents acknowledged the value of drug imprinting in facilitating rapid identification of drugs by poison control centers. Several respondents also observed that imprinting is important for identification of generic substitutions. Every responde that addressed the issue also supported requiring imprinting of OTC drugs.

The respondents generally agreed that the imprint should permit identification of the product and the manufacturer or distributor. In addition, most groups urged that the code imprint permit identification of the dosage strength. Poison control centers argued that identification of the dosage strength can be crucially important in emergency care.

Most groups discussed both the advantages and disadvantages of adopting a Federally-prescribed uniform imprinting code. Several strongly favored a uniform code, arguing that it would be the easiest way for poison control centers to identify ingredients and that it would allow the code imprints to be published in the smallest volume. About twice as many groups strongly opposed a mandated uniform code imprint, arguing that there is no need for such a system and that the cost to manufacturers, which would be passed on to consumers, would be prohibitive.

The United States Pharmacopeial Convention (USAN, the USP Dictionary of Drug Names, the United States Pharmacopeia, and the National Formulary), the Medial Economic Company (Physicians' Desk Reference), and Micromedex, Inc., were suggested along with FDA as possible sources for collection and publication of code imprint data.

The responses have been placed on file at the Dockets Management Branch under docket numbers 88P-0360/CP and 89P-0163/CP. The data and information in these responses have been reviewed and considered along with the two citizen petitions and the Congressional letter in developing this proposed rule.

II. Discussion of the need for imprinting

The agency believes that imprinting serves a number of important public health function; six principal functions have been identified.

(1) *Drug overdose.* It is widely accepted that imprinting plays an important role in identifying drugs in many suspected drug overdosing situations, especially where drug products have been separated from their original container. In such circumstances, it is vital drugs be easily and rapidly identifiable. Imprinting facilitates the rapid identification of a drug, thereby permitting the health professional to quickly choose the best therapy. A number of reports in the scientific literature have stressed the value of drug imprinting in emergency situations (Refs. 1 through 7). In one instance, the Seattle Poison Center in 1986 documented and analyzed 5,535 calls it received in 1 month (Ref. 8). The authors observed that, in 104 (1.9 percent) cases, the staff needed to turn to drug imprints for identification and concluded that the use of imprints "really counts" more than 200 times annually. Poison control centers today commonly use a computerized identification system that is keyed to drug imprints.

(2) *Drug substitution.* FDA believes that drug imprinting will play a role in alerting patients to drug substitutions. FDA is aware that patients are sometimes given substituted drug products without the patient's knowledge, and that sometimes patients are accidentally given incorrect drug products. Substitutions may be of clinical significance because some patients are allergic to certain color additives or other inactive ingredients that might be included in one product, but not another, even though the products are bioequivalent. Although an imprint may not itself disclose the name of the substituted product to a patient without a key to break the code, an imprint can serve as a signal to alert patients to product substitutions, and help patients identify prescriptions that are incorrectly filled.

(3) *Drug abuse.* Drug imprints may play a role in the battle against drug abuse. The scientific literature suggests that one factor hampering efforts to fight drug abuse is the difficulty in identifying illicit products (Refs. 9 through 13). This problem has been seen in attempts to control the sale of "OTC look-alikes." OTC look-alike drugs are drugs manufactured to mimic the appearance of controlled substances, including amphetamines and sleep aids. Imprinting should aid law enforcement official in distinguishing between prescription and OTC look-alike drugs. Identification by drug imprinting should also assist parents and school officials in identifying drugs carried by students.

(4) *Counterfeit and defective drug products.* Drug imprints can aid FDA and other drug regulatory authorities in tracking counterfeit and defective drug products. Imprints have played an important role in helping identify counterfeit drug products. In 1984, the agency recovered one million counterfeit oral contraceptive tablets that were detected because they were improperly imprinted. Imprinting may also help in the recall of misbranded or adulterated drugs, especially when the recall is down to the consumer level. Imprints have also been of value in identifying products fraudulently substituted during the bioequivalence testing procedures required for approval of a new generic drug, e.g., where an illegally substituted product had a partially removed imprint.

(5) *Quality assurance.* A number of respondents to the June 6, 1989, letter reported that imprints aid hospitals and nursing homes in developing drug distribution accounting systems within institutions. In particular, comments suggested that imprinting should help quality assurance efforts, including screening efforts to confirm the identity of dispensed drugs.

(6) *Other uses.* Drug identification is also important in other situations when products have been removed from the dispensed container or are otherwise not identifiable. For example, imprints may be of help when patients have comingled multiple prescriptions, or removed a prescription product from its original dispensed container to put it into a daily "reminder" container; when patients on vacation need refills of drugs no longer in their original dispensed containers; or when patients are transferred to or from hospitals or nursing homes with unlabeled, unidentified drugs. Imprints may also be of help when the dispensing package label does not identify the package

contents. Although these are not immediately life-threatening situations, they are common situations where drug identification is important for health care reasons.

III. Elements of the Program

A. Scope

FDA proposes to require imprinting of both prescription and OTC solid oral dosage form drug and biological products. The requirement would apply to "new drugs" for which new drug applications (NDA's), product license applications (PLA's), or abbreviated new drug applicatinos (ANDA's) are required, drugs first marketed before 1938 for which NDA's and ANDA's are not currently required, and drugs subject to the OTC drug review. This proposed rule is intended to apply to biological drug products that are licensed under section 351 of the Public Health Service Act.

Although most States with imprinting requirements do not require imprinting of OTC products, FDA believes that inclusion of OTC drug products in this rule will serve a number of the purpose outlined above. Most important, FDA believes that requiring OTC imprinting should materially assist poison control centers and others in identifying products in drug overdose emergencies. The agency notes that many overdose reports are attributed to OTC products. In the 1987 American Association of Poison Control Centers national data base, there were twice as many reports of exposures to OTC ibuprofen as to prescription ibuprofen. Moreover, the three most commonly used OTC analgesics—ibuprofen, aspirin, and acetaminophen—accounted for 67,248 out of 1,166,940 overdose emergencies (5.8 percent of the total). The State of Washington, NDMA, poison control centers, health professionals, and consumer groups have all urged that any Federal imprinting regulation include OTC drug products.

The agency has considered exempting homeopathic drug products from this regulation because of the unlikelihood that such products would cause overdoses of poisonings. However, FDA believes that even if a drug has a low potential for harm, it is important to be able to identify such a drug in order to determine that treatment for overdose is not required. In addition, many of the other reasons for wanting to identify drugs extend to homeopathic drug products. Therefore, homeopathic drug products are included in this proposed rule.

B. Exemptions

The agency recognizes that in a few cases a product's size or other physical characteristics may make it impossible or infeasible to imprint. Under this proposed rule, FDA would be authorized to exempt certain drug products from the code imprint requirements of proposed § 206.10. Exemptions would be granted on a case-by-case basis, upon a showing that the product's size, texture, or other physical characteristics make imprinting infeasible or impossible. FDA understands that very few exemptions have been granted under state imprinting statutory schemes. FDA believes, based on this limited number of exemptions, that most solid oral dosage form drug products may be imprinted.

In additiona, FDA is proposing to exempt two other classes of drugs from these requirements: drugs intended for use in clinical investigations under section 505(i) of the act (21 U.S.C. 355(i)), and drugs that are compounded by or upon the order of a pratitioner licensed by law to prescribe or administer drugs and that are to be used solely by the patient for whom prescribed. FDA solicits comments on whether the exemption for investigational drugs should apply to drugs that are distributed under treatment IND's. The agency is also interested in receiving comments on whether other classes of products should be granted categorical exemptions.

C. Information to be Imprinted

The proposed rule would require that each solid oral dosage form drug product bear a code imprint. FDA is proposing that the code imprint identify the drug product and the product's manufacturer or distributor, or, for products subject to premarket approval, the holder of the product's approval. By identify, FDA means that the imprint would be required to consist of sufficient numbers and letters to allow the agency and health professionals to retrieve information about the drug product from a manual or computerized identification key. Although patients may need assistance in identifying products, because no code imprint is capable of conveying much information about the product to a patient, the existence of a code imprint would enable patients to convey sufficeint information about the drug to allow for identification by health professionals.

By drug product, FDA means the finished dosage form; for example, the tablet or capsule. Identification of the drug product would allow determination of the product's active ingredient(s), and should, in many cases, also assist in the identification of the product's inactive ingredients. For products subject to premarket approval, the proposal would also require that the code imprint identify the holder of the approval (the holder of the approved new drug application, product license application, etc.). In othr cases, the drug product manufacturer or distributor would be identified. Identification of the holder of the approved marketing application, manufacturer or distributor should help consumers recognize drug product substitutions, and also aid the agency and health professionals in tracking adverse reactions and defective drug products. FDA is specifically soliciting comments on whether identifying the holder of the approval or, if the drug is not subject to premarket approval, the manufacturer or distributor is the most appropriate procedure for identifying the entity involved in marketing the drug product.

When a product is marketed in more than one strength, the proposal would require that each strength be identifiable either by code imprint or by the product's distinctive size, shape, or color. The importance of disclosing product strength has been stressed by health professionals and poison control centers, who have argued that even a twofold increase in dosage can mean a significant difference in treatment of a drug overdose.

The proposed rule would allow a drug firm to select its own code imprints, and the agency believes that most current imprints would meet the requirements of this proposal. However, some imprints might need to be augmented. As noted, the code imprint may consist of both graphical and alphanumeric elements. Because data bases that recognizes numbers and letters, rather than symbols and logos, would ordinarily be used to identify code imprints, code imprints would be required to contain at least one number or letter to allow retrieval of product information from the data base. Code imprints that have unique alphanumeric components are also preferable to code imprints that rely on a patient's ability to describe a logo or symbol.

D. Uniform Imprinting Code

The agency considered prescribing a uniform imprinting code to meet the requirements of this proposal. In its consideration of this issue, FDA studied several drug imprinting schemes for their acceptability, including the National Drug Code (NDC) and codes previously recommended by NAPM and the U.S. Pharmacopoeia. FDA also

considered the opinions expressed by the respondents to FDA's survey of June 6, 1989. FDA has tentatively concluded that it should not now propose to require adoption of a uniform code. The agency acknowledges that a uniform code might be "user-friendly" and ease the task of assembling a drug identification directory for distribution to hospitals, poison control centers, and others. However, FDA believes that these advantages do not at this time outweigh the costs associated with a requirement that all solid oral dosage form products, including the many thousands of prescription and OTC products that are already imprinted, conform to a Federally-mandated standard. FDA solicits comment on the advisability of adopting a uniform Federal imprinting code.

E. Submitting Imprints to FDA

For each drug product listed that is subject to the imprinting requirements of 21 CFR part 206, including products that are exempted under § 206.7(b), the proposed rule would require § 207.25(b) that drug listing information include a description of the color, shape, and size of each drug product, code imprint (if any), active ingredient(s), dosage strength, and the holder of the approved marketing application, manufacturer or distributor. This information would be updated as described in the procedures at § 207.30. The proposal would also require that the listing include information about each drug that is exempted from imprinting requirements under § 206.7.

Information about imprinting submitted under proposed § 207.25(b) would be available for public disclosure under new § 207.37(a)(1)(xi).

F. Implementation

In general, for drug products subject to premarket approval that were not previously imprinted, approval of a supplemental drug application will be required under § 314.70(b). However, until any final rule based on this proposal becomes effective, FDA will permit submission of supplements under § 314.70(c), provided that: (1) Any colors used in the imprint meet applicable color additive requirements; (2) the substances used in printing do not interfere with the approved analytical procedures; (3) the "Description" and "How supplied" sections of the package insert are updated to include the appropriate information; (4) the drug product meets all the approved specifications in the drug application (including dissolution specifications and tests); and (5) the applicant makes a commitment to place the marketed drug product on appropriate stability studies and withdraw from the market any lots found to fall outside the approved specifications. Manufacturers of biological drug products which were not previously imprinted should submit a product license amendment as required in § 601.12(b).

Should the proposed rule become effective, when a product imprint is embossed or engraved, the applicant would report the addition of the imprint in the applicant's next annual report under § 314.70(d). In such cases, a supplementary application would not be required provided that: (1) The product meets all current specifications; (2) the dissolution specifications and test procedures have been approved by FDA; (3) the comparative dissolution profiles of the embossed/engraved and nonembossed/nonengraved drug products are similar; (4) the newly marketed drug products are placed in appropriate stability studies and the applicant withdraws from the market any lots found to fall outside the approved specifications; and (5) the "Description" and "How supplied" sections of the package insert are updated to include the appropriate information.

For minor changes to an existing code imprint, e.g., changing the alphanumeric identifiers, or substituting a number for a symbol, the supplementary information would be included in the next annual report under § 314.70(d) provided that the "Description" and "How supplied" sections of the package insert are updated to include the appropriate information.

IV. Legal Authority

FDA has concluded that it has sufficient authority to issue regulations under section 701(a) of the act imposing of a drug imprinting requirement for the efficient enforcement of various sections of the act, including sections 201(p), 501, 502, and 505.

A drug imprinting requirement permits the efficient enforcement of the safety and effectiveness provisions of sections 201(p) and 505, and the misbranding provisions in sections 502 (a) and (f) of the act, in that imprinting: (1) Permits the safe, nonmisleading use of prescription drugs that have been substituted, by informing patients of the person responsible for marketing the substituted drug; (2) helps to provide adequate directions for use in the event of overdose or drug interaction, and reduces or prevents harm from these adverse events, by permitting easier identification of drugs that have been removed from their original packaging and labeling; and (3) may permit detection of certain fraudulent testing procedures.

An imprinting requirement also permits the efficient enforcement of other adulteration and misbranding provisions of the act. A regulation requiring that a code be imprinted on each final dosage form during its manufacture may avert unintentional mix-up and mislabeling of drugs during labeling and packaging. An imprinting requirement thus may be justified to prevent adulteration under section 501(a)(1)(B) as a manufacturing method or control necessary to ensure that a drug has the identity and strength its labeling represents it to have.

Requiring that solid oral dosage forms be imprinted to identify the drug product and holder of the approved marketing application, manufacturer, or distributor also furthers the efficient enforcement of section 502(i), under which a drug is misbranded if it is an imitation of another drug. Imprinting would impede attempts to pass off imprinted drugs as other drugs, by identifying to potential customers the drug being sold, and would permit investigators to instantly identify drugs found during investigations rather than having to rely on laboratory analysis. Finally, an imprinting requirement may assist in the identification and recall of adulterated and misbranded drug products.

Once an imprinting requirement became effective, a product that was not properly imprinted could be considered adulterated and misbranded. A drug product whose approval under section 505 of the act was based in part on the fact that it was imprinted could be subject to withdrawal of approval or considered an unapproved new drug. Thus, where FDA determines that a drug is safe and effective when it is imprinted, a subsequent failure to properly imprint the product could result in a finding that the product is no longer shown to be safe or that the improperly imprinted product is not the subject of the approved application. An oral solid dosage form drug product subject to an OTC monograph could be considered an unapproved new drug, on the ground that it was not generally recognized as safe and effective unless properly imprinted. If a drug product marketed without an approved new drug application is not properly imprinted, FDA may take that fact into account in exercising its enforcement discretion under section 505 of the act. Those engaged in the sale of imitation drugs who imprinted their drugs with codes copied from other drugs could be subject to criminal prosecution for violating the

prohibition against counterfeiting in section 301(i)(3) of the act.,

V. Environmental Impact

The agency has determined under 21 CFR 25.24(a)(8) 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

The agency has carefully considered the economic impact of this proposed rule and has determined that it requires neither a regulatory impact analysis as specified by Executive Order 12291 nor a regulatory flexibility analysis as defined in the Regulatory Flexibility Act (Pub. L. 96–354). The agency has calculated, based on information received, that a regulation requiring drug imprinting will have a minimal economic impact on most manufacturers. Between 90 and 95 percent of prescription drug products and approximately 70 percent of OTC drug products are already imprinted, and the agency believes that most of these imprints provide drug identification consistent with the requirements that would be imposed under this rule. Therefore, this requirement would have no economic impact on the majority of solid oral dosage form drug products. For products that are not now imprinted, it is estimated that the total annual costs of imprinting would be $1.7 million including costs of $1.1 million for prescription drug products and $0.6 million for OTC drug products. This cost estimate is based on the costs of imprinting and embossing equipment. Manufacturing associations have stated that this cost is a minor one.

In addition, the agency recognizes that repeat stability testing of some soft or small tablets might have to be performed as the result of imprinting by embossing or debossing. Also, packages with pictures of the drug products may have to be redesigned, resulting in art and design costs. The agency also recognizes that some products, because of their size or consistency, will not be imprintable, and exemptions will be reviewed for such products. FDA currently estimates $8.3 million in one-time product testing costs. However, FDA solicits additional information on imprinting and stability testing costs that this rule would impose on manufacturers. A copy of the agency's assessment of the economic impact is on file with the Dockets Management Branch (address above).

VII. Executive Order 12612: Federalism

Executive Order 12612 requires that Federal agencies carefully examine regulatory actions to determine if they would have significant Federalism implications. As noted above, the proposed rule would require the imprinting of both prescription and OTC human drugs. Currently, 23 States require imprinting of prescription drugs and/or OTC drugs. FDA does not believe that the proposed rule is incompatible with the requirements of any of the State laws or that the State laws stand as an obstacle to the accomplishment and execution of the full purposes and objectives of the agency, should the proposed regulation be adopted. For that reason, FDA does not believe that preemption of State laws is necessary. For the reasons stated, FDA believe that these effects are not significant and do not require an assessment under Executive Order 12612. The input of States, as well as consumers, businesses, and other concerned parties is essential in evaluating this matter. FDA therefore requests comment on the effect of this proposal on Federalism issues.

VIII. Effective Date

FDA prooposes that a final rule based on this proposal be effective 1 year after its date of publication in the **Federal Register**. Any drug product subject to the requirements of this rule that is introduced or delivered for introduction into interstate commerce after the effective date would be deemed to be adulterated, misbranded, or an unapproved new drugs, unless imprinted in compliance with the requirements of 21 CFR part 206. Comment is sought on the ability of manufacturers to comply within this timeframe.

IX. Paperwork Reduction Act of 1980

This proposed rule contains information collections that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980. The title, description, and respondent description of the information collection are shown below with an estimate of the annual reporting and recordkeeping burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Title: Imprinting of Oral Solid Dosage Form Drug Products; Proposed Rule.

Description: The information requirements contained in the proposed rule would require drug firms to submit to FDA a listing for all solid oral dosage form drug products, of each products' code imprint, and a description of the physical characteristics of each drug product.

Description of Respondents: Businesses.

ESTIMATED ANNUAL REPORTING AND RECORDKEEPING BURDEN

Section	Annual number of respondents	Annual frequency	Average burden per response	Annual burden hours
207.25	15,200	2	0	0

It is anticipated that the information required under § 207.25, once finalized, would be submitted on Form FDA 2657, Drug Product Listing. The information collection burden resulting from the submission of this form is on the current inventory of OMB-approved information collection 0910–0045. The OMB-approved estimated burden on drug firms for completion and submission of Form FDA 2657 is approximately ½ hour, and the information requirements under § 207.25 would not measurably add to this burden estimate.

As required by the Paperwork Reduction Act, FDA is submitting to OMB a request that it approve these information collection requirements. Organizations or individuals desiring to submit comments for consideration by OMB on these information collection requirements should address them to FDA's Dockets Management Branch (address above) and to the Office of Information and Regulatory Affairs, OMB, Rm. 3003, New Executive Office Bldg., Washington, DC 20503, Attn: Angela Antonelli.

X. Request for Comments

Interested persons may, on or before August 13, 1991, submit written comments on this proposal to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be indentified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

XI. References

The following information has been placed on display in the Dockets Management Branch where it can be

seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Caldwell, J.G. et al., "Identification of Drugs: Use of the JAMA Drug Identification Guide," *Journal of the American Medical Association,* 187:951–953, 1964.

2. Robertson, W.O., and D.H. Williams, "Drug Imprinting; 1984 Update," *Journal of the American Medical Association,* 254:1964, 1985.

3. Robertson, W.O., "Drug Imprinting," *Clinical Toxicology,* 7(4):407–408, 1974.

4. Robertson, K.A., and W.O. Robertson, "Drug Identification by Imprint," *Clinical Toxicology,* 7:83–89, 1974.

5. Collier, W.A.L., "Indexable Imprinting of Solid Dosage Forms," *Drug Intelligence and Clinical Pharmacy,* 11:170–175, 1977.

6. Thomas, S., "Tablident: A New Method of Solid Dose Form Identification," *The Pharmaceutical Journal,* 231:261–263, 1983.

7. "Drug Code Imprinting Urged for Prescription Pharmaceuticals," *American Pharmacy,* NS26:18, 1986.

8. Bobbink, S., D. Williams, and W.O. Robertson, "Use of Drug Imprints," *Veterinary and Human Toxicology,* 28(2):160, 1986.

9. Allen, L.V., " 'Turkey Drugs'—What You See Is Not What You Get," *U.S. Pharmacist,* 7:33–39, 1982.

10. "States legislate against drugs resembling controlled substances," *American Druggist,* 2:96–97, 1982.

11. Sharpiro, L.J., R.A. Angorn, and W.C. McCormick, " 'Palming off' Look-alike Drugs," *American Pharmacy,* NS22:26–30, 1982.

12. "Look-Alikes: A Continuing Dilemma," *American Pharmacy,* NS23:10, 1983.

13. Shapiro, L.J., and F.H. Fern, "Look-alike Prescription Drugs," *U.S. Pharmacist,* 13:72–77, 1988.

List of Subjects

21 CFR Part 206

Drugs.

21 CFR Part 207

Drugs, Reporting and recordkeeping requirements.

21 CFR Part 314

Administrative practice and procedure, Confidential business information, Drugs, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act, and under authority delegated to the Commissioner of Food and Drugs, Title 21 of the Code of Federal Regulations is amended as follows:

1. Part 206 is added to read as follows:

PART 206—IMPRINTING OF SOLID ORAL DOSAGE FORM DRUG PRODUCTS FOR HUMAN USE

Sec.
206.1 Scope.
206.3 Definitions.
206.7 Exemptions.
206.10 Code imprint required.

Authority: Secs. 201, 301, 501, 502, 505, 507, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 355, 357, 371); sec. 351 of the Public Health Service Act (42 U.S.C. 262).

§ 206.1 Scope

This part applies to all solid oral dosage form human drug products, including prescription, over-the-counter drug products, biological drug products, and homeopathic drug products, unless otherwise exempted under § 206.7 of this part.

§ 206.3 Definitions.

The following definitions apply to this part:

Act means the Federal Food, Drug, and Cosmetic Act (sections 201–901 (21 U.S.C. 301–392)).

Code imprint means any combination of letters or numbers, including, e.g., words, company name, and National Drug Code, assigned by the drug firm to a specific drug product, or marks, symbols, or monograms unique to the firm, in combination with at least one letter or number.

Drug product means a finished dosage form, e.g., a tablet or capsule that contains a drug substance, generally, but not necessarily, in association with one or more other ingredients.

Manufacturer means the manufacturer as described in §§ 201.1 and 600.3(t) of this chapter.

Solid oral dosage form means capsules, tablets, or similar drug products intended for oral use.

§ 206.7 Exemptions.

(a) The following classes of drug products are exempt from requirements of this part:

(1) Drugs intended for use in a clinical investigation under section 505(i) of the act.

(2) Drugs that are compounded by or upon the order of a practitioner licensed by law to prescribe or administer drugs that are to be used solely by the patient for whom prescribed.

(b) Exemption of drugs because of size or unique characteristics. FDA may exempt a drug product from the requirements of § 206.10 of this part upon a showing that the product's size, shape, texture, or other physical characteristics make it impossible or impracticable to bear an imprint. For a drug product, a request for exemption from the requirement of this part should be submitted in writing to the Center for Drug Evaluation and Research, Division of Regulatory Affairs (HFD–362), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; for a biological drug product, the request for exemption should be submitted to the Center for Biologics Evaluation and Research, Division of Product Certification (HFB–240), 8800 Rockville Pike, Bethesda, MD 20892.

§ 206.10 Code imprint required.

(a) Unless exempted under § 206.7, no drug product in solid oral dosage form may be distributed in interstate commerce unless it is clearly marked or imprinted with a code imprint that permits the identification of the drug product and the holder of the approved marketing application for the drug. If the drug product is not subject to premarket approval, the code imprint is required to identify the manufacturer or distributor of the product. In addition, for products manufactured in more than one dosage strength, the dosage strength of the drug product is required to be identifiable by code imprint or by clearly recognizable physical characteristics of the drug product, such as color, shape, or size. The code imprint is required to contain at least one number or letter to permit retrieval from an alphanumeric data base.

(b) A solid oral dosage form drug product that does not meet the requirement for imprinting in paragraph (a) of this section is adulterated and misbranded and may be an unapproved new drug.

PART 207—REGISTRATION OF PRODUCERS OF DRUGS AND LISTING OF DRUGS IN COMMERCIAL DISTRIBUTION

2. The authority citation for 21 CFR part 207 continues to read as follows:

Authority: Secs. 301, 501, 502, 505, 506, 507, 510, 512, 701, 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331, 351, 352, 355, 356, 357, 360, 360b, 371, 374); sec. 351 of the Public Health Service Act (42 U.S.C. 262).

3. Section 207.25 is amended by adding new paragraph (b)(9) to read as follows:

§ 207.25 Information required in registration and drug listing.

* * * * *

(b) * * *

(9) For each drug listed that is subject to the imprinting requirements of part 206 of this chapter, including products that are exempted under § 206.7(b), a description of the size, shape, and color

of the drug product, code imprint (if any), active ingredient(s), dosage strength, and the holder of the approved marketing application. For drugs not subject to premarketing approval, the manufacturer or distributor.

4. Section 207.37 is amended by adding paragraph (a)(1)(xi) to read as follows:

§ 207.37 Inspection of registrations and drug listings.

(a) * * *

(1) * * *

(xi) A list of all code imprints.

* * * * *

PART 314—APPLICATIONS FOR FDA APPROVAL TO MARKET A NEW DRUG OR AN ANTIBIOTIC DRUG

5. The authority citation for 21 CFR part 314 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 505, 506, 507, 701, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 355, 356, 357, 371, 376).

6. Section 314.70 is amended by adding new paragraphs (b)(2)(xi) and (d)(9) to read as follows:

§ 314.70 Supplements and other changes to an approved application.

* * * * *

(b) * * *

(2) * * *

(xi) To print on an oral solid dosage form drug product.

* * * * *

(d) * * *

(9) The addition by embossing or engraving of a code imprint to an oral solid dosage form drug product, or a minor change in an existing code imprint.

* * * * *

Dated: January 22, 1991.

David A. Kessler,

Commissioner of Food and Drugs.

[FR Doc. 91-11481 Filed 5-14-91; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF STATE

Foreign Service Grievance Board

22 CFR Parts 901, 902, 903, 904, 905, 906, 907, 908, 910, and 911

[Public Notice 1381]

Foreign Service Grievance Board Regulations

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: This proposed rule will revise the regulations of the Foreign Service Grievance Board to accommodate new legislation. Previous revisions were published as final rule under 50 FR 31353, August 2, 1985. The Foreign Service Grievance Board revises its regulations to conform to the provisions concerning grievances as described in chapter 11 of the Foreign Service Act of 1980 (Pub. L. 96-456; 94 Stat. 2071) of October 17, 1980, as amended, and to implement agency regulations adopted by the foreign affairs agencies and the exclusive employee representatives pursuant to that Act. Parts 904, 905, 908, and 910 have been revised to address: Agency action against grievants who may have committed job-related crimes; grievances concerning suspension without pay; grievance cases which request agency payment of attorney fees; head of agency responses to Board recommendations; and Board procedures in grievance cases concerning supervisor misconduct. Minor editorial changes also have been made throughout the parts cited in the heading.

DATES: Comments must be received on or before July 15, 1991.

FOR FURTHER INFORMATION CONTACT: Judith A. Schmidt, Executive Secretary, Foreign Service Grievance Board, (703) 235-3173 List of Subjects in 22 CFR Parts 901-908, 910 and 911. Administrative practice and procedure, Foreign Service. For the reasons set out in the preamble, 22 CFR parts 901-908, 910, and 911 are amended as set forth below:

PART 901—GENERAL

1. The authority citation for part 901 is revised to read as follows:

Authority: Secs. 610, 1101, 1102, 1105, and 1106 of the Foreign Service Act of 1980 (Pub. L. 96-465: 22 U.S.C. 4131, 4132, 4135, and 4136), as amended.

2. Section 901.10 is revised to read as follows:

§ 961.10 Act.

"Act" means the Foreign Service Act of 1980 (Pub. L. 96-465, October 17, 1980), as amended.

§ 901.20 [Amended]

3. In § 901.20, paragraph (c) is amended by removing the phrase "achieved Party status under 903.5(a)" and adding in its place "achieved Party status under 903.4".

PART 902—ORGANIZATION

4. The authority citation for part 902 is revised to read as follows:

Authority: Secs. 1105 and 1106 of the Foreign Service Act of 1980 (Pub. L. 96-465: 22 U.S.C. 4135 and 4136), as amended.

§ 902.2 [Amended]

5. In § 902.2, paragraph (c) is amended by removing the reference to "§ 906.3" and adding in its place "§ 906.4".

PART 903—INITIATION AND DOCUMENTATION OF CASES

6. The authority citation for part 903 is revised to read as follows:

Authority: Secs. 610, 1104, and 1106-1109 of the Foreign Service Act of 1980 (Pub. L. 96-465: 22 U.S.C. 4010, 4134, and 4135-4139), as amended.

PART 904—JURISDICTION AND PRELIMINARY DETERMINATION

7. The part heading for part 904 is revised to read as set forth above.

8. The authority citation for part 904 is revised to read as follows:

Authority: Secs. 1101, 1104, 1108, and 1109 of the Foreign Service Act of 1980 (Pub. L. 96-465: 22 U.S.C. 4131, 4134, 4138, and 4139), as amended.

9. In section 904.2, paragraphs (b) and (d) are revised to read as follows:

§ 904.2 Preliminary determinations.

* * * * *

(b) The Board may also make a preliminary determination on any question raised by a Party concerning the timeliness of a grievance, the election of other remedies under § 904.3, or any other issue whose resolution might avoid the necessity of further proceedings.

* * * * *

(d) Where an issue presented for preliminary determination under this section is contested by a Party or would result in the termination of a case, a panel of three members of the Board shall decide the issue.

10. Section 904.4 is added to read as follows:

§ 904.4 Suspension of Agency actions.

(a) If the Board determines that the Agency is considering involuntary separation of the Grievant, disciplinary action against the Grievant, or recovery from the Grievant of alleged overpayment of salary, expenses, or allowances, which is related to a grievance pending before the Board, and that such action should be suspended, the agency shall suspend such action until the Board has ruled on the grievance. Notwithstanding such suspension of action, the head of the Agency concerned or a chief of mission or principal officer may exclude the Grievant from official premises or from the performance of specified functions when such exclusion is determined in writing to be essential to the functioning

of the post or office to which the Grievant is assigned.

(b) Notwithstanding paragraph (a) of this section, the Board shall not determine that action against a Grievant shall be suspended if the head of an Agency or his designee has determined that there is reasonable cause to believe that a Grievant has committed a job-related crime for which a sentence of imprisonment may be imposed and has taken action to suspend the Grievant without pay pending a final resolution of the underlying matter. For this purpose, reasonable cause to believe that a member has committed a crime for which a sentence of imprisonment may be imposed shall be defined as a member of the Service having been convicted of, and sentence of imprisonment having been imposed for a job-related crime.

(c) The Board shall expedite its decisions on requested suspensions of proposed Agency actions. The Board may permit or require argument with respect to such requests by the Parties and Exclusive Representative, if any.

PART 905—BURDEN OF PROOF

11. The authority citation for part 905 is revised to read as follows:

Authority: Secs. 610 and 1106 of the Foreign Service Act of 1980 (Pub. L. 96–465: 22 U.S.C. 4010 and 4136), as amended.

12. Section 905.2 is revised to read as follows:

§ 905.2 Disciplinary grievances.

In grievances over disciplinary actions, the Agency has the burden of establishing by a preponderance of the evidence that the disciplinary action was justified, provided, however, that in a grievance concerning suspension without pay pursuant to section 610(a)(3) of the Act, the Board's determination of the grievance shall be limited to

(a) Whether the required procedures have been followed; and

(b) Whether there exists reasonable cause to believe a crime has been committed for which a sentence of imprisonment may be imposed and there is a nexus between the conduct and the efficiency of the Service.

For this purpose, reasonable cause to believe that a member has committed a crime for which a sentence of imprisonment may be imposed shall be defined as a member of the Service having been convicted of, and sentence of imprisonment having been imposed for, a job-related crime.

PART 906—HEARINGS

13. The authority citation for part 906 is revised to read as follows:

Authority: Secs. 610 and 1106 of the Foreign Service Act of 1980 (Pub. L. 96–465: 22 U.S.C. 4010 and 4136), as amended.

PART 907—PROCEDURE WHEN HEARING IS NOT HELD

14. The authority citation for part 907 is revised to read as follows:

Authority: Sec. 1106 of the Foreign Service Act of 1980 (Pub. L. 96–465: 22 U.S.C. 4136), as amended.

PART 908—REMEDIES

15. The authority citation for part 908 is revised to read as follows:

Authority: Secs. 1106 and 1107 of the Foreign Service Act of 1980 (Pub. 96–465: 22 U.S.C. 610, 4010, 4136, and 4137).

§ 908.1 [Amended]

16. In section 908.1, paragraph (e) is removed and paragraph (f) is redesignated as paragraph (e).

17. Section 908.2 is redesignated as section 908.3.

18. Section 908.2 is added and reads as follows:

§ 908.2 Attorney fees.

(a) If the Board finds that a grievance is meritorious or that an Agency has not established the cause for separation of a charged employee in a hearing before the Board pursuant to section 610 of the Act, the Board shall have the authority to direct the Agency to pay reasonable attorney fees to the same extent and in the same manner as such fees may be required by the Merit Systems Protection Board under 5 U.S.C. 7701(g).

(b) Requests for attorney fees, accompanied by supporting documentation, must be filed with the Board within thirty (30) days of the date of the Board's decision.

§ 908.3 Board recommendations.

19. In newly redesignated section 908.3, paragraph (a) is revised and paragraphs (c), (d), (e), and (f) are added and read as follows:

(a) If the Board finds that the grievance is meritorious and that remedial action should be taken that relates directly to promotion, tenure, or assignment of the Grievant or to other remedial action not otherwise provided for in this section, or if the Board finds that the evidence in a grievance proceeding warrants disciplinary action against any employee of an Agency, it shall make an appropriate recommendation to the head of the concerned Agency.

* * * * *

(c) A recommendation under this section shall, for the purposes of section 1110 of the Act, be considered a final action upon the expiration of a 30-day period referred to in paragraph (b) of this section, except to the extent that it is rejected by the head of the Agency by an appropriate written decision.

(d)(1) If the head of the Agency makes a written decision under paragraph (b) of this section rejecting a recommendation in whole or in part on the basis of a determination that implementing such recommendation would be contrary to law, the head of the Agency shall, within the 30-day period referred to in paragraph (b):

(i) Submit a copy of such decision to the Board; and

(ii) Request that the Board reconsider its recommendation or, if less than the entirety is rejected, that the Board reconsider the portion rejected.

(2) Within 30 days after receiving such a request, the Board shall, after reviewing the head of the Agency's decision, make a recommendation to the head of the Agency confirming, modifying, or vacating its original recommendation or, if less than the entirety as rejected, the portion involved. Reconsideration shall be limited to the question of whether implementing the Board's original recommendation, either in whole or in part, as applicable, would be contrary to law.

(e) A Board recommendation made under the preceding paragraph (d)(2) shall be considered a final action for the purposes of section 1110 of the Act, and shall be implemented by the head of the Agency.

(f) The provisions of paragraphs (c), (d), and (e) of this section shall not apply with respect to any grievance in which the board has issued a final decision pursuant to section 1107 of the Act before December 22, 1987.

PART 910—MISCELLANEOUS

1. The authority citation for part 910 continues to read as follows:

Authority: Secs. 1106, 1107, 1110 and 2401 of the Foreign Service Act of 1980 (Pub. L. 96–465: 22 U.S.C. 4136, 4137, 4140 and 4172).

20. In part 910, § 910.1 is removed and § 910.2 through 910.7 are redesignated as § 910.1 through 910.6.

21. In newly designated § 910.4, the section heading and paragraph (b) are revised to read as follows:

§ 910.4 Confidentiality; Record of grievances awarded.

* * * * *

(b) The records of the Board shall be maintained by the Board under appropriate safeguards to preserve confidentiality and shall be separate from all records of the Agencies; provided, however, that records of all grievances awarded in favor of the Grievant in which the grievance concerns gross misconduct by a supervisor shall be separately maintained by the Board and the procedures regarding confidentiality and disclosure of such records shall be as provided in section 1107(e) of the Foreign Service Act of 1980, as amended; and provided further, that the Board shall not make a finding of gross misconduct without first providing the supervisor whose conduct is at issue notice and an opportunity to respond.

PART 911—IMPLEMENTATION DISPUTES

22. The authority citation for part 911 is revised to read as follows:

Authority: Sec. 1014 of the Foreign Service Act of 1980 (Pub. L. 96–465: 22 U.S.C. 4114), as amended.

Dated: March 26, 1991.

Arthur Stark,

Chairman.

[FR Doc. 91–11476 Filed 5–14–91; 8:45 am]

BILLING CODE 4710–10–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[IA–117–90]

RIN 1545–AP54

Returns Relating to Cash in Excess of $10,000 Received in a Trade or Business; Hearing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations that would treat certain monetary instruments as cash for purposes of the requirement to report cash in excess of $10,000 received in a trade or business. Changes to the applicable law were made by the Revenue Reconciliation Act of 1990. The regulations would affect any person that, in the course of a trade or business in which the person is engaged, receives certain monetary instruments that, together with any currency received, total more than $10,000 in any one transaction (or two or more related transactions).

DATES: The public hearing will be held on Friday, June 28, 1991, beginning at 1:30 p.m. Requests to speak and outlines of oral comments must be received by Friday, June 14, 1991.

ADDRESSES: The public hearing will be held in the Commissioner's Conference Room, room 3313, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Requests to speak and outlines of oral comments should be submitted to the Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R [IA–117–90], room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Bob Boyer 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 a notice of proposed rulemaking that contains a proposed amendment to the Income Tax Regulations under section 6050I of the Internal Revenue Code of 1986 to conform the regulations to the amendment made to section 11318(a) of the Revenue Reconciliation Act of 1990, (Pub. L. 101–508, 104 Stat. 1388). These 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 Friday, June 14, 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 admitted beyond the lobby of the Internal Revenue Building until 12 p.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 at the hearing.

By direction of the Commissioner of Internal Revenue:

Dale D. Goode,

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

[FR Doc. 91–11445 Filed 5–13–91; 8:45 am]

BILLING CODE 4830–01–M

26 CFR Parts 1 and 602

[IA–117–90]

RIN 1545–AP54

Returns Relating to Cash in Excess of $10,000 Received in a Trade or Business

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations that, under certain circumstances, would treat specified monetary instruments as cash for purposes of the requirement under section 6050I of the Internal Revenue Code of 1986 to report cash in excess of $10,000 received in a trade or business. The regulations are needed to implement changes to the applicable law made by the Revenue Reconciliation Act of 1990. The regulations would affect persons that, under certain circumstances, receive, in the course of a trade or business in which they are engaged, specified monetary instruments that, together with any currency received, total more than $10,000 in any one transaction (or two or more related transactions).

DATES: Comments must be received by June 14, 1991. A public hearing has been scheduled for June 28, 1991. Requests to speak at the hearing and outlines of oral comments must be received by June 14, 1991. See the notice of hearing published in this issue of the **Federal Register.**

ADDRESSES: Send written comments and requests to speak at the hearing (with outlines of oral comments) to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R (IA–117–90), room 5228, Washington, DC 20044. In the alternative, comments and requests to speak (with outlines) may be hand delivered to: Internal Revenue Service, Attn: CC:CORP:T:R (IA–117–90), room 5228, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Philip Scott, 202–566–3826 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collection of information should be sent to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer T:FP, Washington, DC 20224.

The collection of information in this regulation is in § 1.6050I–1. This information is required by the Internal Revenue Service to implement section 11318(a) of the Revenue Reconciliation Act of 1990. This information will be used by law enforcement authorities with respect to the enforcement of Federal laws. The likely respondents are business or other for-profit institutions and nonprofit institutions.

These estimates are an approximation of the average time expected to be necessary for a collection of information. They are based on such information as is available to the Internal Revenue Service. Individual respondents may require greater or less time, depending on their particular circumstances.

Estimated total annual reporting burden: 7,489 hours. The estimated average annual burden per respondent is 18 minutes.

Estimated number of respondents: 8,300.

Estimated annual frequency of responses: 3.

Background

This document contains proposed Income Tax Regulations under section 6050I of the Internal Revenue Code of 1986. Section 6050I was amended by section 11318(a) of the Revenue Reconciliation Act of 1990, Public Law 101–508, 104 Stat. 1388 (the "1990 Act").

Explanation of Provisions

Under section 6050I, any person engaged in a trade or business who receives, in the course of that trade or business, cash in excess of $10,000 in one transaction (or two or more related transactions) must make an information return relating to the transaction. Any person required to make an information return under section 6050I must also furnish a statement to any person identified on the return showing the aggregate amount of reportable cash received from that person. Financial institutions are generally excepted from the reporting requirements of section 6050I because, pursuant to regulations prescribed under section 5313 of title 31 of the United States Code (relating to reports on domestic coins and currency transactions), they are required to file similar reports on the receipt of more than $10,000 in currency from a customer in one or more transactions in a business day.

Section 11318(a) of the 1990 Act amended section 6050I to provide that, to the extent provided in regulations, the term "cash" includes any monetary instrument, whether or not in bearer form, with a face amount of not more than $10,000 (other than certain checks). The amendment reflects concern that, by using currency to purchase monetary instruments, such as cashier's checks or money orders, having a face amount of not more than $10,000, and using these instruments in lieu of, or in addition to, currency to purchase goods or services that, if purchased with currency alone, would require reporting under section 6050I, persons are able to transfer large amounts of currency without being subject to a reporting requirement under either section 6050I or section 5313 of title 31.[1] There is evidence that some merchants have advised customers that purchases would not have to be reported if customers paid for goods or services with monetary instruments rather than with currency.

Implicit in the amendment to section 6050I, however, is a recognition that monetary instruments also serve an important function in ordinary commercial transactions. Thus, instead of imposing a statutory requirement that all monetary instruments be treated as cash for purposes of section 6050I, the 1990 Act amendment permits the Secretary of the Treasury to prescribe, through regulations, the extent to which monetary instruments with a face amount of not more than $10,000 (other than certain checks) should be treated as cash.

The Service has weighed various alternatives, with a view to developing rules that address transactions in which experience has shown monetary instruments are being used to avoid currency reporting requirements. Accordingly, the proposed regulations, with limited exceptions, treat specified monetary instruments as cash when they are received in connection with designated reporting transactions, i.e., retail sales of certain items of tangible personal property or retail sales of a travel or entertainment activity. In all other cases, specified monetary instruments are treated as cash only if the recipient of the instrument knows that the instrument is being used in an attempt to avoid the reporting of the transaction.

The Service believes the approach adopted in the proposed regulations best implements the policies underlying the 1990 Act amendment to section 6050I because it attempts to discourage the use of monetary instruments to avoid the currency reporting requirements without policy placing an undue reporting and recordkeeping burden on businesses with respect to ordinary commercial transactions. However, the Service will continue to monitor information reporting to determine trends in noncompliance and abuse. If experience warrants, expanded reporting requirements may be proposed on a prospective basis.

Specified Monetary Instruments. The proposed regulations specify that the following monetary instruments are to be treated as cash in the circumstances described above: Cashier's checks, bank drafts, traveler's checks, and money orders, provided they have a face amount of not more than $10,000. The proposed regulations apply to these monetary instruments whether the instruments are made payable to bearer or to a named payee or whether the name of the payee is left blank.

Checks other than cashier's checks are not included within the definition of "cash." Thus, the term does not include checks drawn on the personal account of an individual or checks drawn on the account of a business concern, whether or not such checks are certified.

Designated Reporting Transactions. Under the proposed regulations, specified monetary instruments generally are treated as cash if they are received in a designated reporting transaction. A designated reporting transaction is a retail sale of a consumer durable, a collectible, or a travel or entertainment activity. A consumer durable is an item of tangible personal property of a type normally sold for personal consumption or use that can reasonably be expected to be useful for at least one year under ordinary usage and that has a sales price of more than $10,000. Thus, for example, a $20,000 automobile is a consumer durable, but a $20,000 factory machine is not.

A collectible is an item described in paragraphs (A) through (D) of section 408(m)(2) (determined without regard to

[1] If a monetary instrument is purchased from a financial institution in exchange for more than $10,000 in currency, the financial institution must file a currency transaction report pursuant to section 5313 of title 31.

section 408(m)(3)). That is, the term "collectible" means a work of art, a rug, an antique object, a precious metal, a gem, a postage stamp, or a coin (including any coin enumerated in section 408(m)(3)), irrespective of the sales price of the item.

A travel or entertainment activity is one or more items of travel or entertainment pertaining to a single trip or event, but only if the aggregate sales price of all items pertaining to the trip or event exceeds $10,000. Items of travel or entertainment pertaining to a single trip or event include, for example, the chartering of an airliner to transport persons to and from a sporting event, hotel accommodations in connection with the event, and admission to the event itself. For the purpose of determining whether the aggregate sales price is more than $10,000, related sales by a single merchant-recipient of items of travel and entertainment pertaining to the same trip or event are aggregated. However, retail sales of items pertaining to a trip or event are not aggregated with retail sales of items pertaining to another trip or event for this purpose.

A sale is a retail sale if it is made in the course of a trade or business that principally consists of making sales to ultimate consumers. Thus, a sale made in the course of a trade or business that principally consists of making sales at wholesale to retailers for resale to ultimate consumers would not be a retail sale.

Under the proposed regulations, a designated reporting transaction includes the receipt of funds by a broker or other intermediary in connection with the retail sale of a consumer durable, a collectible, or a travel or entertainment activity.

Exceptions for Loans and Periodic Payment Plans. A specified monetary instrument received in a designated reporting transaction is not treated as cash if one of the exceptions discussed below applies and the recipient does not know that the instrument is being used in an attempt to avoid the reporting of the transaction under section 6050I and the regulations. These exceptions are designed to relieve merchants/recipients from the burden of having to report transactions where the use of more than one monetary instrument or a combination of a monetary instrument and currency is customary.

The first exception applies if the monetary instrument constitutes the proceeds of a loan from a bank (including a thrift institution or a credit union). The merchant/recipient may rely on a copy of the loan document, a written statement from the bank, or similar documentation to substantiate that the instrument constitues loan proceeds.

The second exception applies if (1) the instrument is received in payment on a promissory note or an installment sales contract, (2) the recipient uses promissory notes or installment sales contracts with the same or substantially similar terms in the ordinary course of its trade or business in connection with sales to ultimate consumers, and (3) the total amount of payments received with respect to the sale on or before the 60th day after the date of the sale of does not exceed 50 percent of the purchase price of the retail sale.

The third exception applies if (1) the instrument is received pursuant to a payment plan requiring one or more down payments and the payment of the balance the purchase price by the time of the sale, (2) the recipient uses plans with the same or substantially similar terms in the ordinary course of its trade or business in connection with sales to ultimate consumers, and (3) the instrument is received more than 60 days prior to the date of the sale.

Recipient's Knowledge of Structuring. Whether or not a specified monetary instrument is received in connection with a designated reporting transaction, the instrument is treated as cash if the recipient knows that the instrument is being used in an attempt to avoid the reporting of the transaction under section 6050I and the regulations thereunder.

Effective Date. The rules regarding the treatment of certain monetary instruments as cash are proposed to be effective for amounts received on or after the date of that is 60 days after the date on which final regulations are issued. The Internal Revenue Service intends to issue final regulations as soon as possible after consideration of written and oral comments received in accordance with this notice and the notice of hearing also published in this issue of the **Federal Register.**

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 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 on June 28, 1991. See the notice of hearing also published in this issue of the **Federal Register.**

Drafting Information

The principal author of these proposed regulations is Philip Scott of the Office of Assistant Chief Counsel (Income Tax and Accounting), Internal Revenue Service. However, personnel from other offices of the Service and Treasury Department participated in their development.

List of Subjects

26 CFR 1.6031–1 through 1.6060–1

Income taxes, Reporting and recordkeeping requirements

26 CFR Part 602

Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, title 26, chapter 1, parts 1 and 602 of the Code of Federal Regulations are proposed to be amended as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

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

Authority: 26 U.S.C. 7805 * * * Section 1.6050I–1 also issued under 26 U.S.C. 6050I.

Par. 2. Section 1.6050I–1 is amended by revising paragraphs (c)(1) and (g), by redesignating paragraphs (c)(2), (c)(3), and (c)(4) as paragraphs (c)(6), (c)(7), and (c)(8) respectively, and by adding new paragraphs (c)(2) through (c)(5) to read as follows:

§ 1.6050I–1 Returns relating to cash in excess of $10,000 received in a trade or business.

* * * * *

(c) *Meaning of terms.* The following definitions apply for purposes of this section—

(1) *Cash*—(i) *Amounts received prior to* [*Insert date 60 days after date on which final regulations are published*].

For amounts received prior to [*Insert date 60 days after date on which final regulations are published*], the term "cash" means the coin and currency of the United States or of any other country, which circulate in and are customarily used and accepted as money in the country in which issued.

(ii) *Amounts received on or after* [*Insert date 60 days after date on which final regulations are published*]. For amounts received on or after [*Insert date 60 days after date on which final regulations are published*], the term "cash" means—

(A) The coin and currency of the United States or of any other country, which circulate in and are customarily used and accepted as money in the country in which issued; and

(B) A cashier's check, bank draft, traveler's check, or money order having a face amount of not more than $10,000—

(*1*) Received in a designated reporting transaction as defined in paragraph (c)(1) (iii)) of this section (except as provided in paragraphs (c)(1)(iv), (v), and (vi) of this section), or

(*2*) Received in any transaction in which the recipient knows that such instrument is being used in an attempt to avoid the reporting of the transaction under section 6050I and this section.

(iii) *Designated reporting transaction.* A designated reporting transaction is a retail sale (or the receipt of funds by a broker or other intermediary in connection with a retail sale) of—

(A) A consumer durable,

(B) A collectible, or

(C) A travel or entertainment activity.

(iv) *Exception for certain loans.* A cashier's check, bank draft, traveler's check, or money order received in a designated reporting transaction is not treated as cash pursuant to paragraph (c)(1)(ii)(B)(*1*) of this section if the instrument constitutes the proceeds of a loan from a bank (as that term is defined in 31 CFR part 103). The recipient may rely on a copy of the loan document, a written statement from the bank, or similar documentation to substantiate that the instrument constitutes loan proceeds.

(v) *Exception for certain installment sales.* A cashier's check, bank draft, traveler's check, or money order received in a designated reporting transaction is not treated as cash pursuant to paragraph (c)(1)(ii)(B)*(1) of this section if the instrument is received in payment on a promissory note or an installment sales contract. However, the preceding sentence applies only if—*

(A) Promissory notes or installment sales contracts with the same or substantially similar terms are used in the ordinary course of the recipient's trade or business in connection with retail sales; and

(B) The total amount of payments with respect to the sale that are received on or before the 60th day after the date sof the sale does not exceed 50 percent of the purchase price of the retail sale.

(vi) *Exception for certain down payment plans.* A cashier's check, bank draft, traveler's check, or money order received in a designated reporting transaction is not treated as cash pursuant to paragraph (c)(1)(ii)(B)(*1*) of this section if the instrument is received pursuant to a payment plan requiring one or more down payments and the payment of the balance of the purchase price by the time of the sale. However, the preceding sentence applies only if—

(A) The recipient uses plans with the same or substantially similar terms in the ordinary course of its trade or business in connection with retail sales to ultimate consumers; and

(B) The instrument is received more than 60 days prior to the date of the sale.

(vii) *Examples.*—The following examples illustrate the definition of "cash" set forth in paragraphs (c)(1)(ii) through (vi) of this section.

Example 1. D, an individual, purchases gold coins from M, a coin dealer, for $13,200. D tenders to M in payment United States currency in the amount of $6,200 and a cashier's check in the face amount of $7,000 which D had purchased. Because the sale is a designated reporting transaction, the cashier's check is treated as cash for purposes of section 6050I and this section. Therefore, because M has received more than $10,000 in cash with respect to the transaction, M must make the report required by section 6050I and this section.

Example 2. E, an individual, purchases an automobile from Q, an automobile dealer, for $11,500. E tenders to Q in payment United States currency in the amount of $2,000 and a cashier's check payable to E and Q in the amount of $9,500. The cashier's check constitutes the proceeds of a loan from the bank issuing the check. The origin of the proceeds is evident from provisions inserted by the bank on the check. The sale of the automobile is a designated reporting transaction. However, under paragraph (c)(1)(v) of this section, because E has furnished Q documentary information establishing that the cashier's check constitutes the proceeds of a loan from the the bank issuing the check, the cashier's check is not treated as cash pursuant to paragraph (c)(1)(ii)(B)(*1*) of this section.

Example 3. F, an individual, purchases an item of jewelry from S, a retail jeweler, for $12,000. F gives S a personal check payable to S in the amount of $2,400 and pays the balance with a cashier's check payable to S in the amount of $9,600. Because the sale is a designated reporting transaction, the cashier's check is treated as cash for purposes of section 6050I and this section. However, because the personal check is not treated as cash for purposes of section 6050I and this section, S has not received more than $10,000 in cash in the transaction and no report is required to be filled under section 6050I and this section.

Example 4. G, an individual, purchases, a boat from T, a boat dealer, for $16,500. G pays T with a cashier's check payable to T in the amount of $16,500. The cashier's check is not treated as cash because the face amount of the check is more than $10,000. Thus, no report is required to be made by T under section 6050I and this section.

Example 5. H, an individual, arranges with W, a travel agent, for the chartering of a passenger aircraft to transport a group of individuals to a sports event in another city. H also arranges with W for hotel accommodations for the group, and for admission tickets to the sports event. In payment, H tenders to W money orders which H had previously purchased. The total amount of the money orders, none of which individually exceeds $10,000 in face amount, exceeds $10,000. Because the transaction is a designated reporting transaction, the money orders are treated as cash for purposes of section 6050I and this section. Therefore, because W has received more than $10,000 in cash with respect to the transaction, W must make the report required by section 6050I and this section.

(2) The term *consumer durable* means an item of tangible personal property of a type normally sold for personal consumption or use that can reasonably be expected to be useful for at least 1 year under ordinary usage and that has a sales price of more than $10,000. Thus, for example, a $20,000 automoblile is a consumer durable, but a $20,000 factory machine is not.

(3) The term *collectible* means an item described in paragraphs (A) through (D) of section 408(m)(2) (determined without regard to section 408(m)(3)).

(4) The term *travel or entertainment activity* means an item of travel or entertainment (within the meaning of § 1.274–2(b)(1)) pertaining to a single trip or event where the aggregate sales price of the item and all other items pertaining to the same trip or event that are sold in the same transaction (or related transactions) exceeds $10,000.

(5) For purposes of paragraph (c)(1)(iii) of this section, the term *retail sale* means any sale made in the course of a trade or business if that trade or business principally consists of making sales to ultimate consumers.

* * * * *

(g) *Cross-reference to penalty provisions*—(1) *Failure to file correct information return.* See section 6721 for civil penalties relating to the failure to file a correct return under section 6050I(a) and paragraph (a) of this section.

(2) *Failure to furnish correct statement.* See section 6722 for civil penalities relating to the failure to furnish a correct statement to identified persons under section 6050I(e) and paragraph (f) of this section.

(3) *Criminal penalities.* Any person who willfully fails to make a return or makes a false return under section 6050I and this section may be subject to criminal prosecution.

Par. 3. In paragraph (c)(7), as redesignated, of § 1.6050I–1, all references to paragraphs" (c)(3)(i)" and "(c)(3)(ii)" of § 6050I–1 are revised to read "(c)(7)(i)" and "(c)(7)(ii)" respectively.

Par. 4. In paragraph (c)(8), as redesignated, of § 1.6050I–1, all references to paragraphs "(c)(4)(i)" and "(c)(4)(ii)" of § 6050I–1 are revised to read "(c)(8)(i)" and "(c)(8)(ii)" respectively.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 5. The authority for part 604 continues to read:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 6. In the table in § 602.101(c), the control number for § 1.6050I–1 continues to read: "1.6050–1 . . . 1545–0892."

Michael J. Murphy,

Acting Commissioner of Internal Revenue.

[FR Doc. 91–11444 Filed 5–13–91; 8:45 am]

BILLING CODE 4830–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300230; FRL–3885–3]

RIN 2070–AC18 –

Poly(Vinylpyrrolidone/1-Eicosene) and Poly(Vinylpyrrolidone/1-Hexadecene); Tolerance Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that exemptions from the requirement of a tolerance be established for residues of the pesticide chemicals poly(vinylpyrrolidone/1-eicosene) (CAS Reg. No. 28211-18-9) when used as an inert ingredient (dispersing agent) and poly(vinylpyrrolidone/1-hexadecene) (CAS Reg. No. 63231-81-2) when used as an inert ingredient (dispersing agent) in pesticide formulations applied to growing crops and raw agricultural commodities after harvest. These proposed regulations were requested by the GAF Chemicals Corp. (GAF).

DATES: Comments, identified by the document control number [OPP-300230], must be received on or before June 14, 1991.

ADDRESSES: By mail, submit comments to: Public Information Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 246, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed as confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docket is available for public inspection in rm. 246 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Kerry Leifer, Registration Support Branch, Registration Division (H7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 726, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-5180.

SUPPLEMENTARY INFORMATION: At the request of GAF Chemicals Corp., 1361 Alps Rd., Wayne, NJ 07470, the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, proposes to amend 40 CFR part 180 by establishing exemptions from the requirement of a tolerance for poly(vinylpyrrolidone/eicosene) (CAS Reg. No. 28211-18-9) when used as an inert ingredient (encapsulation resin) and poly(vinylpyrrolidone/1-hexadecene) (CAS Reg. No. 63231-81-2) when used as an inert ingredient (dispersing agent) in pesticide formulations applied to growing crops and raw agricultural commodities after harvest.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

The data submitted in the petitions and other relevant material have been evaluated. As part of the EPA policy statement on inert ingredients published in the Federal Register of April 22, 1987 (52 FR 13305), the Agency established data requirements which will be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. Exemptions from some or all of these data requirements may be granted if it can be determined that the inert ingredient will not present an unreasonable risk of injury to health or the environment. The Agency has decided that the data normally required to support the proposed tolerance exemptions for poly(vinylpyrrolidone/1-eicosene) and poly(vinylpyrrolidone/1-hexadecene) will not need to be submitted. The rationale for this decision is described below.

In the case of certain chemical substances which are defined as "polymers" the Agency has established a set of criteria which identify categories of polymers that present low risk. These criteria (described in 40 CFR 723.250) limit potential risks by identifying polymers that are relatively unreactive and stable compared to other chemical substances. In addition, these criteria identify polymers that typically are not readily adsorbed. These properties generally limit a polymer's ability to cause adverse effects. In addition, these criteria exclude polymers about which little is known. The Agency believes that polymers meeting the criteria noted above will not present unreasonable risks to human health or the environment.

Poly(vinylpyrrolidone/1-eicosene) and poly(vinylpyrrolidone/1-hexadecene) conform to the definition of a polymer given in 40 CFR 723.250(b)(11) and meet the following criteria which are used to determine low-risk polymers:

1. The average molecular weight of poly(vinylpyrrolidone/1-eicosene) is 3,000. The average molecular weight of poly(vinylpyrrolidone/1-hexadecene) is 4,700. Substances with molecular weights greater than 400 are generally not readily absorbed through the intact skin, and substances with molecular

weights greater than 1,000 are generally not absorbed through the intact gastrointestinal (GI) tract. Chemicals not absorbed through the skin or GI tract are generally incapable of eliciting a toxic response.

2. Poly(vinylpyrrolidone/1-eicosene) and poly(vinylpyrrolidone/1-hexadecene) are not cationic polymers, nor are they reasonably anticipated to become cationic polymers in a natural aquatic environment.

3. Poly(vinylpyrrolidone/1-eicosene) and poly(vinylpyrrolidone/1-hexadecene) do not contain less than 32.0 percent by weight of the atomic element carbon.

4. Poly(vinylpyrrolidone/1-eicosene) and poly(vinylpyrrolidone/1-hexadecene) contain as an integral part of their composition the atomic elements carbon, hydrogen, nitrogen, and oxygen.

5. Poly(vinylpyrrolidone/1-eicosene) and poly(vinylpyrrolidone/1-hexadecene) do not contain as an integral part of their composition, except as impurities, any elements other than those listed in 40 CFR 723.250(d)(3)(ii).

6. Poly(vinylpyrrolidone/1-eicosene) and poly(vinylpyrrolidone/1-hexadecene) are not biopolymers, synthetic equivalents of biopolymers, or derivatives or modifications of biopolymers that are substantially intact.

7. Poly(vinylpyrrolidone/1-eicosene) and poly(vinylpyrrolidone/1-hexadecene) are not manufactured from reactants containing, other than as impurities, halogen atoms or cyano groups.

8. Poly(vinylpyrrolidone/1-eicosene) and poly(vinylpyrrolidone/1-hexadecene) do not contain reactive functional groups that are intended or reasonably anticipated to undergo further reaction.

9. Poly(vinylpyrrolidone/1-eicosene) and poly(vinylpyrrolidone/1-hexadecene) are not designed or reasonably anticipated to substantially degrade, decompose, or depolymerize.

Based upon the above information and a review of these chemical substances' uses, EPA has found that, when used in accordance with good agricultural practice, these ingredients are useful and do not pose a risk to human health or the environment. Therefore, it is proposed that the exemptions from the requirement of a tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulations. Comments must bear a notation indicating the document control number, [OPP-300230]. All written comments filed in response to this petition will be available in the Public Information Branch, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

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

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Agricultural commodities, Pesticides and pests, Recording and recordkeeping requirements.

Dated: May 6, 1991.

Stephanie R. Irene,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

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

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

2. In subpart D, new § 180.1104 is added, to read as follows:

§ 180.1104 Poly(vinylpyrrolidone/1-eicosene); exemption from the requirement of a tolerance.

Poly(vinylpyrrolidone/1-eicosene) (CAS Reg No. 28211-18-9), minimum average molecular weight 3,000, is exempted from the requirement of a tolerance when used as an inert ingredient (dispersing agent) for pesticides applied to growing crops or to raw agricultural commodities after harvest. The inert shall not constitute more than 10 percent by weight of any pesticide formulation. Registration of each new pesticide formulation incorporating this dispersing agent must be supported by residue data for the active ingredient(s).

3. In subpart D, new § 180.1105 is added, to read as follows:

§ 180.1105 Poly(vinylpyrrolidone/1-hexadecene); exemption from the requirement of a tolerance.

Poly(vinylpyrrolidone/1-hexadecene) (CAS Reg. No. 63231-81-2), minimum average molecular weight 4,700, is exempted from the requirement of a tolerance when used as an inert ingredient (dispersing agent) for pesticides applied to growing crops or to raw agricultural commodities after harvest. The inert shall not consititute more than 5 percent by weight of any pesticide formulation. Registration of each new pesticide formulation incorporating this dispersing agent must be supported by residue data for the active ingredient(s).

[FR Doc. 91–11170 Filed 5–14–91; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL MARITIME COMMISSION

46 CFR Parts 515, 525, 530, 560 and 572

[Docket Nos. 90–6 and 91–20]

Notice of Inquiry—Marine Terminal Operator Regulations and Exemption of Certain Marine Terminal Services Arrangements

AGENCY: Federal Maritime Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Maritime Commission discontinues Docket No. 90–6, Notice of Inquiry—Marine Terminal Regulations, and proposes to amend 46 CFR parts 515, 560 and 572 to conditionally exempt, pursuant to section 35 of the Shipping Act, 1916, and section 16 of the Shipping Act of 1984, certain marine terminal services arrangements from certain agreement filing requirements of the Shipping Act, 1916, the Shipping Act of 1984 and the Commission's implementing regulations thereunder, and to conditionally discountinue the Commission's tariff filing requirements for such matters.

DATES: Comments on or before July 15, 1991. Replies on or before August 13, 1991.

ADDRESSES: Send an original and fifteen copies of comments and replies to: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street,

NW., Washington, DC 20573, (202) 523–5725.

FOR FURTHER INFORMATION CONTACT: Bryant L. VanBrakle, Deputy Director, Bureau of Domestic Regulation, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523–5796.

SUPPLEMENTARY INFORMATION:

Background

The Shipping Act of 1984, 46 U.S.C. app. 1701–1720, ("1984 Act") and the Shipping Act, 1916, 46 U.S.C. app. 801, *et seq.*, ("1916 Act") (collectively, "Shipping Acts") govern the utilization of the marine terminal facilities and services that are provided in connection with oceanborne common carriage in U.S. foreign commerce (1984 Act) and certain oceanborne common carriage in the U.S. domestic offshore trades (1916 Act). The marine terminal operator ("MTO") is the entity which furnishes the marine terminal facilities and services which are subject to the Shipping Acts.[1] The Shipping Acts set forth standards governing activities among MTOs, between MTOs and common carriers, and between MTOs and shippers/consignees.[2] The Shipping Acts require certain classes of agreements involving MTOs to be filed with the Federal Maritime Commission ("Commission" or "FMC"),[3] and the Commission's regulations require MTOs to publish their rates, charges, rules and regulations in tariffs filed with the Commission.[4]

In 1986, the Commission learned that through-put rates assessed by MTOs for combined terminal services/stevedoring services arrangements generally were not being filed with the Commission.[5] The emergence of this practice, and the uncertainty in certain sectors of the industry as to the filing requirements applicable to this practice, prompted the Commission to issue a limited Waiver of Penalties ("Waiver") in 1986, which continues in effect today.[6]

Following the publication of the Waiver, the Commission instituted Fact Finding Investigation No. 17, Rates, Charges and Services Provided at Marine Terminal Facilities ("FF–17") to examine practices in the MTO industry. Former Commissioner Moakley's August 31, 1988 Report of Fact Finding Officer ("Report") in FF–17 concluded that the Commission should either expand or contract its current MTO regulations to accommodate the practice of combining terminal services and stevedoring services under a single transaction.[7]

The Report proposed a restructuring of the Commission's regulations to base filing requirements upon the involved terminal's ownership/control/location characteristics (Recommendation No. 1 of the Report).[8] The Report envisioned an expansion of filing requirements for facility-owning/controlling MTOs ("FOMTOs") to include the stevedoring component of a combined services transaction; and discontinuing filing requirements for (1) non-facility-owning/controlling MTOs ("Non-FOMTOs") and (2) 'Off-pier", non-waterfront MTOs, irrespective of either the functions they perform or their ownership/control of the involved facilities.

The Inquiry

In order to narrow—to the extent practicable—the wide range of issues involved in implementing the Report's recommended restructuring of the Commission's MTO regulations, the Commission discontinued FF–17 and instituted Docket No. 90–6, Notice of Inquiry—Marine Terminal Regulations ("Inquiry").[9] The Inquiry solicited comment on:

(A) The restructurings evisioned under:

(1) The Report's recommendation;

(2) A "full filing exemption" alternative; [10]

(3) A "full disclosure" alternative; [11] and

(4) Any other alternatives that may be viable approaches.

(B) Filing requirements for tariffs reflecting Non-FOMTO conference activity;

(C) The treatment of Off-pier MTOs;

(D) Suggestions for updating the Commission's definitions of marine terminal facilities under 46 CFR part 515;

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[1] Sec. 3(15) of the 1984 Act, 46 U.S.C. app. 1702(15), defines an MTO as:

"* * * a person engaged in the United States in the business of furnishing wharfage, dock, warehouse, or other terminal facilities in connection with a common carrier."

MTOs are included in the definition of "other person" in sec. 1 of the 1916 Act, 45 U.S.C. app. 801. The term "other person" is defined in pertinent part as:

"* * * any person not included in the term common carrier by water, in interstate commerce, carrying on the business of * * * furnishing wharfage, dock, warehouse, or other terminal facilities in connection with a common carrier by water in interstate commerce."

[2] See generally sections 6 and 10 of the 1984 Act, 46 U.S.C. app. 1705, 1709; sections 15, 16 First and 17 of the 1916 Act, 46 U.S.C. app. 814–816.

[3] See sections 4, 5 and 6 of the 1984 Act, 46 U.S.C. app. 1703–1705; section 15 of the 1916 Act, 46 U.S.C. app. 814. The Commission's implementing regulations are set forth in 46 CFR parts 572 (1984 Act) and 560 (1916 Act).

[4] See 46 CFR parts 515, 525 and 530.

[5] "Stevedoring" traditionally has been considered to be the business of hiring and furnishing longshore labor and related facilities and equipment for the transfer of cargo between a vessel and a "point of rest" on a marine terminal facility (the "point of rest" is the place at which inbound cargo is tendered for delivery to the consignee and outbound cargo is received from shippers for loading on a vessel). The status of stevedores is not specifically addressed under the Shipping Acts. Stevedores have not been held to be subject to the Commission's MTO filing requirements, provided that their services are limited to stevedoring and do not include either furnishing the terminal facilities upon which the stevedoring is performed, or furnishing terminal services involving the handling of cargo elsewhere than between the vessel and the "point of rest".

[6] June 25, 1986 Notice of Waiver of Penalties (51 FR 23154); October 15, 1986 Supplemental Notice of Waiver of Penalties (51 FR 36755); May 19, 1987 Second Supplemental Notice of Waiver of Penalties (52 FR 18744). The Waiver provides that the Commission will not assess penalties against those that fail to file agreements or tariffs setting forth rates and charges for terminal services performed for common carriers by water. The Commission intends to discountinue the Waiver if a final rule is issued in this proceeding.

[7] This was based on the finding that regulating only the "terminal" portion of combined services would not be a viable approach because regulation of one portion of the combined services would be meaningless if the other were to remain unregulated.

[8] The Report also recommended that the Commission reinforce its regulation of marine terminal conference/interconference and discussion agreements (Recommendation No. 2); authorize the staff to utilize FF–17's record for purposes of the Commission's 1989 Section 18 Report (Recommendation No. 3); and continue the Waiver until final disposition of the Report's recommendations (Recommendation No. 4). These latter three recommendations were adopted by the Commission at the time it instituted the Inquiry.

[9] The Inquiry was served February 12, 1990 (55 FR 5626 (February 16, 1990)); by order served March 13, 1990, the comment period was extended to May 17, 1990 (55 FR 10259 (March 20, 1990)); by order served May 11, 1990, the comment period was again extended to May 31, 1990 (55 FR 20482 (May 17, 1990)).

[10] This alternative would exempt *all* MTOs (FOMTOs as well as Non-FOMTOs/Off-pier MTOs) from *all* filing requirements for marine terminal facilities and marine terminal services, including the stevedoring services provided by MTOs under combined terminal services/stevedoring services arrangements.

[11] *I.e.*, complete disclosure of *all* MTO activities and practices subject to the Shipping Acts, including the stevedoring component of combined terminal services/stevedoring services arrangements. This alternative is the one most similar to current requirements. The Commission requested that comments on this alternative also address: (1) Handling such transactions on a simplified basis whereby disclosure could be accomplished through the tariff filing process, instead of the current agreement filing Federal Register notice process; and (2) permitting tariff deviations to accommodate particular single-event or short-term requirements of individual shippers/consignees, on condition that such deviations be referenced in the MTO's tariff (within 7–15 days of occurrence, for example) for the benefit of similarly-situated shippers/consignees.

(E) The desirability of recodifying the Commission's MTO tariff and agreement rules under the same CFR part; and

(F) Suggestions and comment on any additional proposals or considerations which may aid the Commission in restructuring its MTO agreement and tariff rules.

Comments

The Inquiry elicited twenty-eight comments from a broad variety of port, private-sector MTO/stevedore and carrier interests.[12] Other than for general concurrence that (1) The Commission should update and recodify its MTO regulations; and (2) tariffs reflecting Non-FOMTO conference activity should continue to be filed as a necessary *quid pro quo* for antitrust immunity, no industry-wide consensus emerged on the Inquiry's issues. Positions within major sectors of the industry were often diametrically opposed on particular issues.

The exemption of terminal/stevedoring activity on the basis of facility ownership/control/location characteristics envisioned under the Report was supported by some private-sector MTO interests, but was opposed by most (but not all) ports. On the one hand, many private-sector MTOs support either this approach, or a total exemption of terminal services and stevedoring services arrangements from filing requirements (*i.e.*, the "full filing exemption").

On the other hand, many ports oppose the exemption of terminal/stevedoring activity on the basis of facility ownership/control/location characteristics. Several assert that an approach that would subject them to continued filing requirements, while relieving their private-sector competitors from filing, would place ports at a significant competitive disadvantage.

The "full filing exemption" alternative enjoyed even stronger private-sector MTO support, but was opposed by most (but not all) ports.

There was little support for the "full disclosure" alternative; however, the American Association of Port Authorities suggested a parallel approach. Private-sector MTOs argued adamantly against any approach that would result in the disclosure of their stevedoring activities and tended to favor a filing exemption for terminal services furnished to carriers.

Discussion

The Commission has carefully considered all of the comments received in response to the Inquiry. The wide divergence of views on the Inquiry's issues indicates that none of the alternatives represented would be fully responsive to all of the commenters' concerns. Nonetheless, the comments generally agree with the Report's conclusion that the Commission's rules should be restructured to address combined terminal services/stevedoring services arrangements, and the Commission has determined to proceed to that end.

1. The Proposed Rule

The rule proposed in this proceeding establishes a filing exemption modeled after the Waiver of Penalties. It also modifies Part 515 to remove the tariff filing requirement for terminal services provided directly to and paid for by common carriers.

A restructuring along the lines of the current Waiver was not proffered for comment in the Inquiry. However, the Commission considers it noteworthy that no substantive complaints of activity in violation of the Shipping Acts occurring under the cover of the Waiver have been filed during the period the Waiver has been in effect. Moreover, there have been no complaints that the Waiver has been operating in a manner unduly denying access to the regulatory process administered by the Commission.

Indeed, substantial competition appears to exist in the marine terminal industry. Because we have no indication that this competition is disruptive or destructive, we believe that it should not be discouraged. It appears that a restructuring of the Commission's filing requirements along the lines of the Waiver would accomplish that objective in a manner which both accommodates contemporary practices in the industry and represents a proper, equitable and workable balance between the concerns expressed by the commenters and the Commission's administration of its Shipping Act responsibilities.

This approach should impact all classes of MTOs uniformly. Additionally, it avoids an approach that could either be unduly burdensome in accommodating short-term operational requirements, or unnecessarily compromise *bona fide* commercially-sensitive trade information which may be included in the involved rates, charges and conditions of service. Finally, the conditions attached to the filing exemption should provide adequate assurance that activity occurring under the cover of the exemption will comply with substantive Shipping Act standards. In short, the Commission believes that this Proposed Rule represents an approach in keeping with the balance suggested by section 2(1) of the 1984 Act.[13]

Accordingly, this proposed rule essentially codifies the current Waiver in the form of a conditional exemption with respect to the agreement filing requirements of the Shipping Acts. It also eliminates the tariff filing requirements of part 515 with respect to MTO/carrier relationships. Both proposals are limited to transactions between MTOs and common carriers by water relating to marine terminal services (and the terminal facilities which may be furnished incidentally in connection with such services) which are provided directly to and are paid for by the involved carrier. Unlike the approach recommended in the Report, the involved terminal's ownership/control/location characteristics would have no bearing on determining filing requirements.

The proposed rule's exemption from filing does not apply to rates, charges, rules and regulations determined through marine terminal conference agreements as defined in 46 CFR 560.307(b) and 572.307(b) (this class of agreements has binding rate authority). However, the Commission also solicits comment on the following alternatives with regard to the exemption's treatment of rates, charges, rules and regulations collectively determined through conference, discussion or interconference agreements:

(a) Further limiting the exemption to also exclude rates, charges, rules and regulations determined through marine terminal discussion and interconference agreements as defined in 46 CFR 560.307 (c) and (d) and 572.307 (c) and (d), respectively. (these

[12] Comments were filed by the American Association of Port Authorities; the California Association of Port Authorities; the Foreign Shipowners Association of the Pacific Coast; International Transportation Service, Inc.; the Master Contracting Stevedore Association of the Pacific Coast, Inc.; the National Association of Stevedores; the Stevedore/Marine Terminal Operator Members of the New Orleans Steamship Association Marine Terminal Discussion Agreement; the Northwest Marine Terminal Association; Stevedoring Services of America; the Terminal Operators Conference of Hampton Roads; the West Gulf Maritime Association; the Alabama State Docks Department; the Port of Port Angeles; the Port of Beaumont; the Port of Bellingham; the Massachusetts Port Authority; the Port Authority of New York and New Jersey; the Port of Olympia; the Port of Palm Beach District; the Port of Portland, Oregon; the Port of Sacramento; the Port of Seattle; the Port of Stockton; the Port of Tacoma; the Tampa Port Authority; the Virginia Port Authority; American President Lines, Ltd. and Eagle Marine Services, Ltd.; and Sea-Land Service, Inc.

[13] Section 2(1) in pertinent part provides that the Act's purposes include establishing "* * * a nondiscriminatory regulatory process * * * with a minimum of government intervention and regulatory costs * * *."

classes of agreements do not have binding rate authority); or

(b) Removing all limitations with regard to the exemption of collectively-determined rates, charges, rules and regulations.

The exemption is also limited by several conditions, which the Commission has determined to be necessary in order to meet the criteria set forth in its exemption authority under section 35 of the 1916 Act, 46 U.S.C. app. 833a, and section 16 of the 1984 Act, 46 U.S.C. app. 1715.[14] Thus, the exemption does not confer Shipping Act antitrust immunity to an exempted arrangement or activity.[15] Also, there are a number of agreements currently on file with the Commission that would be eligible for exemption under the proposed rule. In order to ensure that agreements which are on file with the Commission pursuant to the Shipping Acts accurately reflect the parties' present understanding, the exemption provided under the proposed rule does not extend to modifications of agreements which are on file with the Commission. Parties wishing to avail themselves of the exemption under the proposed rule with regard to modifications to agreements previously filed with the Commission could do so after formally withdrawing such agreements and any prior modifications.

With regard to the exemption from the Shipping Acts' agreement filing requirements, 46 CFR 560.301 and 572.301 already require exempted agreements to be retained by the parties and made available to the Commission's staff for inspection during the term of the agreement and for a period of three years after its termination. The proposed rule establishes a parallel requirement with regard to activity removed from the Commission's marine terminal tariff filing requirements under part 515.

It should be emphasized that the proposed rule only provides for relief from filing requirements. It does not grant an exemption from the substantive Prohibited Acts standards set forth under section 10 of the 1984 Act, 46 U.S.C. app. 1709; or from the so-called "general standard" under section 6(g) of the 1984 Act, 46 U.S.C. app. 1705; or from the counterparts to these standards under sections 15, 16 First and 17 of the 1916 Act, 46 U.S.C. app. 814–816.[16] Thus, the Commission will retain its authority to adjudicate formal complaints of Shipping Act violations with regard to activity occurring under an unfiled agreement or tariff.

It is also important to note that the exemption in this proposed rule does not extend to leases, licenses, assignments, permits or other arrangements of a similar nature between an MTO and a common carrier by water for the use of the marine terminal facilities upon which the exempted terminal services are conducted. Nor does the proposed rule extend to tariffs setting forth the rates, charges, rules and regulations governing the marine terminal facilities and services provided to shippers and consignees. MTOs must continue to file such tariffs with the Commission, as presently set forth in 46 CFR part 515.

2. An Alternative

The Commission is also inviting comments on an alternative to the proposal contained in the rule set forth in this proceeding ("Alternative Proposal"). The Alternative Proposal would provide an exemption from agreement filing on the condition that (1) the tariff of the involved MTO list (a) the cargo-handling services and related terminal facilities provided under the exempted arrangements and (b) the minimum/maximum range of rates and charges actually assessed for such services and facilities;[17] and (2) any changes in either of these elements be published in the MTOs' tariff and filed with the Commission no later than one week after the change's occurrence.

The proposed rule would not change current tariff filing requirements with regard to marine terminal facilities and services provided to shippers and consignees. However, the Alternative Proposal would authorize tariff deviations for terminal facilities and services that are provided directly to and are paid for directly by shippers and consignees, on condition that such deviations be published in the involved MTOs' tariff and filed with the Commission within one week of occurrence and made available to similarly-situated shippers/consignees.

The Commission invites comment on the Alternative Proposal and hereby gives notice that it may incorporate or substitute parts or all of its requirements in any final rule. However, if meritorious suggestions for an approach other than that reflected in the proposed rule or the Alternative Proposal are received, the Commission will afford an opportunity for comment thereon prior to adoption of such an approach.

3. Jurisdictional Basis for MTO Tariff Filing Requirements under the 1984 Act

In its comments on the Inquiry, the National Association of Stevedores ("NAS") asserts that the Commission may not have the same specific authorities under the 1984 Act that it held under the 1916 Act to require the filing of MTO tariffs. It states that the two statutory bases in the 1916 Act for the Commission's MTO tariff filing requirements, *i.e.*, sections 17 and 21, are not the same as their counterparts under the 1984 Act. Specifically, NAS notes that, unlike section 17 of the 1916 Act,[18] section 10(d)(1) of the 1984 Act [19] does not authorize the Commission to "determine, prescribe and order enforced" just and reasonable cargo-handling regulations and practices; and,

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[14] The Shipping Acts' exemption standards require the Commission to find that an exemption will not substantially impair effective regulation by the Commission, be unjustly discriminatory, result in a substantial reduction in competition (1984 Act only), or be detrimental to commerce.

[15] Given the fact that the activity addressed by this proposed rule occurs exclusively within the United States, and in the absence of any compelling arguments to the contrary, the Commission believes that the removal of antitrust immunity appears to be appropriate under these circumstances. The legislative history of the 1984 Act indicates that a removal of antitrust immunity is among the conditions the Commission may impose on a section 16 exemption:

"* * * the Commission (may) impose conditions upon such an exemption, including the partial or total removal of antitrust immunity for agreements or conduct that might be exempted from filing requirements."

See *Cong. Rec.* H 8125 (October 6, 1983); H. Rept. 98-600, p. 42.

The Commission solicits comments on whether it should allow those desiring 1984 Act antitrust immunity for activity otherwise eligible for the filing exemption under the proposed rule to file under the waiting period exemption currently set forth at 46 CFR 572.307.

[16] In particular, it should be noted that the change made with regard to terminal tariff filing requirements under 46 CFR part 515 does not authorize the unilateral imposition by MTOs of exculpatory clauses of a nature prohibited by 46 CFR 515.7.

[17] The range of such rates and charges could be expressed as a lump-sum, throughput rate which includes all cargo-handling services, or the cargo-handling services could be individually broken out, at the option of the involved MTO. As noted at page 28 of the Report, a requirement to separate the terminal portion of a throughput charge from the stevedoring portion would likely produce "arbitrary, meaningless figures." The Alternative Proposal would not require the MTO's tariff to identify, on a carrier-by-carrier basis, the individual carrier being assessed a particular rate or charge.

[18] Section 17 of the 1916 Act, 46 U.S.C. app. 816, provides:

"Every person subject to this act shall establish, observe, and enforce just and reasonable regulations and practices relating to or connected with the receiving, handling, storing, or delivering of property. Whenever the board finds that any such regulation or practice is unjust or unreasonable it may determine, prescribe, and order enforced a just and reasonable regulation or practice."

[19] Section 10(d)(1) of the 1984 Act, 46 U.S.C. app. 1709, provides, in pertinent part:

"No * * * marine terminal operator may fail to establish, observe, and enforce just and reasonable regulations and practices relating to or connected with receiving, handling, storing, or delivering property."

unlike section 21 of the 1916 Act,[20] section 15 of the 1984 Act does not authorize the Commission to require MTOs to "file with it * * * any periodical or special report or any account, rate, or charge, or any memorandum of any facts appertaining to" its business.[21]

Differences do exist between the provisions of the 1916 and 1984 Acts in the areas noted by NAS. The Commission does not believe, however, that these differences between the 1916 and 1984 Acts legally preclude the Commission from requiring the filing of MTO tariffs.

Although it would appear that the reporting requirements of section 15 of the 1984 Act may not directly apply to MTOs,[22] when the Commission adopted its tariff filing rules for MTOs in 1965, it relied upon both sections 17 and 21 of the 1916 Act. The 1916 Act section 17 requirement has been carried forward under section 10(d)(1) of the 1984 Act.[23] Moreover, section 17 of the 1984 Act authorizes the Commission to prescribe the rules and regulations necessary to carry out the 1984 Act.

Finally, a statement in the 1984 Act's Conference Report, House Report 98–600 (February 23, 1984), page 39, indicates that Congress believes that the 1984 Act authorizes the Commission to require MTOs to file tariffs:

> Pursuant to its responsibilities under the Shipping Act of 1916, the Federal Maritime Commission has, by regulation, required the filing of terminal tariffs by persons engaged in carrying on the business of furnishing wharfage, dock, warehouse or other terminal facilities. (citation deleted) If the Commission continues this requirement, the conferees intend that forest products, bulk cargo, and recyclable metal scrap, waste paper, and paper waste not be included within the ambit of any such requirement. (Emphasis supplied)

Given the MTO standards entrusted to the Commission's administration, together with the Commission's general rulemaking authority, the Commission is of the opinion that it has authority under the 1984 Act to continue the MTO tariff-filing requirements established under the 1916 Act.

4. Updating the Commission's Definition of Marine Terminal Facilities under 46 CFR part 515

Several commenters recommend retention of the Commission's current definitions of terminal facilities. Others urge revising or updating these definitions.

"[P]ort terminal facilities" are defined under 46 CFR 515.6(b). The definitions under this heading have not been changed since the MTO tariff rules first became effective over twenty-five years ago. The industry has evolved considerably over this period with the advent of intermodalism. This evolution has resulted in an expansion of the facilities that can be conceptually considered to be "marine terminal facilities" for the purposes of the Shipping Acts, *e.g.*, off-pier marine terminals. This, together with the apparent industry support for such a clarification, indicates that these definitions could be updated to reflect contemporary operations to the extent practicable.[24]

The proposed rule does not set forth updated definitions for marine terminal facilities. However, in the interest of focusing comments on the merits of the exemption being proposed in this proceeding, the Commission intends to address the definitions in part 515 as necessary in a separate proceeding once the comments on the exemption proposed herein have been evaluated.

5. Recodification of MTO Tariff and Agreement Rules

There was general support in the comments filed in the *Inquiry* for updating and recodifying the Commission's MTO rules. Commission rules applicable to MTOs, which generally have been developed independently over the past twenty-five years, are distributed through five parts (parts 515, 525, 530, 560 and 572) located under three subchapters (subchapters B, C and D) of chapter IV of title 46 of the Code of Federal Regulations. Although the subject matter and requirements of many of these rules are often interdependent, their utility and comprehensibility may be impaired somewhat by the fact that cross-referencing is minimal.[25]

Therefore, recodification of MTO rules under the same CFR subchapter,[26] with clear statements of filing obligations and content requirements with regard to tariffs, practices and agreements, could significantly enhance the utility and effectiveness of the Commission's rules in this area. The Commission intends to proceed with such a recodification once the comments on the exemption in this proposed rule have been evaluated.

Although the Commission, as an independent regulatory agency, is not subject to Executive Order 12291, dated February 17, 1981, it has nonetheless reviewed the rule in terms of this Order and has determined that this rule is not a "major rule" because it will not result in:

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

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

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

The Federal Maritime Commission certifies, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C.

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[20] Section 21 of the 1916 Act, 46 U.S.C. app. 820, provides in pertinent part:

"* * * the Federal Maritime Commission * * * may require any * * * other person subject to this Act, or any officer, receiver, trustee, lessee, agent, or employee thereof, to file with it * * * any periodical or special report or any account, record, rate, or charge, or any memorandum of any facts and transactions appertaining to the business of such * * * other person subject to this Act."

[21] Section 15 of the 1984 Act, 46 U.S.C. app. 1714, provides, in pertinent part:

"The Commission may require any common carrier, or any officer, receiver, trustee, lessee, agent, or employee thereof, to file with it any periodical or special report or any account, record, rate, or charge, or memorandum of any facts and transactions appertaining to the business of that common carrier."

[22] However, section 15(a) of the 1984 Act could be interpreted to extend indirectly to MTOs to the extent that they can be considered to be "agents" of a common carrier in enabling the carrier to fulfill its common carriage obligations with regard to receiving cargo from shippers and tendering cargo for delivery to consignees.

[23] Therefore we do not necessarily concede NAS' assertion regarding the legal limits to the Commission's authority of section 10(d)(1) of the 1984 Act.

[24] The Port of Portland, Oregon, suggests that the Commission form a committee representing various ports and other MTOs from all port ranges to suggest definitions more in keeping with current common usage (Portland Comments, page 6). The American Association of Port Authorities ("AAPA") suggests that the Commission may want to consider a separate effort, through a task force or study group (involving the industry to whatever extent appropriate), to examine and revise the definitions contained in its regulations (AAPA Comments, page 9). Any Commission-sponsored group might involve the procedural requirements of the Federal Advisory Committee Act. The Commission does not, at least at the present time, intend to establish such a group.

[25] For example, the uncertainty which led to the Waiver, FF–17, the Report and the Inquiry may be at least partially attributable to the statement in 46 CFR 515.3 that rates and charges for terminal services performed for water carriers pursuant to negotiated contracts need not be filed in MTO tariffs. Although the Commission has interpreted 46 CFR 560.201 (1916 Act) and 572.201(b) (1984 Act) to require such negotiated contracts to be filed with the Commission as agreements if they are not set forth in a tariff, the language of the existing MTO rules is not as clear as it might be on this point.

[26] Further analysis of the recodification issue indicates that it may be preferable, for the purposes of CFR indexing, organization and overall utility to the industry, to recodify under a single CFR subchapter rather than under a single CFR part, as originally suggested.

605(b), that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units or small governmental organizations.

The collection of information requirements contained in this rule have been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act of 1980, as amended. Public reporting burden for this collection of information is estimated to vary from one to three hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the colleciton of information. Send comments regarding the burden estimate to any other aspect of this collection of information, including suggestions for reducing this burden, to John Robert Ewers, Director, Bureau of Administration, Federal Maritime Commission, Washington, DC 20573 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Maritime Commission, Washington, DC 20503.

Interested parties are urged to take advantage of the opportunity to reply in the second round of comments. This will provide the Commission some industry input regarding suggestions made in the initial round, particularly on any comments addressing the alternative proposals set forth in the above Supplementary Information. Submissions for the second round shall be limited to replies to initial comments.

To facilitate the filing of reply comments, parties filing reply comments are required to serve a copy of their replies on all other commenters. The Secretary of the Commission will provide a service list for this purpose shortly after completion of the initial round of comments.

List of Subjects in 46 CFR Parts 515, 525, 530, 560 and 572

Antitrust, Contracts, Maritime carriers, Administrative practice and procedure, Rates and fares, Reporting and recordkeeping requirements.

Therefore, pursuant to 5 U.S.C. 553; sections 5, 16, and 17 of the Shipping Act of 1984, 46 U.S.C. app. 1704, 1715 and 1716; and sections 15, 16, 17, 35 and 43 of the Shipping Act, 1916, 46 U.S.C. app. 814–816, 833a and 841a, the Commission proposes to amend parts 515, 560 and 572 of the Code of Federal Regulations as follows:

PART 515—[AMENDED]

1. The authority citation to part 515 is revised to read:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 816, 820, 833a, 841a, 1709, 1714, 1715 and 1716.

§ 515.3 [Amended]

2. Section 515.3 is amended to remove the phrase in the last sentence which reads "* * * for terminal services performed for water carriers pursuant to negotiated contracts, and * * *." and to redesignate the section as § 515.3(a).

3. Section 515.3 is amended by adding paragraphs (b) and (c) to read as follows:

* * * * *

(b) Rates, charges, rules and regulations governing terminal services provided directly to and paid for directly by common carriers by water need not be filed for the purposes of this part, provided that:

(1) Such rates, charges, rules and regulations are not determined through a marine terminal conference agreement, as defined in 46 CFR 560.307(b) and 572.307(b); and

(2) A certified true accounting of the rates, charges, rules and regulations (and any modification thereto) shall be furnished to the Director of the Commission Bureau responsible for terminal operations within 30 days of any written request by the Director.

(c) Rates, charges, rules and/or regulations which but for § 515.3(b) would be subject to the tariff-filing requirements of this part may not unilaterally impose exculpatory provisions of a nature prohibited by § 515.7.

PART 560—[AMENDED]

1. The authority citation to part 560 continues to read:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 814, 817(a), 820, 821, 833a and 841a.

2. A new § 560.308 is added to read as follows:

§ 560.308 Marine terminal services agreements—exemption.

(a) *Marine terminal services agreement* means an agreement, understanding, arrangement or association, written or oral (including any modification, cancellation or appendix) between a marine terminal operator and a common carrier by water in interstate commerce that applies solely to marine terminal services as defined in 46 CFR 515.6 (including any marine terminal facilities which may be provided incidentally to such marine terminal services) that are provided directly to and paid for directly by a common carrier by water in interstate commerce. The term "marine terminal services agreement" does not include any agreement (or any modification to any agreement) previously filed with the Commission pursuant to the Shipping Act, 1916, unless said agreement, together with all previously-filed modifications, have been formally withdrawn.

(b) All marine terminal services agreements as defined in § 560.308(a) are exempt from the filing and approval requirements of section 15 of the Shipping Act, 1916, and part 560 of this chapter on condition that they do not include rates, charges, rules and regulations which are determined through a marine terminal conference agreement, as defined in 46 CFR 560.307(b).

PART 572—[AMENDED]

1. The authority citation to part 572 continues to read:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 1701–1707, 1709–1710, 1712 and 1714–1717.

2. A new § 572.310 is added to read as follows:

§ 572.310 Marine terminal services agreements—exemption.

(a) *Marine terminal services agreement* means an agreement, understanding, arrangement or association, written or oral (including any modification, cancellation or appendix) between a marine terminal operator and an ocean carrier that applies solely to marine terminal services as defined in 46 CFR 515.6 (including any marine terminal facilities which may be provided incidentally to such marine terminal services) that are provided directly to and paid for directly by an ocean common carrier. The term "marine terminal services agreement" does not include any agreement (or any modification to any agreement) previously filed with the Commission pursuant to the Shipping Act of 1984, unless said agreement, together with all previously-filed modifications, have been formally withdrawn.

(b) All marine terminal services agreements as defined in § 572.310(a) are exempt from the filing and waiting period requirements of sections 5 and 6 of the Shipping Actof 1984 and part 572 of this chapter, on condition that:

(1) They do not include rates, charges, rules and regulations which are determined through a marine terminal conference agreement, as defined in 46 CFR 572.307(b); and

(2) No antitrust immunity is conferred pursuant to section 7 of the Shipping Act

of 1984, 46 U.S.C. app. 1706, with regard to terminal services provided to a common carrier by water under a marine terminal services agreement which is not filed with the Commission pursuant to the exemption provided by § 572.310(b).

It is Ordered, That Docket No. 90–6, *Notice of Inquiry—Marine Terminal Regulations,* is hereby discontinued.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 91–11300 Filed 5–14–91; 8:45 am]

BILLING CODE 6730–01–M

Notices

Federal Register
Vol. 56, No. 94
Wednesday, May 15, 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

Animal and Plant Health Inspection Service

[Docket No. 91-030]

Pseudorabies in Swine; Approved Testing Laboratories

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are listing laboratories approved to perform the OmniMark PRV-Pseudorabies Virus gpIII test, an approved differential pseudorabies test.

FOR FURTHER INFORMATION CONTACT: Dr. W.C. Stewart, Chief Staff Veterinarian, Swine Diseases Staff, VS, APHIS, USDA, room 735, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-7767.

SUPPLEMENTARY INFORMATION: The regulations governing the interstate movement of swine because of pseudorabies (9 CFR part 85) were revised by a final rule published in the Federal Register on May 9, 1990 (55 FR 19245-19253, Docket No. 89-211). The final rule provided provisions for using approved differential pseudorabies tests for determining the disease status of herds of swine. The revised regulations state that approved differential pseudorabies tests may be conducted only in laboratories approved by the Administrator. The revised regulations further state that laboratories approved to conduct these tests will be listed in a notice published in the Federal Register.

Accordingly, we are listing laboratories approved to perform the OmniMark PRV-Pseudorabies Virus gpIII test, an approved differential pseudorabies test. The following laboratories were approved, as of January 22, 1991, to perform this test:

Veterinary Diagnostic and Investigational Laboratory; Tifton, Georgia.

Animal Disease Laboratory; Galesburg, Illinois.

Animal Disease Diagnostic Laboratory; West Lafayette, Indiana.

Veterinary Diagnostic Laboratory; Ames, Iowa.

Veterinary Diagnostic Center; Lincoln, Nebraska.

Texas A&M Veterinary Diagnostic Laboratory; Amarillo, Texas.

Authority: 21 U.S.C. 111, 112, 113, 115, 117, 120, 121, 123-126, 134b, 134f, 7 CFR 2.17, 2.51, and 371.2(d).

Done in Washington, DC, this 9th day of May 1991.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 91-11514 Filed 5-14-91; 8:45 am]
BILLING CODE 3410-34-M

Forest Service

Eastern Region; Illinois, Indiana and Ohio, Michigan, Minnesota, Missouri, New Hampshire and Maine, Pennsylvania, Vermont and New York, West Virginia, and Wisconsin; Appealable Decisions

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: Deciding Officers in the Eastern region will publish notice of decisions subject to administrative appeal under 36 CFR part 217 in the legal notice section of the newspapers listed in the Supplementary Information section of this notice. As provided in 36 CFR 217.5, such notice shall constitute legal evidence that the agency has given timely and constructive notice of decisions that are subject to administrative appeal. Newspaper publication of notices of decisions is in addition to direct notice to those who have requested notice in writing and to those known to be interested in or affected by a specific decision.

DATES: Use of these newspapers for purposes of publishing legal notices of decision subject to appeal under 36 CFR part 217 shall begin May 10, 1991.

FOR FURTHER INFORMATION CONTACT: Joni Sue Hanson, Regional Appeals Coordinator, Eastern Region, Reuss Federal Plaza, 310 West Wisconsin, Avenue, Milwaukee, Wisconsin 53203, Area Code 414-297-3661.

SUPPLEMENTARY INFORMATION: Deciding Officers in the Eastern Region will give legal notice of decisions subject to appeal under 36 CFR part 217 in the following newspapers which are listed by Forest Service administrative unit. Where more than one newspaper is listed for any unit, the first newspaper listed is the primary newspaper which shall be used to constitute legal evidence that the agency has given timely and constructive notice of decisions that are subject to administrative appeal. As provided in 36 CFR 217.5(d), the timeframe for appeal shall be based on the date of publication of a notice of decision in the primary newspaper.

Decisions by the Regional Forest

Milwaukee Journal, published daily in Milwaukee, Milwaukee County, Wisconsin, for decisions affecting National Forest System lands in the States of Illinois, Indiana and Ohio, Michigan, Minnesota, Missouri, New Hampshire and Maine, Pennsylvania, Vermont and New York, West Virginia, Wisconsin and for any decision of Region-wide impact.

Allegheny National Forest, Pennsylvania

Forest Supervisor Decisions

Warren Times Observer, Warren, Warren County, Pennsylvania.

District Rangers Decisions

Sheffield District: Warren Times Observer, Warren, Warren County, Pennsylvania.

Bradford District: Bradford Era, Bradford, McKean County, Pennsylvania.

Marienville District: Warren Times Observer, Warren, Warren County, Pennsylvania.

Oil City Derrick, Oil City, Venango County, Pennsylvania.

Ridgway District: Ridgway Record, Ridgway, Elk County, Pennsylvania.

Chequamegon National Forest, Wisconsin

Forest Supervisor Decisions

Milwaukee Sentinel, published daily in Milwaukee, Milwaukee County, Wisconsin.

District Rangers Decisions

Park Falls District: Park Falls Herald, published weekly in Park Falls, Price County, Wisconsin.

Glidden District: Glidden Enterprise, published weekly in Glidden, Ashland County, Wisconsin.

Washburn District: The Daily Press, published daily in Ashland, Ashland County, Wisconsin.

Hayward District: Sawyer County Record, published weekly in Hayward, Sawyer, County, Wisconsin.

Medford District: The Star News, published weekly in Medford, Taylor County, Wisconsin.

Chippewa National Forest, Minnesota

Forest Supervisor Decisions

Bemidji Pioneer, published daily in Bemidji, Beltrami County, Minnesota.

District Ranger Decisions

Blackduck District: Blackduck American, published weekly in Blackduck, Beltrami County, Minnesota.

Cass Lake District: Cass Lake Times, published weekly in Cass Lake, Cass County, Minnesota.

Deer River District: Western Itasca Review, published weekly in Deer River, Itasca County, Minnesota.

Marcell District: Western Itasca Review, published weekly in Deer River, Itasca County, Minnesota.

Walker District: Walker Pilot Independent, published weekly in Walker, Cass County, Minnesota.

Green Mountain National Forest, Vermont

Forest Supervisor Decisions

Rutland Herald, published daily in Rutland, Rutland County, Vermont.

District Rangers Decisions

Manchester District: Rutland Herald, published daily in Rutland, Rutland County, Vermont.

Bennington Benner, published daily in Bennington, Bennington County, Vermont.

Brattleboro Reformer, published daily in Brattleboro, Windham County, Vermont.

Rochester District: Rutland Herald, published daily in Rutland, Rutland County, Vermont.

Burlington Free Press, published daily in Burlington, Chittenden County, Vermont.

Middlebury District: Rutland Herald, published daily in Rutland, Rutland County Vermont.

Addison County Independent, published twice a week in Middlebury, Addison County, Vermont.

Finger Lakes National Forest, New York

Forest Supervisors & District Rangers (Hector District) Decisions

Ithaca Journal, published daily in Ithaca, Tempkins County, New York.

Hiawatha National Forest, Michigan

Forest Supervisor Decisions

Daily Press, published daily in Escanaba, Delta County, Michigan.

Mining Journal, published daily in Munising, Alger County, Michigan.

Munising News, published weekly in Munising, Alger County, Michigan.

Evening News, published daily in Sault Ste. Marie, Chippewa County, Michigan.

St. Ignace News, published weekly in St. Ignace, Mackinac County, Michigan.

District Rangers Decisions

Rapid River: Daily Press, published daily in Escanaba, Delta County, Michigan.

Manistique: Daily Press, published daily in Escanaba, Delta County, Michigan.

Munising: Mining Journal, published daily in Munising, Alger County, Michigan.

Munising News, published weekly in Munising, Alger County, Michigan.

Sault Ste. Marie: Evening News, published daily in Sault Ste. Marie, Chippewa County, Michigan.

St. Ignace: Evening News, published daily in Sault Ste. Marie, Chippewa County, Michigan.

St. Ignace News, published weekly in St. Ignace, Mackinac County, Michigan.

Huron-Manistee National Forests, Michigan

Forest Supervisor Decisions

Cadillac Evening News, published daily in Cadillac, Wexford County, Michigan.

District Rangers Decisions

Baldwin District: Lake County Star, published weekly in Baldwin, Lake County, Michigan.

Ludington Daily News, published daily in Ludington, Mason County, Michigan.

Cadillac District: Cadillac Evening News, published daily in Cadillac, Wexford County, Michigan.

Manistee News Advocate, published daily in Manistee, Manistee County, Michigan.

Lake County Star, published weekly in Baldwin, Lake County, Michigan.

Harrisville District: Alcona County Review, published weekly in Harrisville, Alcona County, Michigan.

Manistee District: Manistee News Advocate, published daily in Manistee, Manistee County, Michigan.

Mio District: Oscoda County Herald, published weekly in Mio, Oscoda County, Michigan.

Crawford County Avalanche, published weekly in Grayling, Crawford County, Michigan.

Tawas District: Iosco County News Herald, published weekly in East Tawas, Iosco County, Michigan.

White Cloud District: Fremont Times-Indicator, published weekly in Fremont, Newaygo County, Michigan.

Muskegon Chronicle, published daily in Muskegon, Muskegon County, Michigan.

Grand Rapids Press, published daily in Grand Rapids, Kent County, Michigan.

Big Rapids Pioneer, published daily in Big Rapids, Mecosta County, Michigan.

Mark Twain National Forest, Missouri

Forest Supervisor Decisions

Rolla Daily News, published in Rolla, Phelps County, Missouri.

District Ranger Decisions

Ava/Cassville District: Springfield News Leader, published daily in Springfield, Greene County, Missouri.

Cedar Creek District: Fulton Sun, published daily in Fulton, Callaway County, Missouri.

Doniphan District: Prospect News, published weekly in Doniphan, Ripley County, Missouri.

Eleven Point District: Current Wave, published weekly in Eminence, Shannon County, Missouri.

Rolla District: Rolla Daily News, published daily in Rolla, Phelps County, Missouri.

Houston District: Houston Herald, published weekly (Thursdays) in Houston, Texas County, Missouri.

Poplar Bluff District: Daily American Republic, published daily in Poplar Bluff, Butler County, Missouri.

Potosi District: The Independent-Journal, published Thursday in Potosi, Washington County, Missouri.

Fredericktown Ranger District: The Democrat-News Published Thursdays in Fredericktown, Madison County, Missouri.

Salem District: The Salem News, published Tuesday and Thursday in Salem, Dent County, Missouri.

Willow Springs District: West Plains Daily Quill, published daily in West Plains, Howell County, Missouri.

Monongahela National Forest, West Virginia

Forest Supervisor Decisions

The Intermountain, published daily in Elkins, Randolph County, West Virginia.

District Ranger Decisions

Cheat District: The Parsons Advocate, published weekly in Parsons, Tucker County, West Virginia.

Gauley District: The News Leader, published weekly in Richwood, Nicholas County, West Virginia.

Greenbrier District: The Pocahontas Times, published weekly in Marlinton, Pocahontas County, West Virginia.

Marlinton District: The Pocahontas Times, published weekly in Marlinton, Pocahontas County, West Virginia.

Potomac District: The Grant County Press, published weekly in Petersburg, Grant County, West Virginia.

White Sulphur Springs District: The Register/Herald, published daily in Beckley, Raleigh County, West Virginia.

Nicolet National Forest, Wisconsin

Forest Supervisor Decisions

Rhinelander Daily News published daily Sunday through Friday in Rhinelander, Onieda County, Wisconsin.

District Ranger Decisions

Eagle River District, Florence District, Lakewood District, and Laona District: Rhinelander Daily News published daily Sunday through Friday in Rhinelander, Onieda County, Wisconsin.

Ottawa National Forest, Michigan

Forest Supervisor Decisions

Ironwood Daily Globe, published in Ironwood, Gogebic County, Michigan.

District Ranger Decisions

Bergland District, Bessemer District, Iron River District, Kenton District, Ontonagon District, and Watersmeet District.

Ironwood Daily Globe, published in Ironwood, Gogebic County, Michigan.

Shawnee National Forest, Illinois

Forest Supervisor Decisions

Southern Illinoisian, published daily in Carbondale, Jackson County, Illinois.

District Ranger Decisions

Elizabethtown District, Jonesboro District, Murphysboro District, and Vienna District: Southern Illinoisian, published daily in Carbondale, Jackson County, Illinois.

Superior National Forest, Minnesota

Forest Supervisor Decisions

Duluth News-Tribune, published daily in Duluth, St. Louis County, Minnesota.

District Rangers Decisions

Gunflint Ranger District: Cook County News-Herald, published weekly in Grand Marias, Cook County, Minnesota.

Kawishiwi Ranger District: Ely Echo, published weekly in Ely, St. Louis County, Minnesota.

LaCroix Ranger District: Mesabi Daily News, published daily in Virginia, St. Louis County, Minnesota.

Laurentian Ranger District: Mesabi Daily News, published daily in Virginia, St. Louis County, Minnesota; and Lake County News-Chronicle, published weekly in Two Harbors, Lake County, Minnesota.

Tofte Ranger District: Duluth News-Tribune published daily in Duluth, St. Louis County, Minnesota.

Hoosier National Forest, Indiana

Forest Supervisor Decisions

Sunday Herald Times, published in Bloomington, Monroe County, Indiana.

District Ranger Decisions

Brownstown District: Sunday Herald Times, published in Bloomington, Monroe County, Indiana.

Tell City District: The News, published in Tell City, Perry County, Indiana.

Wayne National Forest, Ohio

Forest Supervisor Decisions

The Athens Messenger, published in Athens, Athens County, Ohio.

District Ranger Decisions

Athens District: The Athens Messenger, published in Athens, Athens County, Ohio.

Ironton District: The Ironton Tribute, published in Ironton, Lawrence County, Ohio.

White Mountain National Forest, New Hampshire and Maine

Forest Supervisor Decisions.

The Union Leader, published daily in Manchester, County of Hillsborough, New Hampshire.

District Ranger Decisions

Ammonoosuc Ranger District: The Union Leader, published daily in Manchester, County of Hillsborough, New Hampshire.

Androscoggin Ranger District: The Union Leader, published daily in Manchester, County of Hillsborough, New Hampshire.

Evans Notch Ranger District: The Lewiston Sun, published daily in Lewiston, County of Androscoggin, Maine.

Pemigewasset Ranger District: The Union Leader, published daily in Manchester, County of Hillsborough, New Hampshire.

Saco Ranger District: The Union Leader, published daily in Manchester, County of Hillsborough, New Hampshire.

Dated: May 9, 1991.

Floyd J. Marita,

Regional Forester.

[FR Doc. 91-11488 Filed 5-14-91; 8:45 am]

BILLING CODE 3410-11-M

Transfer of Administrative Jurisdiction; Lake Isabella and Pine Flat Lake Projects, California

AGENCY: Forest Service, USDA.

ACTION: Notice of joint interchange of lands.

SUMMARY: On March 29, 1991, and March 8, 1991, the Secretary of the Army and the Acting Secretary of Agriculture respectively signed a joint interchange order agreeing to the transfer of administrative jurisdiction of 2,353 acres, more or less, from the Department of Agriculture to the Department of the Army lying within the Sierra and Sequoia National Forests in Fresno County, California, and 14,313 acres, more or less, from the Department of the Army to the Department of Agriculture adjacent to the exterior boundaries of the Sequoia National Forest, Kern County, California. The 45-day Congressional oversight requirement of the Act of July 26, 1956 (70 Stat. 656, 16 U.S.C. 505a, 505b) has been met. A copy of the Joint Order, as signed, appears at the end of this notice.

EFFECTIVE DATE: The order is effective May 15, 1991.

FOR FURTHER INFORMATION CONTACT: David M. Sherman, Lands Staff, 4 South, Forest Service, USDA, P.O. Box. 96090, Washington, DC 20250, Telephone: (202) 453-9262.

Dated: May 8, 1991.

James C. Overbay,

Deputy Chief.

Isabella Lake, California; Joint Order Interchanging Administrative Jurisdiction of Department of the Army Lands and National Forest Lands

By virtue of the authority vested in the Secretary of the Army and in the Secretary of Agriculture by Public Law 804 dated July 26, 1956 (70 Stat. 656; 16

U.S.C. 505a, 505b), it is ordered as follows:

(1) The lands under the jurisdiction of the Department of the Army described in Exhibit A–1 attached hereto and made a part hereof, which lands are adjacent to the exterior boundaries of the Sequoia National Forest, California, are hereby transferred from the Secretary of the Army to the Secretary of Agriculture, subject to outstanding rights or interests of record as to such continued use by the Corps of Engineers as is necessary for the construction, protection, and unrestricted operation, maintenance, and administration of the water storage and flood control facilities and functions of Isabella Lake.

(2) The Jurisdiction now held by the Secretary of Agriculture over the National Forest lands described in Exhibit B–1, attached hereto and made a part hereof, which are a part of the Sequoia and Sierra National Forests, California, is hereby transferred from the Secretary of Agriculture to the Secretary of the Army.

(3) Pursuant to section 2 of the aforesaid Act of July 26, 1956, the National Forest lands transferred to the Secretary of the Army by this order are hereafter subject only to the laws applicable to the Department of the Army lands comprising the Pine Flat Lake Project, California. The Department of the Army lands transferred to the Secretary of Agriculture by this order are hereby subject to the laws applicable to lands acquired under the Act of March 1, 1911 (38 Stat. 961), as amended. Pursuant to authority contained in section 11 of the Act of March 1, 1911, the Secretary of Agriculture hereby orders that those lands transferred to the Secretary of Agriculture shall be administered as a part and within an extended boundary of the Sequoia National Forest, California.

This order will be effective as of date of publication in the **Federal Register.**

Dated: March 29, 1991.

M.P.W. Stone,

Secretary of the Army.

Dated: March 8, 1991.

Jack C. Parnell,

Acting Secretary.

Exhibit A–1—Lands Under Control of U.S. Army Corps of Engineers to be Transferred to the U.S. Forest Service to Become National Forest System Lands; Lake Isabella

Withdrawn Public Domain Lands under COE control Mount Diablo Meridian, Kern County, California

T. 25, S., R. 33 E.
Section 28—Lot 21;
Section 33—SE¼SW¼, Lot 5, Excepting Therefrom all lands north of the southerly right-of-way of Burlando Road;
Section 34—E½SE¼.

T. 26, S., R. 32 E.
Section 24—Lot 4, Lot 5, Lot 10, Excepting Therefrom the SE¼ of said Lot 10.

T. 26, S., R. 33 E.
Section 3—Lot 1, S½NE¼, SW¼NW¼ NE¼, SW¼, Excepting Therefrom all lands east of the westerly right-of-way of Sierra Road, SE¼NW¼;
Section 4—Lot 2, Lot 3, NE¼SW¼NE¼, W½SW¼NE¼, S½NE¼SE¼, S½SE¼, SE¼NW¼SE¼, W½NE¼SW¼;
Section 5—NE¼SE¼, Lot 3;
Section 7—SE¼SE¼, Excepting Therefrom all lands north of the southerly right-of-way of Burlando Road;
Section 8—E½SW¼, SW¼SW¼;
Section 9—NE¼, W½SE¼, NW¼NW¼;
Section 10—NE¼SE¼, N½NW¼SE¼, N½ NW¼, N½SE¼NW¼, SW¼NW¼, Excepting Therefrom all lands north and east of the southerly and westerly right-of-way of Sierra road;
Section 11—N½S½, Excepting Therefrom all lands north of the southerly right-of-way of Sierra Road;
Section 17—SE¼, W½SW¼, NW¼;
Section 18—E½E½, W½SE¼, SW¼NE¼, Lot 12;
Section 19—E½NW¼, Lot 1, Lot 2;
Section 20—Lot 1, Lot 2, Lot 5, Lot 6;
Section 21—Lot 1, Lot 2, Lot 3;
Section 25—NE¼NW¼;
Section 29—Portion of E½NW¼ Subject to COE Land Survey;
Section 30—Portion of Lot 1 & 2 Subject to COE Land Survey;

T. 26, S., R. 34 E.
Section 20—SE¼NE¼, Excepting Therefrom all lands south of the northerly right-of-way of Highway #178.

Withdrawn public domain lands transferred to the FS: 2,675 acres more or less.

Lands acquired in the name of the United States of America by the U.S. Army Corps of Engineers and identified in the Isabella Lake Project Tract Register by Tract Number and Landowners' Name (Grantors). These tracts, described in acquisition documents recorded in the official records of the County of Kern, State of California and the land title records of the COE, are located in the following described sections:

Mouth Diablo Meridian, Kern County, California

T. 25, S., R. 33 E.
Sections 22, 27, 28, and 32 thru 34;

T. 26 S., R. 33 E.
Sections 3 thru 5, 8 thru 17, 19 thru 27, and 30;

T. 26 S., R. 34 E.
Sections 7, 10, and 15 thru 22.

All fee lands or interest in fee lands as described above are to be transferred to the U.S. Forest Service to become National Forest System lands except those portions of Tracts underlying the Isabella Main Dam and Auxiliary Dam located in sections 19, 29 & 30, T. 26 S., R. 33 E., MDM. These excepted lands to be delineated and describe by COE land survey subsequent to this interchange order.

Acquired fee lands transferred to the FS: 11,638 acres more or less.

Total Lake Isabella lands transferred to the FS: 14,313 acres more or less.

Exhibit B–1—National Forest Lands to be Transferred to U.S. Army Corps of Engineers (COE); Pine Flat Lake

T. 12 S., R. 24 E., Mount Diablo Meridian, Fresno County, California
Section 12—SE¼SE¼;
Section 13—E½NE¼, NE¼SE¼;
Section 24—NW¼SE¼, NE¼SW¼, SW¼ SW¼, NW¼SW¼;
Section 25—SW¼NE¼, SE¼NE¼.

T. 12 S., R25 E., Mount Diablo Meridian, Fresno County, California
Section 4—SE¼NE¼, E½SE¼, SW¼ SW¼;
Section 5—S½SE¼NE¼, NE¼SE¼, N½ SE¼SE¼, SE¼SE¼SE¼, NE¼SW¼ SE¼, NE¼NE¼SW¼, SE¼SE¼SW¼, W½SE¼SW¼, SW¼SW¼, NW¼ SW¼, N½SE¼NW¼, SE¼SE¼NW¼, SW¼SW¼NW¼, N½ of Lot 4, SE¼ of Lot 4;
Section 6—NE¼ of Lot 1, SE¼NE¼, NE¼ SE¼;
Section 7—SE¼NE¼, NW¼NE¼, NE¼ SE¼;
Section 8—E½NE¼NE¼, W½NW¼NE¼, E½SE¼, NW¼SW¼, E½NW¼, SW¼ NW¼;
Section 9—E½NE¼, SW¼SE¼, SE¼ SW¼, W½SW¼, W½NW¼;
Section 18—SW¼SW¼;
Section 19—SE¼E½SW¼, Lots 1 thru 4 inclusive;
Section 20—W½NE¼SW¼, SE¼SW¼, W½SW¼;
Section 29—NW¼NW¼;
Section 30—NE¼NE¼, Lot 3.

Acreage transferred to the COE: 2,353.47 acres more or less.

[FR Doc. 91–11441 Filed 5–14–91; 8:45 am]
BILLING CODE 3410–11–M

Packers and Stockyards Administration

Posting of Stockyards

Pursuant to the authority provided under section 302 of the Packers and Stockyards Act (7 U.S.C. 202), it was ascertained that the livestock markets named below were stockyards as defined by section 302(a). Notice was given to the stockyard owners and to the public as required by section 302(b), by posting notices at the stockyards on the dates specified below, that the stockyards were subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C 181 *et seq.*).

	Facility No., name, and location of stockyard	Date of Posting
AR-165.....	Beebe Livestock Exchange, Beebe, Arkansas.	April 1, 1991.
AR-166.....	Benton County Sale Barn, Siloam Springs, Arkansas.	April 1, 1991.
TN-187.....	Brownsville Feeder Sale Association, Inc., Brownsville, Tennessee.	April 12, 1991.

Done at Washington, DC, this 9th day of May, 1991.

Harold W. Davis,

Director, Livestock Marketing Division Packers and Stockyards Administration.

[FR Doc. 91-11516 Filed 5-14-91; 8:45 am]

BILLING CODE 3410-KD-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 25-91]

Foreign-Trade Zone 125, South Bend, IN; Request for Manufacturing Vehicle Concepts Recreational Vehicle Plant

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the St. Joseph County Airport Authority, grantee of FTZ 125, on behalf of Vehicle Concepts (a Division of Monaco Coach Corporation), requesting authority to manufacture recreational vehicles and ambulances under zone procedures within FTZ 125, South Bend, Indiana. It was filed on April 26, 1991.

The new Vehicle Concepts plant (10,000 sq. ft.) is located at 4477 Terminal Drive, within FTZ 125 at the St. Joseph County Airport Complex in South Bend. The facility would be used to assemble micro-mini RVs (<6,000-lb. GVW) and ambulances. The vehicle would be built on a foreign-sourced light pick-up truck cab/chassis. All other components and materials would involve domestic or duty-paid merchandise.

Zone procedures would exempt Vehicle Concepts from Customs duty payments on the foreign pick-up truck cab/chassis used in vehicles produced for export. On its domestic sales, the company would be able to choose the lower finished vehicle duty rate (2.5 percent) rather than the pick-up truck cab/chassis rate (25 percent). The applicant indicates that authority to use zone procedures would help Vehicle Concepts improve its international competitiveness and increase export sales. Two other domestic RV plants currently operate under zone procedures: The Forest City, Iowa, facility of Winnebago, Industries, Inc. (FTZ Subzone 107A, Board Order 273, 49 Fr 35971, 9/13/84); and, the Perris, California, facility of National RV (FTZ Subzone 50C, Board Order 484, 55 FR 35159, 8/28/90).

Comments concerning the application are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before June 28, 1991.

A copy of the application is available for public inspection at each of the following locations:

Office of the District Director, U.S. Department of Commerce, Mid-Continental Plaza Bldg., Rm. 1406, 55 E. Monore St., Chicago, Illinois 60603.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW., Room 3716, Washington, DC 20230.

Dated: May 9, 1991.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 91-11551 Filed 5-14-91; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[C-549-401]

Certain Apparel From Thailand; Determination Not To Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of determination not to revoke countervailing duty order.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the countervailing duty order on certain apparel from Thailand.

EFFECTIVE DATE: May 15, 1991.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION: On March 1, 1991, the Department of Commerce (the Department) published in the **Federal Register** (56 FR 8743) its intent to revoke the countervailing duty order on certain apparel from Thailand (48 FR 9818; March 12, 1985).

In accordance with 19 CFR 355.25(d)(4)(iii), the Secretary of Commerce will conclude that an order is no longer of interest to interested parties and will revoke the order if no interested party objects to revocation or requests an administrative review by the last day of the fifth anniversary month. We had not received a request for an administrative review of the order for the last four consecutive annual anniversary months.

On March 7, 1991, the petitioner, the Amalgamated Clothing and Textile Workers Union, objected to our intent to revoke the order. Therefore, we no longer intend to revoke the order.

This notice is in accordance with 19 CFR 355.25(d).

Dated: May 8, 1991.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 91-11552 Filed 5-14-91; 8:45 am]

BILLING CODE 3510-DS-M

National Institute of Standards and Technology, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in room 4204, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 90-183. *Applicant:* National Institute of Standards and Technology, Gaithersburg, MD 20899. *Instrument:* Electron Probe X-ray Microanalyzer, Model JXA-8600/3. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 55 FR 42621, October 22, 1990. *Reasons:* The foreign instrument provides: (1) EDS/WDS line or area capability, (2) a probe current range from 1.0pA to 10.0pA and 5nm secondary electron spot size. *Advice Submitted by:* National Institutes of Health, February 21, 1991.

Docket Number: 91-005. *Applicant:* Oregon State University, Corvallis, OR 97331-2302. *Instrument:* Asphalt Concrete Pavement Tester with Accessories. *Manufacturer:* MAP, France. *Intended Use:* See notice at 56

FR 4972, February 7, 1991. *Reasons:* The foreign instrument closely simulates the phenomenon of rutting (permanent deformation due to traffic loading and other environmental factors) in asphaltic concrete materials used in highway research. *Advice Received from:* Federal Highway Administration, March 19, 1991.

The National Institutes of Health and the Federal Highway Administration advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to either of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 91-11553 Filed 5-14-91; 8:45 am]

BILLING CODE 3510-DS-M

National Institute of Standards and Technology

[Docket No. 910502-1102]

National Voluntary Laboratory Accreditation Program

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice: New Accreditation Program for Electric Lighting Products.

SUMMARY: (1) The Director of the National Institute of Standards and Technology (NIST) has approved development of the program "Accreditation for Testing Energy Efficient Electric Lighting Products Performance" (but not safety) requested in a letter dated November 27, 1990, from the National Electrical Manufacturers Association (NEMA), Washington, DC. The decision of the Director was based upon the comments submitted in response to the **Federal Register** (FR) announcement of the NEMA request, dated January 25, 1991, issued in accordance with procedures of the National Voluntary Accreditation Program (NVLAP) (15 CFR part 7.11(d)). All interested persons (including those who submitted comments) are heareby notified by copy of this FR notice of the NIST decision.

(2) A listing of standard test methods and related performance standards to be considered in the accreditation program is provided for information and comment. The standards are organized into categories representing various industries in the lighting products field. These categories, which define the scope of accreditation, can be expanded to meet additional accreditation requirements.

ADDRESSES: Persons desiring to submit comments regarding the test methods and standards listed for inclusion in the accreditation program, or to add aditional protocols for the program, are invited to provide their information in writing to Nancy M. Trahey, Chief, Laboratory Accreditation Program, National Institute of Standards and Technology, Building 411 A124, Gaithersburg, MD 20899.

FOR FURTHER INFORMATION CONTACT: Lawrence Galowin, Senior Program Manager, NVLAP, National Institute of Standards and Technology, Building 411 A124, Gaithersburg, MD 20899; phone (301) 975-4016.

SUPPLEMENTARY INFORMATION:

Scope of Laboratory Accreditation

The standard test methods and related performance standards listed below are based upon the information submitted by NEMA. Organized by categories, this listing is subject to revision. Input on all technical aspects of the program are solicited from technical experts and other interested parties.

Ballast Industry

1. Electrical Performance (per ANSI)
2. Harmonics
3. Life Testing
4. Lamp Compatibility

Standards

Notation: ANSI designates the American National Standards Institute.

ANSI-C82.1-85 Specifications for fluorescent lamp ballasts
ANSI-C82.2-89 Methods of measurement of fluorescent lamps ballasts
ANSI-C82.3-89 Standard for reference ballasts for fluorescent lamps
ANSI-C82.4-85 Ballasts for high-intensity discharge and low-pressure sodium lamps (multiple supply type)
ANSI-C82.4a-88 Supplement
ANSI-C82.5-83 Standard for reference ballasts for HID lamps
ANSI-C82.5a-84 Standard for reference ballasts for low pressure sodium lamps
ANSI-C82.6-85 Methods of measurement of high intensity discharge lamp ballasts
ANSI-C82.6a-88 Supplement
ANSI-C82.7-88 Mercury lamp transformers-constant current (series) supply type
ANSI-C82.8-88 Incandescent filament lamp transformers-constant current (series) supply type
ANSI-C82.9-88 Definitions for high-intensity-discharge and low-pressure sodium lamps, ballasts, and transformers

Fixture Industry

1. Relative photometry (indoor/outdoor) for all sources
2. Electrical measurements (system)
3. Harmonics
4. Thermal performance
5. Selection for tests
6. Ballast factor and BEF
7. Optical properties (reflectivity, transmission, etc.)
8. Photoelectric controls

Standards

Notation, LM identifies the Illumination Engineering Society.

LM-10-87 Photometric testing of outdoor Fluorescent luminaire
LM-15-87 IES guide for reporting general lighting equipment engineering data for indoor luminaire
LM-28-89 Selection, care and use of electrical instruments in the photometric laboratories
LM-31-88 IES approved method for photometric testing of roadway luminaire
LM-35-89 IES approved method for photometric testing of floodlights using incandescent filament of discharge lamps
LM-41-85 Photometric testing of indoor fluorescent luminaire
LM-46-85 Photometric testing of indoor luminaire using HID lamps
LM-48-84 IES guide for calibration of photoelectric control devices
LM-61-86 IES approved guide for identifying operating factors for installed HID luminaire
LM-62-85 IES approved guide for laboratory and field thermal measurements of fluorescent lamps and ballasts in luminaire
LM-15-87 IES guide for reporting general lighting equipment engineering data for indoor luminaire
LM-36 IES practical guide to photometry

Lamp Industry

1. Lumen output
2. Spectral power distribution (color, CRI, chromaticity)
3. Candela distribution of reflector lamps
4. Electrical characteristics of lamps
5. Thermal effects
6. Life testing

Standards

LM–9–88 IES approved method for Electrical and Photometric measurements of fluorescent lamps
LM–16–84 Practical guide to colorimetry of light sources
LM–20–83 Photometric testing of reflector type lamps
LM–28–89 Selection, care and use of electrical instruments in the photometric lab
LM–40–97 IES approved method for life performance testing of fluorescent lamps
LM–47–87 IES approved method for life testing of HID lamps
LM–49–86 IES approved method for life testing of general lighting incandescent filament lamps
LM–51–84 Photometric testing of HID lamps
LM–54–84 IES guide to lamp seasoning
LM–59–83 Electrical and photometric measurements of LPS lamps
ANSI–C39.6–83 Electrical instrumentation-digital measuring instruments
ANSI–C78.1–84 Dimensional and electrical characteristics of fluorescent lamps rapid start types
ANSI–C78.1a–84 Dimensional and electrical characteristics of fluorescent lamps rapid start types
ANSI–C78.1b–86 Dimensional and electrical characteristics of fluorescent lamps rapid start types
ANSI–C78.1c–85 Dimensional and electrical characteristics of fluorescent lamps rapid start types
ANSI–C78.1d–88 Dimensional and electrical characteristics of fluorescent lamps rapid start types
ANSI–C78.2–84 Dimensional and electrical characteristics of fluorescent lamps preheat start types
ANSI–C78.2a–88 Dimensional and electrical characteristics of fluorescent lamps preheat start types
ANSI–C78.2b–89 Dimensional and electrical characteristics of fluorescent lamps preheat start types
ANSI–C78.3–84 Dimensional and electrical characteristics of fluorescent lamps instant start and cold cathode types
ANSI–C78.3a–85 Dimensional and electrical characteristics of fluorescent lamps instant start and cold cathode types
ANSI–C78.40–85 Specifications for mercury lamps
ANSI–C78.41–87 Low pressure sodium lamps
ANSI–C78.260–85 Specifications for tubular tungsten-halogen lamps
ANSI–C78.375–84 Guide for electrical measurements of fluorescent lamps
ANSI–C78.379–83 Incandescent and HID reflector lamps-classification of beam patterns
ANSI–C78.386–89 Mercury lamps-methods of measuring characteristics
ANSI–C78.387–87 Methods of measurement of metal-halide-lamp characteristics
ANSI–C78.388–84 High pressure sodium lamps-methods of measuring characteristics
ANSI–C78.1350–90 400-watt s51 high pressure sodium lamps
ANSI–C78.1351–89 250-watt 100 volt self ballasted mercury lamps
ANSI–C78.1352–90 1000-watt s52 high pressure sodium lamps
ANSI–C78.1353–90 70-watt s62 high pressure sodium lamps
ANSI–C78.1354–90 100-watt s54 high pressure sodium lamps
ANSI–C78.1355–89 150-watt 55-volt s55 high pressure sodium lamps
ANSI–C78.1356–88 150-watt 100-volt s56 high pressure sodium lamps
ANSI–C78.1358–88 35-watt s76 single-ended high pressure sodium lamps
ANSI–C78.1359–88 50-watt s68 single-ended high pressure sodium lamps
ANSI–C78.1375–90 400-watt m59 metal halide lamps
ANSI–C78.1376–84 1000-watt M47 metal halide lamps
ANSI–C78.1377–87 Draft-175w m57 metal halide lamps
ANSI–C78.1378–90 Draft 250W m58 single-ended metal-halide lamps
ANSI–C78.1379–87 Draft-150W m48 metal halide lamps
ANSI–C78.1381–89 70 watt m85 metal halide lamps

Dated: May 10, 1991.

John W. Lyons,

Director.

[FR Doc. 91–11548 Filed 5–14–91; 8:45 am]

BILLING CODE 3510–13–M

National Oceanic and Atmospheric Administration

[Docket No. 90776–0329]

Marine Recreational Fisheries Action Plan

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

ACTION: Notice of final Marine Recreational Fisheries (MRF) Action Plan.

SUMMARY: The final MRF Action Plan updates the implementation of the NMF Policy and is published to inform the public of its content. The Action Plan restates and updates the NMFS MRF Policy and provides for improved implementation of the MRF Policy.

EFFECTIVE DATE: October 19, 1990.

ADDRESSES: Copies of the NMFS MRF Action Plan are available from Richard B. Stone, NMFS, Fishery Management Specialist, 1335 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Richard B. Stone or Alan Dean Parsons, 301 247–2347.

SUPPLEMENTARY INFORMATION: In 1981, NMFS adopted a MRF Policy. Although national in scope, the Policy was not implemented consistently throughout the Nation. Each Region, as well as Headquarters, implemented the Policy at its discretion, based on differing perspectives, needs, and priorities. NMFS reformatted the strategy for implementing the Policy in the form of a draft Action Plan published in the **Federal Register** (54 FR 47379; November 14, 1989) to obtain public comment. There were 21 responses, all of which fully supported the draft Action Plan, although several suggested minor changes to various specific parts. Many of these suggested changes were incorporated into the final Action Plan.

The Action Plan addresses the conservation of marine fishery resources as the primary concern. The tremendous growth in the number of recreational fishermen in recent years has placed additional demands on already limited fishery resources. Successful management of these fish stocks requires an in-depth understanding of the impacts recreational fisheries have on these stocks, and adequate data and information on the recreational fisheries. Thus, the Action Plan focuses on increasing understanding of recreational fisheries by improving data gathering capabilities. Additionally, the Action Plan encourages constitutent participation in conservation of fishery resources through programs such as angler ethics.

Dr. William W. Fox, Jr., Assistant Administrator for Fisheries, approved the draft Action Plan on October 19, 1990. The Action Plan restates and updates the NMFS MRF Policy, establishes program goals and objectives, and identifies specific actions to be taken, to the extent that support and funds are available, to improve the implementation of the 1981 Policy. The Action Plan will allow more attention to national MRF priorities while maintaining sufficient flexibility to tailor regional programs to local MRF needs.

The Action plan has been developed in accordance with the NMFS' Strategic Plan. It is especially supportive of the first three goals of the Strategic Plan. The final MRF Action, Plan, as approved, is as follows:

National Marine Fisheries Service Marine Recreational Fisheries Action Plan

I. Introduction

Marine recreational fishing (MRF) continues to grow in popularity, not only as a highly regarded form of recreation but also as a means of obtaining high protein food. According to a 1985 Gallup Poll, recreational fishing is the second most popular outdoor recreational activity in America, and as such, contributes nearly $30 billion to the Nation's economy. Since 1980, the value of marine recreational fishing has grown from $7.5 billion to $13.5 billion (including multiplier effects) in 1985. The number of saltwater fishermen has increased from about 5 million in 1955 to 17 million in 1985, but has not increased substantially since then.

In recognition of the growing importance of MRF, National Marine Fisheries Service (NMFS) adopted a marine recreational fisheries policy and implementation strategy in 1981. Each Region, as well as headquarters, proceeded to implement the policy at its own discretion based on the differing perspectives, needs, and priorities of the various geographic areas. Thus, the policy was not implemented consistently or with the same degree of intensity throughout the Nation.

Recently, the NMFS, in partnership with other Federal agencies, state, and tribal governments, and representatives from private constituency groups and industry, participated in the development of a National Recreational Fisheries Policy. Actions to implement the goals and objectives of the NMFS Action Plan are consistent with those set forth by the National Policy.

The MRF industry and constituency have matured over the last several years, becoming better organized nationally, more involved in fishery issues, and increasingly committed to making fisheries conservation their primary concern. As a result, it is timely for NMFS to reformulate its implementation strategy to achieve more consistent attention to national priorities while maintaining sufficient flexibility to tailor regional programs to local needs. This approach is essential for effective interaction with MRF interests and for consistent treatment of priority MRF issues and problems.

Perhaps of greatest concern is the need for healthy fisheries resources. The primary role of Federal and state fishery managers and the Regional Fishery Management Councils is to provide stewardship of the Nation's fisheries resources. NMFS and the constituency have mutually stressed that a stronger conservation ethic, endorsed by the public as well as the government, is necessary to protect fishery resources and the habitats upon which they are dependent. Fisheries and their habitats must be recognized as national assest that, if effectively conserved and managed, can generate enormous economic, social, and aesthetic benefits indefinitely.

The purpose of this document is to identify ways for NMFS to help improve stewardship of marine fisheries resources overall, and to serve better MRF constituencies. However, it is recognized that development of an MRF Action Plan will not by itself necessarily result in progress. A strong commitment to pursue plan implementation aggressively for the long-term as well as the short-term is essential. There must be identifiable and measurable activities to provide accountability and to allow constituent and program partners (states, commissions, councils, etc.) to monitor and participate in program activities.

Accordingly, this Action Plan restates NMFS' MRF policy, provides guiding principles for policy implementation, establishes NMFS' MRF program goals and objectives, and identifies specific actions to update and improve implementation of the MRF policy.

II. Restatement of Policy and Guiding Principles

A. *Policy Statement.* The following policy was adopted by NMFS in 1981 after an extensive review of NMFS MRF activities by a marine recreational fisheries task group.

NMFS, through its various programs, will protect, conserve, enhance, manage and develop fishery resources of importance to the nation in order to increase the nation's food supply; promote increased opportunities for both commercial and marine recreational fishermen consistent with the concept of optimum yield; and promote activities which will assist the commercial and marine recreational fishing industries to thrive and expand.

B. *Guiding Principles.* The following guiding principles advance fundamental beliefs and strategies that further clarify NMFS' marine recreational fisheries policy and that guide policy implementation efforts.

1. Marine Recreational Fisheries Program Must Address All Three Components of Recreational Fisheries: the Resource, Users, and Industry

First, with respect to the resources, MRF refers to one or more stocks of fish that can be treated as a unit for purposes of conservation, management, utilization, or development and that can be identified on the basis of geographical, scientific, technical, economic, or method-of-harvest characteristics. The term "fish" includes finfish, mollusks, crustaceans, and all forms of living marine animals which form the resource base for recreational fishing. Enhancing and maintaining these stocks requires the enhancement and maintenance of water quality and the habitats on which the stocks depend and control of the harvest/catch.

Second, with respect to the users, MRF refers to individuals engaging in marine recreational fishing activity. Fishing is considered recreational when pleasure, amusement, relaxation, or home consumption are the principal motivators. The program must result in an improved understanding of fishermen's needs and the impact of management decisions upon them.

Third, MRF refers to the MRF industry. Interest and participation in marine recreatational fishing creates a demand for a wide variety of goods and services that enable fishermen to participate in recreational fishing activities. The private businesses that provide these goods and services are collectively referred to as the MRF indusry. These businesses employ thousands of Americans, account for sizeable capital expenditures, and contribute substantially to the Nation's gross national product and overall economic well being. The program should consider how management decisions affect the industry.

2. Marine Recreational Fisheries Contribute Significant Social and Economic Benefits to the Nation

Marine recreational fishing is an increasingly popular outdoor recreational activity that contributes substantially to the social and economic well being of the Nation. Millions of individuals and families participate annually in marine recreational fishing as a relaxing, healthful, wholesome source of recreation and as a way of obtaining high quality protein food. Collectively, the MRF industry translates this recreation activity into a multi-billion dollar contribution to the Nation's economy.

3. Robust Marine Fishery Resources are Requisites for Viable Marine Recreational Fisheries

Marine fisheries are dependent on the maintenance, restoration, and enhancement of marine fish populations and their habitats. NMFS' principal function is to serve as steward of those resources and habitats. Conservation and enhancement of marine fishery

resources shall be accomplished through scientific management intended to achieve optimum yield from each fishery.

4. Accurate and Timely Information is Crucial to the Conservation, Management, and Development of Marine Recreational Fisheries

NMFS has an important role in conducting, sponsoring, and otherwise encouraging scientific, statistical, and socioeconomic research and related investigations that provide the basis for conservation and management of marine resources.

5. Marine Fishery Resources are a National Asset, Which, Through Wise Management, Can be Enhanced and Improved for Future Generations

NMFS is committed to the mission of rebuilding and conserving marine fishery resources while allowing equitable sharing of those resources among recreational, commercial, and non-consumptive users, such as SCUBA divers, observation boats, etc. NMFS recognizes the biological necessity of regulating total catch within the limits of optimum yield. Accomplishing this management mission requires effective, cooperative partnerships with other Federal agencies, the states, Regional Fishery Management Councils, interstate commissions, and public and private sector interests. NMFS also recognizes the need to pursue aggressively international agreements for the conservation of highly migratory species of fish.

6. Multiple Uses of Marine Fishery Resources are Recognized and Encouraged

NMFS recognizes the national benefits resulting from multiple use of marine fishery resources by recreational, commercial, and subsistence fishermen as well as by non-consumptive users. NMFS also supports existing jurisdictional relationships between state and Federal Government resource stewarts and the public as appropriate forums for rendering fishery allocation decisions affecting competing resource users.

7. Authorities, Roles, and Responsibilities of Government and Private Entities in the Conservation and Development of Marine Recreational Fisheries are Recognized

NMFS will engage in those activities that are the responsibility of Federal Government and will encourage and assist other Federal, state, and local government agencies, the academic community, private interests, and the public to cooperate and participate in its programs. NMFS will encourage other entities to assume responsibility for MRF programs and services more appropriately theirs, recognizing unified and cooperative partnerships as a goal.

8. Conserving and Developing Marine Recreational Fisheries is a Shared Responsibility

As major users and beneficiaries of marine fishery resources, fishermen and the industry must accept their stewardship roles and responsibilities and do their part in funding, promoting and supporting essential marine fisheries research, data collection, management, development, and law enforcement efforts. Angling ethics, resource conservation, and aquatic education should be promoted and practiced through effective government/private partnerships.

III. Action Plan

The Action Plan consists of five major sections, each with goals, objectives, and action steps. Consistent and aggressive implementation should enhance NMFS' resource stewardship capabilities. The primary thrust of the Action Plan is best expressed by the first goal. NMFS will focus its major effort on the conservation of fisheries and their habitat, in recognition of the significant benefits the marine resources provide to the nation. Only with the resource on a sound footing can the recreational program be fully successful.

A. Conservation of Resources

Goal: Conserve, restore, and enhance fishery resources and the habitat on which they depend, recognizing that, if properly conserved and managed, fishery resources can provide substantial economic, social, and aesthetic benefits to the Nation.

A conservation approach needs to be emphasized in resource management as a means to restore and maintain healthy fisheries. NMFS must assert a leadership role in accomplishing this goal, and must secure participation, cooperation, and support of the MRF constituency.

A.1 Objective: Develop a stronger linkage between information on the status and condition of stocks and management decisions affecting recreational fisheries.

A.1a—Each Research Center should review, evaluate, and, if needed, upgrade its stock assessment capabilities to ensure that assessments are provided for species of recreational importance or potential importance, and for forage species upon which these fish depend.

A.1b—Distribute stock assessments, expressed in layman's terms, for key species of recreational importance, or potential importance, to increase general understanding of the status of various stocks.

A.2 Objective: Improve fishery management procedures for MRF.

When management of recreational fisheries is necessary, stress the use of fishery management techniques. Traditionally, these techniques have been bag limits, size limits, gear limitations, and other measures to control fishing mortality, that are easily monitored, while permitting continued access to the fishery. Improve MRF input and participation in the fishery management planning process.

A.3 Objective: Promote conservation practices among fishermen.

Implement a national angling ethics program, in cooperation with the tackle industry, state fishery management agencies, and the MRF community, emphasizing tag and release, catch and release, expanded use of non-traditional species, regulatory compliance, and other related issues.

A.4 Objective: Expand MRF information and education (I&E) programs.

A.4a—Establish and maintain Information and Education programs on NMFS research and management activities.

A.4b—Develop closer working ties with outdoor writer associations and media to improve flow of information to fishermen.

A.4c—Establish working relationships with tournament directors and fishing clubs, to increase their awareness of NMFS resource and management programs, and to promote resource conservation and angling ethics.

A.4d—Develop or distribute primers and educational materials on seafood quality, safety issues, conservation, the proper care and handling of catch, use of non-traditional species, and other topics of interest.

A.5 Objective: To achieve more effective public adherence to fishery regulations.

A.5a—Expand I&E efforts, including brochures on regulations, creation of a "Fishery Conservation Hotline," and greater interaction with conservation editors.

A.5b—Increase State/Federal cooperative enforcement seeking cross-deputization and other appropriate means.

A.5c—Encourage and assist the states and Federal Government to resolve incompatible or conflicting regulations on species of recreational interest.

A.6 Objective: Review current conservation engineering efforts. and expand where appropriate.

A.6a—Accelerate commercial and recreational gear research, development, and modification efforts to reduce bycatch and habitat destruction.

A.6b—Document applications of artificial reef technology for enhancement of recreational fisheries.

A.6c—Increase involvement in artificial reef research planning, management, and development.

B. Conservation of Habitat

Goal: Conserve and restore habitats critical to the well-being of recreationally important species and supporting ecosystems.

B.1 Objective: Identify critical habitat problems that adversely affect species of importance to MRF.

B.1a—Review actions affecting species of importance to MRF and with EPA, the states, and local governments, work to establish priorities, and recommend corrective actions for habitat protection and restoration in each Region.

B.1b—Work with other government agencies (Federal, state and local) to implement the National Estuarine Program, and other coastal initiatives.

B.2 Objective: Increase public awareness of the impacts on fishery resources created by habitat alteration.

B.2a—Prepare regional documentaries describing fishery and habitat relationships, unique aspects on habitat, and status and trends on the protection of critical habitats.

B.2b—Evaluate plans and provide guidance to other agencies, under authority of the Fish and Wildlife Coordination Act and other statutes, on policies significantly affecting fishery habitats of importance to MRF.

C. Research, Data Collection, Data Management, and Information Analysis

Goal: To improve NMFS' research, data acquisition, data management, analysis, and dissemination capabilities needed to provide the scientific and management basis for conservation of marine recreational fishery resources.

Social, economic and biological data important to the management of MRF are often missing or sparse, and some existing data do not receive adequate consideration in management decisions. To address this, several steps must be taken.

First, NMFS must work with fishery managers to identify data needs and implement research and statistical programs to fill these needs.

Second, NMFS must make available to fishery managers all existing biological, social and economic data and ensure its appropriate use.

Third, NMFS must educate and inform marine recreational fishermen and the MRF industry about the objectives of data collection efforts and how this information is being used by resource managers.

Current research and data collection programs should be monitored and reviewed as to their ability to support fishery management and development decisions, including stock assessments, user allocations, quota monitoring, fishery evaluation, and regulatory impact analyses. Timeliness, accuracy, precision, and comparability of data must be carefully assessed and improved when possible.

C.1 Objective: Improve planning and coordination of NMFS' research, data collection, and analysis components.

C.1a—Consult with National MRF interests (e.g., fishery managers from the state, councils, commissions, Federal, and private sectors) to identify management issues requiring data or information. Work with Federal and state data collectors and recommend actions needed to provide more comprehensive, precise, and timely MRF data for use by state and Federal resource managers.

C.1b—Conduct annual research program reviews within each Fishery Center to evaluate ongoing research and recommend program adjustments (e.g., shifts in research emphasis, enhancements, initiatives).

C.1c—Conduct regular NMFS/Sea Grant retreats at regional/national level to identify and evaluate cooperative research projects.

C.1d—Cooperate with Sea Grant to develop specific strategies for working with Marine Advisory Services in MRF communication/education efforts.

C.1e—Establish program coordination with state Wallop-Breaux (W-B) coordinators providing technical assistance, as outlined in the NMFS/USFWS Memorandum of Understanding.

C.1f—Enhance an ongoing communication effort to advise managers and MRF constituents of research findings.

C.1g—Develop a socioeconomic research plan in each Region to support fishery management programs making sure to address MRF issues.

C.1h—Coordinate inclusion of the Marine Recreational Fisheries Statistics Survey (MRFSS) data base into fishery management plans.

C.1i—Coordinate with other Federal, state, private, and academic institutions involved with MRF research, data collection, and analysis.

C.2 Objective: Improve the effectiveness of MRF data collection, data management, analysis, and dissemination.

C.2a—Establish and convene a permanent NMFS MRF data steering committee (made up of Region, Center, and Washington Office representatives) to share information, clarify objectives and recommend actions that will promote the achievement of an efficie- and integrated MRF data collection/data management program at Region- and National levels.

C.2b—Use state/Federal Cooperati e Agreements or contracts to integrate, whenever feasible, state and Federal MRF sampling programs under agreed upon standards to create a consistent nationwide data collection program and to eliminate duplication.

C.2c—Determine the appropriate MRFSS sample size nationwide and conduct rate event (e.g., billfish) species surveys as appropriate to improve data used in Federal fishery management decisions.

C.2d—Improve the application of social and economic information to support regional research plans developed under *C.1g*.

C.2e—Publish and distribute validations of MRF data collection methodologies and data bases to ensure applicability, accessibility, and familiarity.

C.2f—Conduct regular seminars and use other forums to inform fishery managers, constituents, the general public, industry, and others of the results, proper use, and limitations of economic and statistical data collection and analysis programs.

C.2g—Improve NMFS' analytical capability to interpret and evaluate MRF statistical data and ensure appropriate and timely use of data.

C.2h—Regionally, produce and distribute annual summaries, trends, and forecasts of species important to MRF in a timely fashion.

D. Industry Services

Goal: Expand NMFS' ability to interact effectively and appropriately with and enhance the MRF industry.

The MRF industry is an integral and significant part of the total U.S. fishing industry. It encompasses a broad range of individual businesses that provide a variety of goods and services to marine recreational fishermen both domestic and foreign. NMFS needs to assist the industry within the scope and authority of NMFS' programs.

D.1 Objective: Increase understanding of the nature and operation of the MRF industry.

D.1a—Development industry profiles including information on various business sectors, size, composition, and operation of charter/headboat fleets, cost and return analysis, entry and exit of businesses/vessels, and other aspects.

D.1b—Coordinate with state and other governmental agencies and industries to encourage recreational fisheries tourism.

D.1c—Develop capability to interpret and evaluate MRF industry information, including monitoring industry response to management decisions.

D.2 *Objective:* Assist the industry to undertake appropriate research and development activities.

D.2a—Help the MRF industry develop a better ability to utilize funding sources (e.g., S–K, MARFIN, Sea Grant, etc.) for research and development projects.

D.2b—Establish outreach activities to ensure industry access to vital fisheries research and statistical information.

E. Administrative Program Direction

Goal: Provide positive support for marine recreational fisheries through effective implementation of the MRF Action Plan.

Previous sections followed program lines, providing goals, objectives, and actions needed to implement more fully the MRF policy. However, achievement of these goals and objectives will require a strong, long-term commitment by NMFS. This commitment must be reflected in planning and budget documents and performance plans. This section provides for these internal actions needed to ensure successful MRF policy and program implementation.

E.1 Objective: Establish effective program planning and coordination mechanisms.

E.1a—The Washington Office and each Region will develop a detailed strategy document identifying activities, resources, and time tables needed to implement the Action Plan.

E.1b—Each Region will utilize a MRF Steering Committee to involve MRF interests in program planning.

E.1c—Use forums within interstate commissions, and other state, regional, and national organizations to communicate and coordinate MRF program matters.

E.2 Objective: Provide sufficient staffing and support to carry out the Action Plan.

E.2a—Provide staff support commensurate in size with the importance (catch, effort, social and economic impact) of MRF in the Regions, growth potential, and the extent of problems.

E.2b—Launch and maintain an aggressive public outreach program that includes frequent field meetings with MRF clubs, charter/headboat associations, state and interstate coordination bodies (e.g., Marine Fisheries Commissions, W-B coordinators, outdoor writers associations, etc.) and attendance at regional and national symposia.

E.3 Objective: Establish effective mechanisms to monitor and evaluate MRF program accomplishments.

E.3a—Washington Office and Regions will use tracking or control systems to monitor and report program progress and make program adjustments.

E.3b—The Recreational and Interjurisdictional Fisheries Division will monitor the Action Plan implementation progress and report periodically to an appropriate management level.

E.3c—Conduct national and regional MRF program reviews annually.

Dated: March 9, 1991.

Michael F. Tillman

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 91–11525 Filed 5–14–91; 8:45 am]

BILLING CODE 3510–22–M

Mid-Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Mid-Atlantic Fishery Management Council and its Committees will hold public meetings on May 28–31, 1991, at the Airport Hilton Hotel, 10th & Packer Avenue, Philadelphia, PA., (telephone: 215–755–9500).

On May 28, the Summer Flounder Advisors will meet from 1 p.m., until 3 p.m. The Shark Subcommittee will also meet from 1 p.m., until 3 p.m. The Demersal Species Committee will meet from 3 p.m., until 4 p.m.

The Council will begin its meeting on May 29 at 8:30 a.m., and adjourn on May 30 at 12 noon. The Council will consider possible management measures for Amendment #2 to the Summer Flounder Fishery Management Plan, and may adopt Amendment #4 to the Atlantic Mackerel, Squid, Butterfish Fishery Management Plan for public hearings. Also, on May 29 the Squid, Mackerel, Butterfish Committee and Habitat Committee will meet in the afternoon after Council session. The Council also may hold a closed session (not open to the public), to discuss personnel and/or national security matters.

On May 30 at 1 p.m., the Coastal Migratory Committee and Atlantic States Marine Fisheries Commission's Weakfish Board will meet to discuss concerns of the Weakfish Fishery Management Plan. This meeting will resume on May 31.

For more information contact John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901; telephone: (302) 674–2331.

Dated: May 9, 1991.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 91–11523 Filed 5–14–91; 8:45 am]

BILLING CODE 3510–22–M

Western Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council will hold its 73rd public meeting on May 14–16, 1991, at the Dole Ballrooms, 735 Iwilei Road, Honolulu, HI. Except as noted below, the meetings are open to the public. The Council's Standing Committees will meet on May 14 at 8 a.m.

On May 15 from 8 a.m., until 9 a.m., the Council will hold a closed session (not open to the public) to discuss litigation matters. On May 15 and 16 the Council will meet beginning at 9 a.m. The Council will hear reports from islanders and government fisheries representatives from American Samoa, Guam, Hawaii and the Northern Mariana Islands. The status of Fishery Management Plans (FPMs) covering crustaceans, bottomfish/seamount groundfish, precious corals and pelagics will be discussed. The Council will also discuss and take action, as appropriate, on the following: (1) Status of emergency closure of the lobster fishery; (2) Crustaceans amendment #7 (limited entry and effort reduction); (3) management measures for Main Hawaiian Islands bottomfish; (4) proposed changes in the Northwest Hawaiian Island (NWHI) bottomfish limited entry program; (5) report on enforcement of regulations and the test of a vessel safety system; (6) report on bottomfish observer program; (7) recommendations for black coral management in Hawaii; (8) report on longline permits and logbook data; (9) NWHI longline/monk seal interactions (Amendment #3); (10) longline area closure emergency action in Main Hawaiian Islands (status of emergency action request and refinements

concerning exemption for small vessels, seasonal openings, different size, closures, native rights, etc.); (11) moratorium on new entry into the Hawaii longline fishery (status of emergency action request, report on limited entry permits and actions, discussion of permit ownership, consideration of applying refitting exemption or some variation during the current emergency, extension of emergency action (90 days), reconsideration of exempting vessels that fish outside U.S. waters from landing their fish in Hawaii during the moratorium; (12) experimental fishing permit request for sharks; and (13) other Council business.

The Council will take comments from the public during the Council meeting. The public may also respond in writing to the address listed below.

For more information contact Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, suite 1405, Honolulu, HI 96813; telephone: (808) 523–1368.

Dated: May 9, 1991.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 91–11447 Filed 5–14–91; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals; Issuance of Permit; Dr. James T. Harvey (P368B)

On March 6, 1991, Notice was published in the **Federal Register** (56 FR 9346) that an application had been filed by Dr. James T. Harvey, Assistant Professor, Moss Landing Marine Laboratories, P.O. Box 450, Moss Landing, CA 95039–0450, for a scientific research permit to conduct activities on harbor seals (*Phoca vitulina*).

Notice is hereby given that on May 8, 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.

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

By appointment: Permit Division, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Hwy., Silver Spring, Maryland 20910; and Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731 (213/514–6196).

Dated: May 8, 1991.

Nancy Foster,

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

[FR Doc. 91–11443 Filed 5–14–91; 8:45 am]

BILLING CODE 3510–22–M

National Telecommunications and Information Administration

Spectrum Planning Advisory Committee; Recharter

AGENCY: National Telecommunications and Information Administration, DOC.

ACTION: Notice of recharter for the Spectrum Planning Advisory Committee.

SUMMARY: In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. app. 2 and General Services Administration (GSA) interim rule on Federal Advisory Committee Management, 41 CFR part 101–6, as amended, and after consultation with GSA, the Secretary of Commerce has determined that the renewal of the Frequency Management Advisory Council, renamed the Spectrum Planning Advisory Committee, is in the public interest in connection with the performance of duties imposed on the Department by law. Effective April 24, 1991, the Spectrum Planning Advisory Committee has been rechartered.

The Committee was first established on July 19, 1965 as the Frequency Management Advisory Council. It provided advice to the Director of the Office of Telecommunications Policy (OTP), Executive Office of the President, until the functions of that office were transferred to the Department of Commerce, National Telecommunications and Information Administration (NTIA), by Executive Order 12046 of March 27, 1978. Its current charter terminates on April 28, 1991.

In reviewing the need for the Committee, the Secretary has reaffirmed its original purpose of providing advice on radio frequency spectrum allocation and assignment matters and means by which the effectiveness of Federal Government frequency management may be enhanced. The Secretary has further affirmed the need for the Committee to advise on strategic spectrum planning issues and increased commercial access to Federal Government spectrum. Research indicates that the Committee's function cannot be accomplished by any organizational element or other committee of the Department.

The Committee has expanded its membership to 19 members, including a balanced representation of 15 non-Federal members, and 4 Federal members, chaired by the Secretary of Commerce or an individual appointed by the Secretary. The Committee will operate in compliance with the provisions of the Federal Advisorv Committee Act.

Copies of the Committee's current Charter have been filed with appropriate committees of Congress and with the Library of Congress.

FOR FURTHER INFORMATION CONTACT: Inquiries or comments may be addressed to the Acting Executive Secretary, Spectrum Planning Advisory Committee, Mr. W. Russell Slye, National Telecommunications and Information Administration, U.S. Department of Commerce, room 4099, 14th Street and Constitution Ave., NW., Washington, DC 20230, telephone: (202) 377–1850; or Ms. Jan Jivatode, the Department Committee Management Analyst, U.S. Department of Commerce, room 6020, 14th Street and Constitution Ave., NW., Washington, DC 20230, telephone: (202) 377–4115.

Dated: May 9, 1991.

W. Russell Slye,

Executive Secretary, Spectrum Planning Advisory Committee.

[FR Doc. 91–11539 Filed 5–14–91; 8:45 am]

BILLING CODE 3510–60–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Limits and Guaranteed Access Levels for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Dominican Republic

May 9, 1991.

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

ACTION: Issuing a directive to the Commissioner of Customs establishing limits and guaranteed access levels for the new agreement year.

EFFECTIVE DATE: June 1, 1991.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, 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 of each Customs port or call (202) 566–5810. 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 Bilateral Cotton and Man-Made Fiber Textile Agreement of January 20, 1989, as amended, and the Memorandum of Understanding (MOU) dated March 11, 1989, between the Governments of the United States and the Dominican Republic establish limits and guaranteed access levels for certain cotton and man-made fiber textile products, produced or manufactured in the Dominican Republic and exported during the period June 1, 1991 through May 31, 1992. The limit for Categories 347/348/647/648 and the sublimit for Categories 347/348 have been reduced for carryforward applied 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).

Requirements for participation in the Special Access Program are available in **Federal Register** notices 51 FR 21208, published on June 11, 1986; 52 FR 6595, published on March 14, 1987; 52 FR 26057, published on July 10, 1987; 54 FR 50425, published on December 6, 1989; and 55 FR 7523, published on March 2, 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 and the March 11, 1989 MOU, but are designed to assist only in the implementation of certain of their provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 9, 1991.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Bilateral Cotton and Man-Made Fiber Textile Agreement of January 20, 1989, as amended, and the Memorandum of Understanding (MOU) dated March 11, 1989, between the Governments of the United States and the Dominican Republic; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on June 1, 1991, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in the following categories, produced or manufactured in the Dominican Republic and exported during the twelve-month period beginning on June 1, 1991 and extending through May 31, 1992, in excess of the following restraint limits:

Category	Twelve-month restraint limit
338/638	535,957 dozen.
339/639	535,957 dozen.
340/640	506,182 dozen.
342/642	357,305 dozen.
347/348/647/648	1,112,364 dozen of which not more than 778,655 dozen shall be in Categories 347/348 and not more than 714,610 dozen shall be in Categories 647/648.
351/651	636,000 dozen.
633	73,596 dozen.
644	744,160 numbers.

Imports charged to these category limits for the period beginning on June 1, 1990 and extending through May 31, 1991 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustments in the future pursuant to the provisions of the current bilateral agreement between the Governments of the United States and the Dominican Republic.

Additionally, pursuant to the current bilateral agreement and the MOU dated March 11, 1989; and under the terms of the Special Access Program, as set forth in 51 FR 21208 (June 11, 1986), 52 FR 26057 (July 10, 1987) and 54 FR 50425 (December 6, 1989), effective on June 1, 1991, guaranteed access levels have been established for properly certified textile products assembled in the Dominican Republic from fabric formed and cut in the United States in cotton and man-made fiber textile products in the following categories which are exported from the Dominican Republic during the period June 1, 1991 through May 31, 1992:

Category	Guaranteed access levels
338/638	1,000,000 dozen.
339/639	1,000,000 dozen.
340/640	1,000,000 dozen.
342/642	1,000,000 dozen.
347/348/647/648	3,500,000 dozen.
351/651	1,000,000 dozen.
633	40,000 dozen.
644	2,400,000 numbers.

Any shipment for entry under the Special Access Program which is not accompanied by a valid and correct certification and Export Declaration in accordance with the provisions of the certification requirements established in the directive of February 25, 1987, as amended, shall be denied entry unless the Government of the Dominican Republic authorizes the entry and any charges to the appropriate specific limits. Any shipment which is declared for entry under the Special Access Program but found not to qualify shall be denied entry into the United States.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
Auggie D. Tantillo,
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91–11549 Filed 5–14–91; 8:45 am]

BILLING CODE 3510–DR–F–

Continuation of Rectangular Visa Requirement for Shipments of Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in the Republic of Korea

May 9, 1991.

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

ACTION: Issuing a directive to the Commissioner of Customs amending a previous directive.

EFFECTIVE DATE: May 9, 1991.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

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).

A notice was published in the **Federal Register** on April 23, 1991 (56 FR 18564) which announced the consolidation of existing export visa and exempt certification requirements for certain textiles and textile products from Korea. In accordance with exchange of letters dated April 8 and 10, 1991, between the Governments of the United States and the Republic of Korea, the directive stated that a circular visa would be required to accompany shipments of these products. However, the circular

visa will not be required at this time. Merchandise exported from Korea will continue to require the rectangular visa. Advance notification of the circular visa requirement will be published in the Federal Register at a later date.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 9, 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 April 17, 1991, by the Chairman, Committee for the Implementation of Textile Agreements. That directive consolidates the existing export visa and exempt certification requirements for certain textiles and textile products, produced or manufactured in Korea.

Effective on May 9, 1991, you are directed to continue to require the rectangular visa for shipments of textiles and textile products, produced or manufactured in Korea. A circular visa will not be required at this time.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91-11550 Filed 5-14-91; 8:45 am]

BILLING CODE 3510-DR-F-

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 91-C0006]

Russ Berrie and Company, Inc., a Corporation; Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Provisional acceptance of a settlement agreement under the Consumer Product Safety Act.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the Federal Register in accordance with the terms of 16 CFR part 1118.20(e). Published below is a provisionally-accepted Settlement Agreement with Russ Berrie and Company, Inc., a corporation.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by May 30, 1991.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 91-C0006, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Eric L. Stone, Trial Attorney, Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 492-6626.

SUPPLEMENTARY INFORMATION: (attached).

Dated: May 10, 1991.

Sheldon D. Butts,

Deputy Secretary.

Settlement Agreement and Order

In the Matter of Russ Berrie and Company, Inc., a corporation.

1. This Settlement Agreement and Order, entered into between Russ Berrie and Company, Inc. a corporation (hereinafter, "Russ Berrie"), and the staff of the Consumer Product Safety Commission (hereinafter, "staff"), is a compromise resolution of the matter described herein, without a hearing or determination of issues of law and fact.

2. The provisions of the Settlement Agreement and Order shall apply to Russ Berrie and to each of its successors and assigns.

I. The Parties

3. The "staff" is the staff of the Consumer Product Safety Commission, an independent regulatory commission of the United States of America (hereinafter, "Commission") created by Congress pursuant to section 4 of the Consumer Product Safety Act (hereinafter, "CPSA"), 15 U.S.C. 2053.

4. Russ Berrie is a corporation organized and existing under the laws of the State of New Jersey, with its principal corporate offices located at 111 Bauer Dr., Oakland, New Jersey 07436.

5. Russ Berrie imported certain stuffed toys known as the Baby Bibi Bear, #644 ("Bears"), for sale to, or use by, consumers in or around a permanent or temporary household or residence. These Bears are "consumer products" within the meaning of section 3(a)(1) of the CPSA, 15 U.S.C. 2052(a)(1).

6. Since it imported these Bears and sold them throughout the United States, Russ Berrie, is a "manufacturer" of a "consumer product" for "distribution in commerce," as those terms are defined in sections 3(a) (1), (4) and (11) of the CPSA, 15 U.S.C. 2052(a) (1), (4) and (11).

II. The Product

7. Between 1986 and October 1988, Russ Berrie manufactured and distributed in commerce approximately 470,000 Bears. The firm contends that only 120,720 were potentially affected and of these, 28,812 were in possession of the manufacturer.

III. Staff Allegations

8. From July to October 1988, Russ Berrie received at least 16 complaints from retailers about loose, missing or damaged eyes on Baby Bibi bears. In October 1988, the firm conducted tests on its inventory and learned that the eyes on Bears from three lots imported since the end of 1987 came off easily. The staff alleges that the poor attachment for the eyes created a defect as that term is used in section 15(b) of the CPSA.

9. By letter dated October 21, 1988, the firm recalled the Bears from the distribution chain. The firm destroyed Bears returned by its customers, and shipped those in its inventory back to the South Korean manufacturer. The firm did not notify the Commission or report these activities.

10. The staff alleges that the eyes on the Bears are approximately ½ inch in size and are in a shape that can cause obstruction of the airway in a small child who places the eye in its mouth. This could cause serious injury or death. The staff further alleges that Russ Berrie knew or should reasonably have known that these eyes could cause serious injury or death in this manner.

11. The staff contends that by October 1988, Russ Berrie had received sufficient information to reasonably support the conclusion that its Bears contained a defect which could create a substantial product hazard but the company failed to report such information to the Commission in a timely manner as required by section 15(b) of the CPSA.

IV. Response By Russ Berrie

12. Russ Berrie states that no consumer complaints have been received. The firm believes that its distribution chain recall action was effective and responsible and prevented a "significant risk of injury to the public."

13. Russ Berrie denies each and all of the staff allegations with respect to its products. It further, and specifically, denies that its bears contain a defect which creates or which could create a substantial product hazard and further specifically denies any obligation to report information to the Commission under section 15(b) of the CPSA, 15

U.S.C. 2064(b), with respect to these Bears.

V. Agreement of the Parties

14. The Consumer Product Safety Commission has jurisdiction over Russ Berrie and the subject matter of this Settlement Agreement and Order pursuant to 15 U.S.C. 2064(b), 2068, and 2069.

15. Russ Berrie agrees to settle the Commission's claim in accordance with the attached Order, by paying a civil penalty in the amount of $30,000 within 20 days of the final acceptance of this Settlement Agreement by the Commission and service upon Russ Berrie of the Commission's Final Order. This Settlement Agreement constitutes a settlement of any violations of the reporting requirements of section 15(b) of the CPSA, 15 U.S.C. 2064(b), or export notification requirements of Sections 4(i) and 14(d) of the Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1263(i) and 1273(d), that may be alleged on the basis of the information that the Commission staff currently possesses concerning the subject Bears.

16. Upon final acceptance of this Settlement Agreement by the Commission, Russ Berrie knowingly, voluntarily and completely, waives any rights it may have in this matter (1) to an administrative or judicial hearing, (2) to judicial review or other challange or contest of the validity of the Commission's actions, (3) to a determination by the Commission whether a violation has occurred, and (4) to a statement of findings of fact and conclusions of law. By making this waiver, Russ Berrie does not concede that its Bears contain a defect which creates or could create a substantial product hazard within the meaning of section 15(a) of the CPSA, 15 U.S.C. 2064(a), or that it violated the export notification provisions of section 4(i) and 14(d) of the FHSA, 15 U.S.C. 1263(i) and 1273(d).

17. For purposes of section 6(b) of the CPSA, 15 U.S.C. 2055(b), this matter shall be treated as if a complaint had issued and the Commission may publicize the terms of the Settlement Agreement and Order.

18. The Commission does not make any determination that the Bears contain a defect which could create a substantial product hazard, or that a violation of the CPSA or Federal Hazardous Substances Act (FHSA) has occurred. This Agreement shall not constitute evidence or an admission with respect to any allegation of the staff, or of any wrongdoing, misconduct, or violation of any statute or rule on the part of Russ Berrie. The Commission and Russ Berrie agree that this Agreement is entered into for the purposes of settlement only.

19. Upon provisional acceptance of this Settlement Agreement and Order by the Commisison, this Settlement Agreement and Order shall be placed on the public record and the provisional acceptance of the Agreement shall be announced in the **Federal Register** in accordance with the procedure set forth in 16 CFR 1118.20(e). If the Commission receives no written requests not to accept the Agreement within 15 days after publication in the **Federal Register**, the Settlement Agreement and Order will be deemed finally accepted on the 16th day after the date it is published in the **Federal Register**, in accordance with 16 CFR 1118.20(f).

20. The parties further agree that the incorporated Order be issued under the CPSA, 15 U.S.C. 2051 *et seq.*, and that a violation of the Order will subject Russ Berrie to appropriate legal action.

21. No agreement, understanding, representation, or interpretation not contained in Settlement Agreement and Order may be used to vary or to contradict its terms.

22. Nothing in this Agreement should be construed as limiting Russ Berrie's obligation to report pursuant to section 15(b) of the CPSA, or to comply with the Federal Hazardous Substances Act, 15 U.S.C. 1261 *et seq.* and regulations issued thereunder.

By agreement of the parties.

Russ Berrie and Company, Inc.

Dated: February 8, 1991.

A. Curts Cooke,

President.

The Consumer Product Safety Commission

David Schmeltzer,

Associate Executive Director; Directorate for Compliance and Administrative Litigation.

Alan H. Schoem,

Director, Division of Administrative Litigation.

Dated: March 5, 1991.

Eric L. Stone,

Trial Attorney, Directorate for Compliance and Administrative Litigation.

Order

Upon consideration of the Settlement Agreement of the parties, it is hereby

Ordered, that within 20 days of final acceptance of this Settlement Agreement and issuance of this Order, Russ Berrie and Company, Inc. shall pay a civil penalty in the sum of $30,000 to the Consumer Product Safety Commission for transference to the U.S. Treasury.

Provisonally accepted on the 10th day of May, 1991.

By Order of the Commission.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 91-11541 Filed 5-14-91; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Public Information Collection Requirements Submitted to OMB for Review.

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, applicable form, and applicable OMB control number: Application for DoD Armed Forces Community Relations Support; DD Forms 2535 and 2536; OMB No. 0704-0290

Type of Request: Extension.

Average Burden Hours/Minutes per Response: 30 minutes.

Responses per Respondent: 1.

Number of Respondents: 8,000.

Annual Burden Hours: 4,000.

Annual Responses: 8,000.

Needs and Uses: The Armed Services are frequently asked to support community events with aerial demonstrations, musical support, speakers, etc. To evaluate these requests, certain information is required which is summarized on the DD Forms 2535 and 2536. Information is requested about the event, the sponsor, the exact nature of the desired support, and safety considerations.

Affected Public: Individuals or households, State or local governments, and Non-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Mr. Jonas Neihardt.

Written comments and recommendations on the proposed information collection should be sent to Mr. Neihardt at the Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302.

Dated: May 10, 1991.

L.M. Bynum,

Alternative OSD Federal Register Liaison Offier, Department of Defense.

[FR Doc. 91–11508 Filed 5–14–91; 8:45 am]

BILLING CODE 3810–01–M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board Platform Panel of the Ad Hoc Committee Study of Off-Board Sensors—Summer Study 1991 will meet on 30–31 May 91 from 8 a.m. to 5 p.m. at McDonnell Douglas, St. Louis, MO, Headquarters Military Airlift Command, Scott AFB, IL, Dyess AFB, TX, and General Dynamics Corp, Dallas, TX.

The purpose of these meetings is to receive presentations of Air Force projects and programs relevant to the concept using off-board sensors data to support air combat operations. This meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) and (4) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 91–11583 Filed 5–14–91; 8:45 am]

BILLING CODE 3910–01–M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS), Carolina Beach and Vicinity, NC, Area South Project, New Hanover County, NC

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The project under consideration includes measures to reduce hurricane damages along a stretch of beach approximately 3½ miles long in New Hanover County, North Carolina, which includes an unincorporated area south of the town of Carolina Beach and most of the beach within the corporate limits of the town of Kure Beach. It is referred to as the Area South project and is one of the two separable elements of the authorized Carolina Beach and Vicinity project. The other separable element, the Carolina Beach portion, has already been constructed.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and Draft Environmental Impact Statement can be answered by: Mr. Daniel Small; Environmental Resources Branch; U.S. Army Engineer District, Wilmington; Post Office Box 1890; Wilmington, North Carolina 28402–1890; commercial phone, (919) 251–4730 or FTS 232–4730.

SUPPLEMENTARY INFORMATION: The Carolina Beach and Vicinity, NC, project, which included the Area South, was authorized under the authority of the Flood Control Act of 1962.

The Area South project refers to a stretch of beach approximately 3½ miles long in New Hanover County, North Carolina, which includes an unincorporated area south of the town of Carolina Beach and most of the beach within the corporate limits of the town of Kure Beach.

The Carolina Beach and Vicinity, NC, project, which included the Area South, was authorized under the authority of the Flood Control Act of 1962. The Wilmington District prepared a Design Memorandum on measures to reduce storm damages to Carolina Beach and Vicinity in 1967. Environmental impacts associated with construction and maintenance of the project were investigated and documented in the 1967 Design Memorandum. The Area South portion of the project was declared inactive in 1974 due to local interests being unable to provide the required local share of project costs. The project was reclassified as active in 1986 when local interests expressed an interest in sponsoring the project. An economic reevaluation conducted in 1989 of the measures recommended in the 1967 Design Memorandum determined that a project to protect the study area from hurricane and storm damages would be economically feasible. A Design Memorandum supplement and a DEIS are now being prepared on the Area South project.

1. The proposed project would consist of a beach berm and dune restoration with a southern terminal groin along a section of shoreline approximately 19,030 feet. An alternate project plan would not include the southern terminal groin and would terminate into the existing dune system at or near the project's southern limit. The northern end of the project will transition directly into the existing portion of the Federal project at Carolina Beach. Current estimates are that approximately 3.7 million cubic yards of dredged material would be needed for initial construction and 635,000 cubic yards of material will be needed for each periodic renourishment which would be performed at 5-year intervals. Material needed for initial construction and periodic renourishment would be obtained from a single source, if acceptable, or combination of sources. Potential borrow areas under evaluation include an upland site on Pleasure Island; an estuarine site in the Cape Fear River west of Pleasure Island; Jaybird Shoals in the Atlantic Ocean near the mouth of the Cape Fear River, west of the Cape Fear River ship channel; and potential offshore sand sources in the Atlantic Ocean.

2. All private interests and Federal, State, and local agencies known to have an interest in the study area have been notified of the study start and have been provided an opportunity for input into the study process. All additional agencies, organizations, and interested parties which have not been previously notified are invited to comment at this time.

3. Preparation of the DEIS will require assessment of those impacts associated with beach nourishment and maintenance for areas south of Carolina Beach. Significant issues identified at this time center primarily around finding an environmentally acceptable borrow area(s) for the project.

4. The U.S. Fish and Wildlife Service is furnishing input into the planning process in accordance with the provisions of the Fish and Wildlife Coordination Act (16 U.S.C. 661 *et seq.*). Other environmental laws and directives which will be considered in plan formulation and reporting include the Clean Water Act (Pub. L. 95–217); the National Historic Preservation Act of 1966, as amended; the Abandoned Shipwreck Act of 1987; the Endangered Species Act, as amended (16 U.S.C. 470 et seq.); and Executive Order 11990, Protection of Wetlands, dated May 24, 1977. A Coastal Zone Management Act consistency determination will be furnished to the State of North Carolina and a section 401 Water Quality Certificate will be obtained from the State prior to project construction.

5. A scoping letter requesting input to the study is being sent to all known interested parties. No formal scoping meetings are currently planned; however, the identification by others of any significant issues relating to the project will result in coordination with appropriate interests as needed.

6. It is estimated that the draft design memorandum supplement and DEIS will be available in July 1992.

Dated: April 30, 1991.

Thomas C. Suermann,

Lieutenant Colonel, Corps of Engineers, District Engineer.

[FR Doc. 91-11450 Filed 5-14-91; 8:45 am]

BILLING CODE 3710-GN-M

Environmental statements; Availability, etc.: Dallas Floodway Extension Project, Dallas County, TX

ACTION: Notice of intent.

SUMMARY: The Fort Worth District is preparing a Supplemental Environmental Impact Statement (SEIS) for the proposed Dallas Floodway Extension Project, Dallas County, Dallas, Texas. The proposed project consists of a combination of floodway levees and a flood control channel which would provide Standard Project Flood level protection. This plan would consist of a 22-mile levee and floodway system with a 9.1 mile residual channel along the Trinity River, 4.1 miles of channel improvements along White Rock Creek, and 5.4 miles of channel improvements to divert Five Mile Creek. The proposed project purpose is to provide flood protection for industrial and residential areas adjacent to the Trinity River, and White Rock and Five Mile Creeks.

FOR FURTHER INFORMATION CONTACT: Ms. Choyce R. Morrow, ATTN: CESWF-PL-MS, U.S. Army Engineer District, Fort Worth, P.O. Box 17300, Fort Worth, Texas 76102-0300, (817) 334-3876.

SUPPLEMENTARY INFORMATION: The proposed project area is located in south Dallas, Texas. In 1960, the Corps of Engineers constructed the Dallas Floodway, which is located near the confluence of the Elm Fork and West Fork of the Trinity River. The Dallas Floodway Extension would extend the Dallas Floodway downstream to Five Mile Creek, distance of 9 miles. The study was authorized by Public Law 89-298, enacted on October 27, 1965. The Dallas Floodway Extension was originally a part of the Trinity River Navigation Project Environmental Impact Statement (EIS) which was published on August 1980. Due to changes in design and scope of the project, it is necessary to prepare an SEIS which may include the following topics:

1. *Proposed Action:* The proposed action consists of a combination of floodway levees and flood control channels which will provide Standard Project Flood Control protection.

2. *Alternatives:* Other alternatives may include both structural and non-structural measures as well as the "No Action" alternative.

3. The Corps' scoping and public involvement program is described as follows:

a. The public involvement program for this study consists of one public scoping meeting, four workshops, and one public information meeting. The public information meeting is scheduled at the conclusion of the study to present the results of the study to the local residents.

b. Some of the significant issues to be analyzed in depth will include environmental impacts of flooding, biological resources (bottomland hardwoods, wetlands, etc.), water quality, socio-economics, a newly authorized State Park by the Texas Parks and Wildlife Department, mitigation, and environmental enhancement.

c. The local sponsor and other State and Federal agencies will be responsible for furnishing existing and impact information concerning the study data.

d. The U.S. Fish and Wildlife Service will furnish information on endangered and threatened species in accordance with the Endangered Species Act. Consultation with the State Historic Preservation Officer and the Advisory Council on Historic Preservation will furnish information in accordance with Section 106 of the Historic Preservation Act.

4. A public meeting is scheduled for May 21, 1991 at 7:30 p.m. in the Auditorium of the Franklin D. Roosevelt High School, 535 Bonnie View Road, Dallas, Texas, 75215.

5. The SEIS is scheduled for public review on May 15, 1992.

John O. Roach, II,

Army Liaison Officer with the Federal Register.

[FR Doc. 91-11451 Filed 5-14-91; 8:45 am]

BILLING CODE 3710-20-M

Office of the Secretary

Closed Meeting

AGENCY: Defense Intelligence Agency Advisory Board

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the provision of Subsection (d) of section 10 of Public Law 92-463, as amended by section 5 of Public Law 94-409, notice is hereby given that a closed meeting of a panel of the DIA Advisory Board has been scheduled as follows:

DATES: Thursday, May 23, 1991 (9 a.m. to 5 p.m.).

ADDRESSES: The DIAC, Bolling AFB, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel John G. Sutay, USAF, Chief, DIA Advisory Board Washington, DC 20340-1328 (202/373-4930).

SUPPLEMENTARY INFORMATION: The entire meeting will be devoted to the discussion of classified information as defined in section 552b(c)(1), title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on Advanced Air Defense.

Dated: May 10, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-11509 Filed 5-14-91; 8:45 am]

BILLING CODE 3810-01-M

Department of the Navy

Patent Licenses; Cardolite Corp.

AGENCY: Department of the Navy, DOD.

ACTION: Intent of Grant Exclusive Patent Licenses; Cardolite Corporation.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Cardolite Corporation a revocable, nonassignable, exclusive license to practice the Government-owned inventions described in U.S. Patent No. 4,223,123, "Aliphatic Phenoxy Polyphthalocyanine" issued September 16, 1980, U.S. Patent No. 4,238,601, "Perfluorinated Aliphatic Phenoxy Bisorthodinitriles and Polyphthalocyanines Therefrom," issued December 9, 1980, U.S. Patent No. 4,259,471, "Polyphenylether-Bridged Polyphthalocyanine" issued March 31, 1981, U.S. Patent No. 4,304,896, "Polyphthalocyanine Resins" issued December 8, 1981, U.S. Patent No. 4,408,035, "Phthalonitrile Resin from Diphthalonitrile Monomer and Amino" issued October 4, 1983 and U.S. Patent No. 5,003,039, "Amino Phenyl Containing Covering Agent for High Performance Phthalonitrile Resin" issued March 26, 1991 for use in the field of high-temperature structural resins.

Anyone wishing to object to the grant of this license has 60 days from the date of this notice to file written objections along with supporting evidence, if any. Written objections are to be filed with

the Office of the Chief of Naval Research (Code OOCCIP), Arlington, Virginia 22217-5000.

DATES: May 15, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. R.J. Erickson, Staff Patent Attorney, Office of the Chief of Naval Research (Code OOCCIP), 800 N. Quincy Street, Arlington, Virginia 22217-5000, telephone (703) 696-4001.

Dated: May 6, 1991.

Wayne T. Baucino,

LT, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 91-11455 Filed 5-14-91; 8:45 am]

BILLING CODE 3810-AE-M

DELAWARE RIVER BASIN COMMISSION

Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, May 22, 1991 beginning at 1 p.m. in the Goddard Conference Room of its offices at 25 State Police Drive, West Trenton, New Jersey.

An information conference among the Commissioners and staff will be open for public observation at 9:30 a.m. at the same location and will include discussions of water conservation performance standards for plumbing fixtures and fittings; water conserving pricing policy; upper Delaware ice jam project; amendment of Compact Section 15.1(b) to fund the F. E. Walter Reservoir project; and middle and upper Delaware Scenic Rivers protection proposals.

The subjects of the hearing will be as follows:

Proposed amendments to Comprehensive Plan, Water Code of the Delaware River Basin and Administrative Manual—Rules of Practice and Procedure Relating to the Transfer of Water and Wastewater to and from the Delaware River Basin. Notice was given in the April 18, 1991 issue of the **Federal Register** that the Commission would hold a public hearing on May 22, 1991 to receive comments on proposed amendments to its Comprehensive Plan, Water Code and Rules of Practice and Procedure relating to the interbasin transfer of water and wastewater. The purposes of the Delaware River Basin Compact include the planning, conservation, utilization, development, management and control of the water resources of the Basin to provide for cooperative action by the parties signatory to the Compact with respect to such resources. Since the Compact's enactment, demands upon the waters and related resources of the Basin have steadily increased and are projected to continue to increase, even with the implementation of significant conservation measures. At the same time, the potential for construction of additional water supply storage is limited and costly. The waste assimilative capacity of Basin water is limited, and reductions in streamflow or any additions of wastewater would increase the burden placed on Basin water users. With this in mind, the Commission is proposing policy and implementing regulations relating to importations and exportations of water.

Current Expense and Capital Budgets. A proposed current expense budget for the fiscal year beginning July 1, 1991, in the aggregate amount of $2,828,100 and a capital budget for the same period in the amount of $1,587,500 in revenue and $1,228,100 in expenditures. Copies of the current expense and capital budget are available from the Commission on request.

Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or section 3.8 of the Compact:

1. *Palmer Water Company D-81-24 CP RENEWAL-2.* An application for the renewal of a ground water withdrawal project to supply up to 10.5 million gallons (mg)/30 days of water to the applicant's distribution system from Well A. Commission approval on March 26, 1986 was limited to five years. The applicant requests that the total withdrawal from all wells remain limited to 35 mg/30 days. The project is located in Palmerton Borough, Carbon County, Pennsylvania.

2. *Mantua Township Municipal Utilities Authority D-85-16 CP RENEWAL.* An application for the renewal of a ground water withdrawal project to supply up to 37 mg/30 days of water to the applicant's distribution system from Well Nos. 1-5. Commission approval on January 22, 1986 was limited to five years. The applicant requests that the total withdrawal from all wells be increased from 33.4 mg/30 days to 37 mg/30 days. The project is located in Mantua Township, Gloucester County, New Jersey.

3. *Upper Saucon Township D-85-57 CP RENEWAL.* An application for the renewal of a ground water withdrawal project to supply up to 30 mg/30 days of water to the applicant's distribution system from the abandoned New Jersey Zinc Company mine shaft. Commission approval on April 29, 1986 was limited to five years. The applicant requests that the total withdrawal remain limited to 30 mg/30 days. The project is located in Upper Saucon Township, Lehigh County, Pennsylvania.

4. *Garden State Water Company (Blackwood District) D-88-38 CP.* An application for approval of a ground water withdrawal project to supply up to 64.8 mg/30 days of water to the applicant's distribution system from new Well Nos. 13, 14 and 15 (Cohansey Aquifer), and to increase the existing withdrawal limit from Well Nos. 3, 6 and 7 (PRM Aquifer) from 75 mg/30 days to 121 mg/30 days. The project is located in Gloucester Township, Camden County, New Jersey.

5. *Delaware Valley Utilities, Inc. D-90-15.* A project to modify and expand the currently approved .095 mgd sewage treatment plant (STP) to treat an initial wastewater flow of 0.30 mgd to serve portions of Westfall Township. This is the first of three anticipated phases, with projections to ultimately treat 0.82 mgd. The treated effluent will be discharged to the Delaware River via the existing plant's outfall structure. The STP is located adjacent to the Delaware River just south of the Route 209 and I-84 Interchange in Westfall Township, Pike County, Pennsylvania.

6. *Willistown Township Board of Supervisors D-90-61 CP.* A sewage treatment plant (STP) and spray irrigation project to serve the proposed residential and commercial development of Penn's Preserve. A new STP will be constructed to provide secondary treatment for a design flow of 0.08 mgd, with the treated effluent to be applied to an 18-acre spray field in the Ridley Creek watershed. No direct discharge to surface water is proposed. The project is located in Willistown Township adjacent to State Route 3 between Delchester and Garrett Mill Roads, Chester County, Pennsylvania.

7. *Milford Township Water Authority D-90-85 CP.* An application for approval of a ground water withdrawal project to supply up to 4.32 mg/30 days of water to the applicant's distribution system from new Well No. 4, and to increase the existing withdrawal limit from all wells from 1.26 mg/30 days to 5.58 mg/30 days. The project is located in Milford Township, Bucks County, in the Southeastern Pennsylvania Ground Water Protected Area.

8. *Crompton & Knowles Corp. D-90-100.* A project to upgrade an existing 0.18 mgd industrial wastewater treatment plant (IWTP) by addition of a final clarifier to operate in conjunction with the existing powdered activated carbon treatment process at the applicant's dye manufacturing plant. The project IWTP will continue to discharge via an exiting outfall to the

Schuylkill River, and is located approximately one mile east of the Town of Gibralter in Robeson Township, Berks County, Pennsylvania.

9. *TRANSCO Gas Pipe Line Corp. D–90–101.* A temporary diversion project to hydrostatically test 17.5 miles of the applicant's existing natural gas pipe line system (Mainline "A") using 3.5 mgd of water to be withdrawn from the Neshaminy Creek. The water will be used to pressure test the pipe line, then discharged back to the withdrawal point. After the pressure test, the water is sampled and filtered or purified, if necessary, prior to discharge. The project intake will be located on the Neshaminy Creek between Newtown and Northampton Townships, Bucks County, Pennsylvania, just east of where Twining Ford Road runs closest to the Creek.

10. *TRANSCO Gas Pipe Line Corp. D–90–102.* A temporary diversion project to hydrostatically test 16.5 miles of the applicant's natural gas pipe line system (Mainline "A") using 3.3 mg of water to be withdrawn from the Schuylkill River. The water will be used to pressure test the pipe line, then discharged back to the withdrawal point. After the pressure test, the water is sampled and filtered or purified, if necessary, prior to discharge. The project intake will be located on the Schuylkill River between Schuylkill Township, Chester County and Lower Providence Township, Montgomery County, Pennsylvania, about 2,000 feet downstream of the Pawling Road Bridge.

11. *TRANSCO Gas Pipe Line Corp. D–90–103.* A temporary diversion project to hydrostatically test 13.3 miles of the applicant's existing gas pipe line system (Mainline "A") and Mainline "B") using 6.5 mg of water to be withdrawn from the West Branch Brandywine Creek. The water will be used to pressure test the pipe line, then discharged back to the withdrawal point. After the pressure test, the water will be sampled and filtered or purified, if necessary, prior to discharge. The project intake will be located on the West Branch Brandywine Creek in Valley Township, Chester County, Pennsylvania, approximately 600 feet downstream of the Route 30 bridge.

12. *Fallsburg Consolidated Water District D–90–105 CP.* An application for approval of a ground water withdrawal project to supply up to 1.75 mg/30 days of water to the applicant's distribution system from new Club at the Brae Well No. 1, and to increase the existing withdrawal limit from all wells of 74.5 mg/30 days to 90 mg/30 days. The project is located in the Town of Fallsburg, Sullivan County, New York.

13. *City of Newark, DE D–90–110 CP (G).* An application for approval of a ground water withdrawal project to supply up to 54 mg/30 days of water to the applicant's distribution system from Well Nos. 20, 21, 23 and 25; up to 42 mg/30 days from Well Nos. 12, 14, 16, and 19; up to 48 mg/30 days from Well Nos. 8, 10, 11, 13, 15 and 17; and to limit the withdrawal from all wells to 144 mg/30 days. The total withdrawal from all wells and surface water sources is limited to 150 mg/30 days. The project is located in the City of Newark, New Castle County, Delaware.

14. *City of Newark, DE D–90–110 CP (S).* An application for approval of a proposed surface water withdrawal of up to 150 mg/30 days (5.0 mgd) from the White Clay Creek to serve the applicant's distribution system. The applicant also proposes two new wells, Nos. 20 and 21 [Docket D–90–110 CP (G)] which, together with its existing wells and the proposed new surface water withdrawal, will be limited to a combined total withdrawal of 150 mg/30 days. Water will be diverted via an existing millrace on White Clay Creek located just west of Route 72 and approximately 1,200 feet upstream of the City of Newark's corporate boundary, in New Castle County, Delaware.

15. *Brushy Mountain Company LTD D–91–14.* An application for approval of a proposed sewage treatment plant (STP) project to serve the planned residential development of Blue Mountain Lake in Stroud Township. The applicant proposes to construct the facility in phases to meet increased demand as development progresses. The initial phase will handle 0.075 mgd and the ultimate capacity of the STP is projected to be 0.275 mgd. The plant will provide chemical addition for phosphorus removal, tertiary filtration, ultraviolet disinfection, and post aeration. The STP will be located approximately 2000 feet east of Blue Mountain Lake and approximately 500 feet west of the Smithfield Township line. The STP will discharge to Sambo Creek, a tributary of Broadhead Creek, in Stroud Township, Monroe County, Pennsylvania.

16. *Mount Pocono Municipal Authority D–91–27 CP.* A sewage treatment plant (STP) upgrade project to provide an improved secondary treatment system and install tertiary filtration facilities for the applicant's 0.40 mgd municipal plant serving the Borough of Mt. Pocono and a small section of Coolbaugh Township. The treated effluent will continue to discharge to Forest Hills Run in the Borough of Mt. Pocono, Monroe County, Pennsylvania, at a point approximately 1,000 feet upstairs of the State Route 611 bridge over Forest Hills Run.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact George C. Elias concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the hearing.

Dated: May 7, 1991.

Susan M. Weisman,

Secretary.

[FR Doc. 91–11456 Filed 5–14–91; 8:45 am]

BILLING CODE 6360–01–M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before June 14, 1991.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Mary P. Liggett, Department of Education, 400 Maryland Avenue, SW., room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Mary P. Liggett, (202) 708–5174.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or

Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Acting Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Mary P. Liggett at the address specified above.

Dated: May 9, 1991.

Mary P. Liggett,

Acting Director, Office of Information Resources Management.

Office of Educational Research and Improvement

Type of Review: Extension.
Title: Application for Grants under the Foreign Language Materials Acquisition Program, LSCA Title V.
Frequency: Annually.
Affected Public: State or local governments.
Reporting Burden:
Responses: 200.
Burden Hours: 3200.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: This form will be used by State Educational agencies to apply for funding under the Foreign Language Materials Acquisition Program. The Department uses the information to make grant awards.

[FR Doc. 91-11477 Filed 5-14-91; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TQ91-9-63-001]

Carnegie Natural Gas Company; Proposed Changes in FERC Gas Tariff

May 8, 1991.

Take notice that on May 3, 1991, as supplemented on May 3, 1991, Carnegie Natural Gas Company ("Carnegie") tendered for filing the following Primary and Alternate tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1, to become effective June 1, 1991:

Primary Tariff Sheets:
Sub Fourteenth Revised Sheet No. 8
Sub Fourteenth Revised Sheet No. 9
Alternate Tariff Sheets:
Sub Alt Fourteenth Revised Sheet No. 8
Sub Alt Fourteenth Revised Sheet No. 9

Carnegie states that pursuant to the PGA clause in its FERC Gas Tariff and § 154.308 of the Commission's regulations, it is proposing to adjust its sales rates effective June 1, 1991, as part of its scheduled Quarterly PGA filing. Carnegie states that it is filing two sets of tariff sheets to correspond with the Primary and Alternate tariff sheets which are pending Commission action in Carnegie's current section 4 rate proceeding in Docket No. RP91-37-000. Carnegie states that consistent with Carnegie's request pending before the Commission in Docket No. RP91-37-000, the referenced Primary tariff sheets reflect the continuation by Carnegie of its standby charge tracker, whereas the referenced Alternate tariff sheets reflect the elimination of Carnegie's standby charge tracker and the inclusion of the associated Account No. 858 costs in Carnegie's base sales rates.

Carnegie proposes in this filing that the Commission accept the referenced Primary tariff sheets, to become effective June 1, 1991, if the Commission grants Carnegie's request for interim authorization in Docket No. RP91-37-000 to continue to track Texas Eastern standby charges through its PGA Clause. Carnegie alternatively proposes that, if Carnegie's request for interim tracking authorization is denied by the Commission, the Commission accept the referenced Alternate tariff sheets to become effective June 1, 1991.

The revised rates reflect the following changes from Carnegie's last fully-supported Out-of-Cycle PGA filing in Docket No. TQ91-8-63-000: a $0.0537 per Dth increase in the demand components of its LVWS and CDS rate schedules; a $0.4061 per Dth increase in the commodity components of its LVWS and CDS rate schedules; a $0.4078 per Dth increase in the commodity component of its LVIS rate schedule; and a $0.0018 per Dth increase in the DCA component of its LVWS and CDS rate schedules. The referenced Primary tariff sheets also reflect a decrease in the Standby Charge Adjustment of $0.1093 per Dth, from $0.3204 per Dth to $0.2111 per Dth.

Carnegie states that copies of its filing were served on all jurisdictional customers 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 Procedure (18 CFR 385.214, 385.211 (1990)). All such protests should be filed on or before May 15, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 91-11473 Filed 5-14-91; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. ST91-6204-000 Through ST91-7145-000]

Enogex, Inc.; Self-Implementing Transactions

May 8, 1991.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to part 284 of the Commission's regulations, sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA) and section 5 of the Outer Continental Shelf Lands Act.[1]

The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction.

A "B" indicates transportation by an interstate pipeline on behalf of an intrastate pipeline or a local distribution company pursuant to § 284.102 of the Commission's regulations and section 311(a)(1) of the NGPA.

A "C" indicates transportation by an intrastate pipeline on behalf of an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.122 of the Commission's regulations and section 311(a)(2) of the NGPA.

A "D" indicates a sales by an intrastate pipeline to an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.142 of the Commission's Regulations and section 311(b) of the NGPA. Any interested

[1] Notice of a transaction does not constitute a determination that the terms and conditions of the proposed service will be approved or that the noticed filing is in compliance with the Commission's regulations.

person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

A "E" indicates an assignment by an intrastate pipeline to any interstate pipeline or local distribution company pursuant to § 284.163 of the Commission's regulations and section 312 of the NGPA.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.222 and a blanket certificate issued under § 284.221 of the Commission's regulations.

A "G–S" indicates transportation by interstate pipelines on behalf of shippers other than interstate pipelines pursuant to § 284.223 and a blanket certificate issued under § 284.221 of the Commission's regulations.

A "G–LT" or "G–LS" indicates transportation, sales or assignments by a local distribution company on behalf of or to an interstate pipeline or local distribution company pursuant to a blanket certificate issued under § 284.224 of the Commission's regulations.

A "G–HT" or "G–HS" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.224 of the Commission's regulations.

A "K" indicates transportation of natural gas on the Outer Continental Shelf by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.303 of the Commission's regulations.

A "K–S" indicates transportation of natural gas on the Outer Continental Shelf by an intrastate pipeline on behalf of shippers other than interstate pipelines pursuant to § 284.303 of the Commission's regulations.

Linwood A. Watson, Jr.,

Acting Secretary.

Docket No. [1]	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity [2]
ST91-6204	Enogex Inc	Panhandle Eastern Pipeline Company	01-02-91	C	30,000
ST91-6205	ANR Pipeline Company	Northern Indiana Public Service Company	01-02-91	G-S	6,000
ST91-6206	United Gas Pipe Line Company	Midcon Marketing Corporation	01-02-91	G-S	721,000
ST91-6207	United Gas Pipe Line Company	Victoria Gas Corporation	01-02-91	G-S	29,355
ST91-6208	United Gas Pipe Line Company	NGC Transportation, Inc	01-02-91	G-S	154,500
ST91-6209	United Gas Pipe Line Company	Victoria Gas Corporation	01-02-91	G-S	103,000
ST91-6210	Phillips Gas Pipeline Company	Phillips Natural Gas Company	01-02-91	B	20,000
ST91-6211	Valero Transmission, L.P	Natural Gas Pipeline Company	01-02-91	C	15,000
ST91-6212	Mississippi River Transmission Corp	Consolidated Fuel Corporation	01-02-91	G-S	1,030
ST91-6213	Mississippi River Transmission Corp	PPG Industries, Inc	01-02-91	G-S	2,700
ST91-6214	Mississippi River Transmision Corp	National Steel Corporation	01-02-91	G-S	7,700
ST91-6215	Florida Gas Transmission Corporation	United Gas Pipe Line Company	01-02-91	G-S	10,000
ST91-6216	Florida Gas Transmission Corporation	Phibro Distributors Corporation	01-02-91	G-S	200,000
ST91-6218	Transcontinental Gas Pipe Line Corp	Enron Gas Marketing, Inc	01-02-91	G-S	1,100,000
ST91-6219	Transcontinental Gas Pipe Line Corp	Tejas Power Corp	01-02-91	G-S	2,718,000
ST91-6220	Transcontinental Gas Pipe Line Corp	Consolidated Edison Co. of N. Y. Inc	01-03-91	B	6,980,000
ST91-6221	Tennessee Gas Pipeline Co	Graham Energy Marketing Corp	01-03-91	G-S	100,000
ST91-6222	Questar Pipeline Co	Colorado Interstate Gas Co	01-03-91	G	5,000
ST91-6223	El Paso Natural Gas Co	NGC Transporter, Inc	01-03-91	G-S	154,500
ST91-6224	Natural Gas Pipeline Co. of America	Chevron U.S.A., Inc	01-03-91	G-S	35,000
ST91-6225	Columbia Gulf Transmission Co	Monterey Pipeline Co	01-03-91	B	25,000
ST91-6226	Columbia Gulf Transmission Co	Enserch Gas Co	01-03-91	G-S	100,000
ST91-6227	Columbia Gulf Transmission Co	Virginia Natural Gas, Inc	01-03-91	B	100,000
ST91-6228	ANR Pipeline Co	Hadson Gas Systems, Inc	01-03-91	G-S	75,000
ST91-6229	ANR Pipeline Co	Unicorp Energy Inc	01-03-91	G-S	100,000
ST91-6230	ANR Pipeline Co	Midcon Marketing Corp	01-03-91	G-S	250,000
ST91-6231	Valero Transmission, L.P	Natural Gas Pipeline Co. of Amer	01-04-91	C	4,000
ST91-6233	CNG Transmission Corp	New York Power Authority	01-04-91	G-S	150,000
ST91-6234	Colorado Interstate Gas Co	Northern Indiana Public Service Co	01-04-91	B	40,000
ST91-6235	Colorado Interstate Gas Co	PSI Gas Marketing	01-04-91	G-S	20,604
ST91-6236	Trunkline Gas Co	Centran Corp	01-04-91	G-S	5,000
ST91-6237	Trunkline Gas Co	Equitable Resources Marketing Co	01-04-91	G-S	75,000
ST91-6238	Channel Industries Gas Co	Transcontinental Gas Pipeline Corp	01-04-91	C	10,000
ST91-6240	Sabine Pipe Line Co	City of Orlando	01-04-91	B	10,000
ST91-6241	Sabine Pipe Line Co	Florida Gas Utility	01-04-91	B	821
ST91-6242	Gulf Energy Pipelien Co	Tennessee Gas Pipeline Co	01-04-91	C	10,000
ST91-6243	United Gas Pipe Line Co	Equitable Resources Marketing Co	01-04-91	G-S	257,500
ST91-6244	United Gas Pipe Line Co	Endevco Oil & Gas Co	01-04-91	G-S	36,050
ST91-6245	United Gas Pipe Line Co	Louisiana States Gas Corp	01-04-91	G-S	39,655
ST91-6246	United Gas Pipe Line Co	Arkla Energy Marketing Co	01-04-91	G-S	206,000
ST91-6247	United Gas Pipe Line Co	Coastal States Gas Transmission Co	01-04-91	G-S	1,030
ST91-6248	Transtexas Pipeline Co	El Paso Natural Gas Co	01-07-91	C	8,000
ST91-6249	Velero Transmission, L.P	El Paso Natural Gas Co	01-07-91	C	8,000
ST91-6250	Red River Pipeline	Natural Gas Pipeline Co. of America	01-07-91	C	175,000
ST91-6251	Columbia Gulf Transmission Co	American Central Gas Companies, Inc	01-07-91	G-S	20,000
ST91-6252	Columbia Gulf Transmission Co	Diamond Shamrock Offshore Partners	01-07-91	G-S	23,000
ST91-6253	Columbia Gulf Transmission Co	East Ohio Gas Co. (The)	01-07-91	B	25,000
ST91-6254	Columbia Gas Transmission Co	Fuel Services Group	01-07-91	G-S	15,000
ST91-6255	Northern Natural Gas Co	Eastex Hydrocarbons, Inc.	01-07-91	G-S	100,000
ST91-6256	Northern Natural Gas Co	Northern States Power Co.—Wisconsin	01-07-91	B	20,000
ST91-6257	Trunkline Gas Co	Phiero Distributors Corp	01-07-91	G-S	100,000
ST91-6258	Trunkline Gas Co	Rochester Gas & Electric Corp	01-07-91	B	100,000
ST91-6259	Trunkline Gas Co	Panhandle Training Co	01-07-91	G-S	100,000
ST91-6260	Columbia Gulf Transmission Co	Louis Dreyfus Energy Corp	01-07-91	G-S	100,000
ST91-6262	Superior Offshore Pipeline Co	Goodrich Oil CO	01-08-91	G-S	2,188
ST91-6263	Corpus Christi Transmission Co	Trunkline Gas Co	01-08-91	C	30,000
ST91-6264	Texas Gas Transmission Corp	K N Gas Marketing Inc	01-08-91	G-S	150,000

Docket No. [1]	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity [2]
ST91-6265	Texas Gas Transmission Corp	Louisiana Intrastate Gas Corp	01-08-91	B	30,000
ST91-6266	Texas Gas Transmission Corp	The Dayton Power and Light Co	01-08-91	B	51,428
ST91-6267	Texas Gas Transmission Corp	The Dayton Power and Light Co	01-08-91	B	10,000
ST91-6268	Arkla Energy Resources	Arkla Energy Marketing Co	01-08-91	G-S	2,077
ST91-6269	Arkla Energy Resources	Arkla Energy Marketing Co	01-08-91	G-S	5,092
ST91-6270	United Gas Pipe Line Co	Pennzoil Gas Marketing Co	01-08-91	G-S	13,647
ST91-6271	United Gas Pipe Line Co	Stellar Gas Co	01-08-91	G-S	515,000
ST91-6272	United Gas Pipe Line Co	Midcon Marketing Corp	01-08-91	G-S	51,500
ST91-6273	Tennessee Gas Pipeline Co	Channel Industries Gas Co	01-08-91	B	350,000
ST91-6274	Valero Transmission	Natural Gas Pipeline Co	01-09-91	C	10,000
ST91-6275	Natural Gas Pipeline Co. of America	Northern Indiana Public Service Co	01-09-91	B	30,000
ST91-6276	Natural Gas Pipeline Co. of America	Arcadian Corp	01-09-91	G-S	50,000
ST91-6277	Natural Gas Pipeline Co. of America	Woodline Municipal Natural Gas Sys	01-09-91	B	300
ST91-6278	Transwestern Pipeline Co	Williams Gas Marketing Co	01-09-91	G-S	50,000
ST91-6279	Channel Industries Gas Co	Natural Gas Pipeline Co. of Amer	01-09-91	C	50,000
ST91-6280	Tennessee Gas Pipeline Co	The Procter & Gamble Paper Products Co	01-09-91	G-S	4,444
ST91-6281	Tennessee Gas Pipeline Co	National Fuel Gas Supply Corp	01-09-91	G	12,000
ST91-6282	Arkla Energy Resources	Enogex Services, Inc	01-09-91	G-S	1,300
ST91-6284	Arkla Energy Resources	Enogex Services, Inc	01-09-91	B	20,000
ST91-6285	Transtexas Pipeline	Texas Eastern Transmission Corp	01-10-91	C	12,500
ST91-6286	Sea Robin Pipeline Co	Neches Gas Distribution Co	01-10-91	B	30,900
ST91-6287	United Gas Pipe Line Co	Union Texas Petroleum Corp	01-10-91	G-S	14,265
ST91-6288	Texas Gas Transmission Corp	Mobil Natural Gas Inc	01-10-91	G-S	14,200
ST91-6289	Texas Gas Transmission Corp	Mobil Natural Gas Inc	01-10-91	G-S	10,100
ST91-6290	Texas Gas Transmission Corp	Louisiana Intrastate Gas Corp	01-10-91	B	30,000
ST91-6291	Arkla Energy Resources	Amoco Energy Trading Corp	01-10-91	G-S	50,000
ST91-6292	Trunkline Gas Co	American Central Gas Marketing Co	01-10-91	G-S	50,000
ST91-6293	Trunkline Gas Co	Enron Gas Marketing, Inc	01-10-91	G-S	100,000
ST91-6294	Trunkline Gas Co	Texaco Gas Marketing, Inc	01-10-91	G-S	200,000
ST91-6295	Panhandle Eastern Pipe Line Co	PSI, Inc	01-10-91	G-S	50,000
ST91-6296	Panhandle Eastern Pipe Line co	AMGAS, Inc	01-10-91	G-S	200
ST91-6297	Southern Natural Gas Co	Kentucky-Tennessee Clay Co	01-10-91	G-S	500
ST91-6298	Southern Natural Gas Co	City of Wrens	01-10-91	G-S	676
ST91-6299	Southern Natural Gas Co	Gulf States Paper Corp	01-10-91	G-S	1,300
ST91-6300	Southern Natural Gas Co	Texican Natural Gas Co	01-10-91	G-S	50,000
ST91-6301	Southern Natural Gas Co	Howell Gas Management Co	01-10-91	G-S	100,000
ST91-6302	Southern Natural Gas Co	SNG Intrastate Pipeline Inc	01-10-91	B	10,000
ST91-6303	Southern Natural Gas Co	Endevco Oil & Gas CO	01-10-91	G-S	30,000
ST91-6304	Southern Natural Gas Co	National Gas & Oil Corp	01-10-91	G-S	2,551
ST91-6305	Orange and Rockland Utilities, Inc	Commonwealth Gas Co	01-10-91	G-LT	15,000
ST91-6306	El Paso Natural Gas Co	Gasmark, Inc	01-10-91	G-S	8,034
ST91-6307	Taft Pipeline Co	Northern Natural Gas Co	01-10-91	C	25,000
ST91-6308	Columbia Gulf Transmission Co	Union Texas Petroleum Corp	01-10-91	G-S	50,000
ST91-6309	Columbia Gulf Transmission Co	Louisiana Intrastate Gas Corp	01-10-91	B	18,000
ST91-6310	Columbia Gulf Transmission Co	Stellar Gas Co	01-10-91	G-S	10,000
ST91-6311	Columbia Gas Transmission Co	North Carolina Natural Gas Corp	01-10-91	B	1,000
ST91-6312	Columbia Gas Transmission Co	Delta Natural Gas Co	01-10-91	B	1,000
ST91-6313	Columbia Gas Transmission Co	Catamount Natural Gas, Inc	01-10-91	G-S	50,000
ST91-6314	Westar Transmission Co	El Paso Natural Gas Co	01-11-91	C	55,000
ST91-6315	Questar Pipeline Co	Grand Valley Gas Co	01-11-91	G-S	75,000
ST91-6316	Natural Gas Pipeline Co of America	Interstate Power Co	01-11-91	B	6,533
ST91-6317	Natural Gas Pipeline Co of America	Interstate Power Co	01-11-91	B	10,050
ST91-6318	Natural Gas Pipeline Co of America	Interstate Power Co	01-11-91	B	8,543
ST91-6319 [3]	Colorado Interstate Gas Co	Coastal Gas Marketing Company	01-11-91	G-S	100,000
ST91-6320 [3]	Colorado Interstate Gas Co	Coastal Gas Marketing Company	01-11-91	G-S	100,000
ST91-6321 [3]	Colorado Interstate Gas Co	Coastal Gas Marketing Company	01-11-91	G-S	100,000
ST91-6322 [3]	Colorado Interstate Gas Co	Coastal Gas Marketing Company	01-11-91	G-S	100,000
ST91-6323 [3]	Colorado Interstate Gas Co	Coastal Gas Marketing Company	01-11-91	G-S	100,000
ST91-6324	Columbia Gas Transmission Corp	Mountaineer Gas Company	01-11-91	B	10,069
ST91-6325	Columbia Gas Transmission Corp	Columbia Gas of Ohio, Inc	01-11-91	B	78,657
ST91-6326	Columbia Gas Transmission Corp	City of Richmond	01-11-91	B	8,000
ST91-6327	Trunkline Gas Co	NGC Transportation, Inc	01-11-91	G-S	100,000
ST91-6328	Trunkline Gas Co	NGC Transportation, Inc	01-11-91	G-S	50,000
ST91-6329	Trunkline Gas Co	Loutex Energy, Inc	01-11-91	G-S	40,000
ST91-6330	Trunkline Gas Co	Louis Dreyfus Energy Corporation	01-11-91	G-S	100,000
ST91-6331	Trunkline Gas Co	Arcadian Corporation	01-11-91	G-S	100,000
ST91-6332	Trunkline Gas Co	PSI, Inc	01-11-91	G-S	100,000
ST91-6333	Trunkline Gas Co	PSI Gas Marketing	01-11-91	G-S	100,000
ST91-6334	ANR Pipeline Com	Hadson Gas Systems, Inc	01-11-91	G	100,000
ST91-6335	Williston Basin Interstate P/L Co	North Canadian Resources, Inc	01-11-91	G-S	120,000
ST91-6336	Transcontinental Gas Pipe Line Corp	Union Pacific Fuels, Inc	01-11-91	G-S	450,000
ST91-6337	Transcontinental Gas Pipe Line Corp	Amerada Hess Corporation	01-11-91	G-S	500,000
ST91-6338	Tennessee Gas Pipeline Co	O&R Energy, Inc	01-11-91	G-S	2,073
ST91-6339	Tennessee Gas Pipeline Co	United Gas Pipe Line Company	01-11-91	G	100,000
ST91-6340	Tennessee Gas Pipeline Co	Midwestern Gas Transmission Company	01-11-91	G	100,000
ST91-6341	Tennessee Gas Pipeline Co	East Tennessee Natural Gas Company	01-11-91	G	100,000
ST91-6342	Tennessee Gas Pipeline Co	CNG Transmission Corporation	01-11-91	G	100,000
ST91-6343	Delhi Gas Pipeline Corp	Texas Eastern Transmission Corporation	01-14-91	C	10,000
ST91-6344	Valero Transmission, L.P	El Paso Natural Gas Company	01-14-91	C	50,000
ST91-6345	Valero Transmission, L.P	VLDC, L.P	01-14-91	C	9,000

Docket No. [1]	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity [2]
ST91-6346	Southern Natural Gas Co	City of Fitzgerald, Georgia	01-14-91	G-S	977
ST91-6347	Southern Natural Gas Co	Marshall County Gas District	01-14-91	G-S	4,067
ST91-6348	Southern Natural Gas Co	United Cities Gas Company	01-14-91	B	21,000
ST91-6349	Southern Natural Gas Co	City of Ashburn, Georgia	01-14-91	G-S	251
ST91-6350	Southern Natural Gas Co	City of Quitman, Georgia	01-14-91	G-S	609
ST91-6351	Southern Natural Gas Co	City of Moultrie, Georgia	01-14-91	G-S	1,407
ST91-6352	Southern Natural Gas Co	City of Bainbridge, Georgia	01-14-91	G-S	829
ST91-6353	Southern Natural Gas Co	City of Camilla, Georgia	01-14-91	G-S	472
ST91-6354	Southern Natural Gas Co	Fort Valley Utility Commission	01-14-91	G-S	1,676
ST91-6355	Southern Natural Gas Co	City of Trion, Georgia	01-14-91	G-S	239
ST91-6356	Southern Natural Gas Co	City of Fultondale, Alabama	01-14-91	G-S	3,198
ST91-6357	Southern Natural Gas Co	City of Trussville, Alabama	01-14-91	G-S	3,000
ST91-6358	Southern Natural Gas Co	City of Louisville, Georgia	01-14-91	G-S	178
ST91-6359	Southern Natural Gas Co	City of Perry, Georgia	01-14-91	G-S	1,400
ST91-6360	Southern Natural Gas Co	City of Statesboro, Georgia	01-14-91	G-S	2,379
ST91-6361	Southern Natural Gas Co	City of Summerville, Georgia	01-14-91	G-S	3,213
ST91-6362	Southern Natural Gas Co	City of Americus, Georgia	01-14-91	G-S	1,508
ST91-6363	Southern Natural Gas Co	City of Adel, Georgia	01-14-91	G-S	319
ST91-6364	Southern Natural Gas Co	City of Thomasville, Georgia	01-14-91	G-S	1,508
ST91-6365	Southern Natural Gas Co	City of Cordele, Georgia	01-14-91	G-S	704
ST91-6366	Southern Natural Gas Co	City of Cairo, Georgia	01-14-91	G-S	754
ST91-6367	Southern Natural Gas Co	City of Waynesboro, Georgia	01-14-91	G-S	288
ST91-6368	Southern Natural Gas Co	City of Vienna, Georgia	01-14-91	G-S	306
ST91-6369	Southern Natural Gas Co	City of Hogansville, Georgia	01-14-91	G-S	210
ST91-6370	Southern Natural Gas Co	City of Sylvania, Georgia	01-14-91	G-S	160
ST91-6371	Southern Natural Gas Co	City of Sparta, Georgia	01-14-91	G-S	123
ST91-6372	Southern Natural Gas Co	Town of Havan, Florida	01-14-91	G-S	302
ST91-6373	Southern Natural Gas Co	City of Cochran, Georgia	01-14-91	G-S	308
ST91-6374	Southern Natural Gas Co	City of Thomson, Georgia	01-14-91	G-S	930
ST91-6375	Southern Natural Gas Co	City of Blakely, Georgia	01-14-91	G-S	352
ST91-6376	Southern Natural Gas Co	City of LaFayette, Georgia	01-14-91	G-S	1,435
ST91-6377	Southern Natural Gas Co	City of Monticello, Georgia	01-14-91	G-S	216
ST91-6378	Southern Natural Gas Co	City of Quincy, Florida	01-14-91	G-S	1,055
ST91-6379	Southern Natural Gas Co	DeKalb-Cherokee Counties Gas Dist	01-14-91	G-S	1,907
ST91-6380	Southern Natural Gas Co	Alabama Gas Corporation	01-14-91	G-S	70,000
ST91-6381	Southern Natural Gas Co	City of Millen, Georgia	01-14-91	G-S	194
ST91-6382	Southern Natural Gas Co	City of Sylacauga, Alabama	01-14-91	G-S	4,250
ST91-6383	Southern Natural Gas Co	City of Dublin, Georgia	01-14-91	B	1,236
ST91-6384	Viking Gas Transmission Co	Koch Hydrocarbon Co	01-14-91	G-S	100,000
ST91-6385	Tennessee Gas Pipeline Co	Mississippi Fuel Co	01-14-91	B	260,000
ST91-6386	Transok, Inc	Black Marlin Pipeline Co	01-14-91	C	50,000
ST91-6387	Williston Basin Interstate P/L Co	Chevron U.S.A., Inc	01-14-91	G-S	7,700
ST91-6388	Columbia Gulf Transmission Co	Union Texas Petroleum Corp	01-14-91	G-S	35,000
ST91-6389	Northern Natural Gas Co	Energy Development Corp	01-14-91	G-S	15,000
ST91-6390	Florida Gas Transmission Co	Chesapeake Utilities Corp	01-14-91	G-S	20,000
ST91-6391	Texas Gas Gathering Co	Natural Gas Pipeline Co. of Amer	01-14-91	C	1,200
ST91-6392	Blue Dolphin Pipe Line Co	Dow Pipeline System	01-14-91	B	8,000
ST91-6393	Enogex, Inc	Williams Natural Gas Co	01-14-91	C	50,000
ST91-6394	Enogex, Inc	Williams Natural Gas Co	01-14-91	C	15,000
ST91-6395	Enogex, Inc	Arkla Energy Resources	01-14-91	C	20,000
ST91-6396	Enogex, Inc	Arkla Energy Resources	01-14-91	C	50,000
ST91-6397	Tennessee Gas Pipeline Co	Berkshire Gas Co	01-14-91	B	31,500
ST91-6398	ONG Transmission Co	Natural Gas Pipeline Co. of Amer	01-14-91	C	75,000
ST91-6399	ONG Transmission Co	Northern Natural Gas Co	01-14-91	C	50,000
ST91-6401	Transcontinental Gas Pipeline Corp	Enmark Gas Corp	01-14-91	G-S	90,000
ST91-6402	Transcontinental Gas Pipeline Corp	Ultramar Oil & Gas Limited	01-14-91	G-S	6,000
ST91-6403	Transcontinental Gas Pipeline Corp	Southern Natural Gas Co	01-14-91	G	100,000
ST91-6404	Florida Gas Transmission Co	Citrus World, Inc	01-14-91	G-S	987
ST91-6405	Florida Gas Transmission Co	City of Stark	01-14-91	G-S	60
ST91-6406	Florida Gas Transmission Co	Kissimmee Utility Authority	01-14-91	G-S	471
ST91-6407	Florida Gas Transmission Co	Kissimmee Utility Authority	01-14-91	G-S	382
ST91-6408	Florida Gas Transmission Co	Florida Gas Utility	01-14-91	G-S	924,974
ST91-6409	Northern Natural Gas Co	Gastrak Corp	01-14-91	G-S	100,000
ST91-6410	Valero Transmission, L.P	El Paso Natural Gas Pipeline Company	01-15-91	C	11,000
ST91-6411 [3]	Natural Gas Pipeline Co. of America	Willowtex Pipeline Company	01-15-91	G-S	18,000
ST91-6412 [3]	Natural Gas Pipeline Co. of America	Montana Power Company	01-16-91	G-S	20,000
ST91-6413	Tennessee Gas Pipeline Co	SIPCO Gas Transmission Corporation	01-15-91	B	50,000
ST91-6414	Tennessee Gas Pipeline Co	Philadelphia Electric Company	01-15-91	B	50,000
ST91-6415	Tennessee Gas Pipeline Co	Nycotex Gas Transport	01-15-91	B	10,000
ST91-6416	Pelican Interstate Gas System	Natural Gas Pipeline Company of America	01-15-91	K	40,440
ST91-6417	Northern Natural Gas Co	Peoples Natural Gas Company	01-15-91	B	100,000
ST91-6418	Florida Gas Transmission Co	Chevron U.S.A., Inc	01-15-91	G-S	10,000
ST91-6419	Florida Gas Transmission Co	LL&E Gas Marketing, Inc	01-15-91	G-S	10,000
ST91-6420	Delhi Gas Pipeline Corp	Transwestern Pipeline Company	01-15-91	C	3,000
ST91-6421	Delhi Gas Pipeline Corp	Northern Natural Gas Company	01-15-91	C	10,000
ST91-6422	Delhi Gas Pipeline Corp	Northern Natural Gas Company	01-15-91	C	10,000
ST91-6423	Colorado Interstate Gas Co	Coastal Gas Marketing Company	01-15-91	G-S	10,000
ST91-6424	ANR Pipeline Co	U.S. Gas Marketing, Inc	01-15-91	G-S	5,000
ST91-6425	ANR Pipeline Co	Direct Gas Supply Corporation	01-15-91	G-S	25,000
ST91-6426	ANR Pipleine Co	PSI Gas Marketing, Inc	01-15-91	G-S	100,000

Docket No. [1]	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity [2]
ST91-6427	Mississippi River Transmission Corp	Arkla Energy Marketing Company	01-15-91	G-S	140,000
ST91-6428	Mississippi River Transmission Corp	KN Gas Marketing, Inc	01-15-91	G-S	150,000
ST91-6429	Mississippi River Transmission Corp	Bishop Pipeline Corporation	01-15-91	G-S	20,900
ST91-6430	Texas Gas Transmission Corp	Excel Gas Marketing, Inc	01-16-91	G-S	150,000
ST91-6433	Valero Transmission, L.P	Natural Gas Pipeline Company of America	01-16-91	C	5,000
ST91-6436	Northern Border Pipeline Co	Texaco Gas Marketing, Inc	01-16-91	G-S	125,000
ST91-6437	Florida Gas Transmission Co	Coastal Gas Marketing Company	01-16-91	G-S	400,000
ST91-6438	Florida Gas Transmission Co	Arco Natural Gas Marketing, Inc	01-16-91	G-S	500,000
ST91-6439	Northern Natural Gas Co	Lone Star Gas Company	01-16-91	B	100,000
ST91-6440	Northern Natural Gas Co	Texaco Gas Marketing, Inc	01-16-91	G-S	100,000
ST91-6441	Northern Natural Gas Co	Manilla Gas Department	01-16-91	B	250
ST91-6442	Panhandle Eastern Pipe Line Co	Columbia Gas of Ohio	01-16-91	B	70,000
ST91-6443	Columbia Gulf Transmission Co	Graham Energy Marketing Corporation	01-16-91	G-S	200,000
ST91-6444	Tennessee Gas Pipeline Co	NGC Transportation Inc	01-16-91	G-S	9,259
ST91-6445	Tennessee Gas Pipeline Co	CNG Transmission Corporation	01-16-91	G	12,000
ST91-6446	Colorado Interstate Gas Co	Iowa Southern Utilities Company, et al	01-17-91	B	60,000
ST91-6447	Colorado Interstate Gas Co	Public Service Company of Colorado	01-17-91	B	100,000
ST91-6449	Florida Gas Transmission Co	Oryx Gas Marketing, Limited Partnership	01-17-91	G-S	50,000
ST91-6450	Tennessee Gas Pipeline Co	Homeport Pipeline Company	01-17-91	B	2,000
ST91-6451	Tennessee Gas Pipeline Co	Berkshire Gas Company	01-17-91	B	31,250
ST91-6452	Valero Transmission, L.P	El Paso Natural Gas Company	01-17-91	C	3,250
ST91-6453	Valero Transmission, L.P	United Gas Pipeline Company	01-17-91	C	5,000
ST91-6454	Transok, Inc	Arkla Energy Resources	01-17-91	C	50,000
ST91-6455	Transtexas Pipeline Co	El Paso Natural Gas Company	01-17-91	C	3,250
ST91-6456	Valero Transmission, L.P	Florida Gas Transmission Company	01-17-91	C	1,500
ST91-6457 [3]	Texas Eastern Transmission Corp	Delhi Gas Pipeline Corporation	01-17-91	G-S	237,000
ST91-6458 [3]	Texas Eastern Transmission Corp	Delhi Gas Pipeline Corporation	01-17-91	G-S	237,000
ST91-6459 [3]	Panhandle Eastern Pipe Line Co	Access Energy Corp	01-17-91	G-S	1,000
ST91-6460 [3]	Panhandle Eastern Pipe Line Co	APX Corp	01-17-91	G-S	60,000
ST91-6461	Columbia Gulf Transmission Co	Hadson Gas Systems	01-17-91	G-S	121,500
ST91-6462	Trunkline Gas Co	Central Hudson Gas & Elect. Co., et al	01-17-91	B	50,000
ST91-6463	Panhandle Eastern Pipe Line Co	Commonwealth Gas Company, et al	01-17-91	B	150,000
ST91-6464	Panhandle Eastern Pipe Line Co	Tex/Con Gas Pipeline Company	01-17-91	B	50,000
ST91-6465	Panhandle Eastern Pipe Line Co	Bishop Pipeline Company	01-17-91	B	50,000
ST91-6466	United Gas Pipe Line Co	Rally Pipeline Corporation	01-17-91	G-S	58,710
ST91-6467	United Gas Pipe Line Co	Transamerican Gas Transmission Corp	01-17-91	G-S	154,500
ST91-6468	United Gas Pipe Line Co	Rally Pipeline Corporation	01-17-91	G-S	58,710
ST91-6469	United Gas Pipe Line Co	Seagull Marketing Services, Inc	01-17-91	G-S	515,000
ST91-6470	United Gas Pipe Line Co	NGC Transportation, Inc	01-17-91	G-S	154,500
ST91-6471	Red River Pipeline	El Paso Natural Gas Company	01-18-91	C	75,000
ST91-6472	Northern Natural Gas Co	Northern States Power Company	01-18-91	B	2,000
ST91-6473	Northern Natural Gas Co	Hawarden Municipal Utility	01-18-91	B	775
ST91-6474	Northern Natural Gas Co	Rolfe Municipal Utility	01-18-91	B	240
ST91-6475	Florida Gas Transmission Co	Houston Pipe Line Company	01-18-91	G-S	50,000
ST91-6476	Natural Gas Pipeline Co. of America	Arcadian Corporation	01-18-91	G-S	16,000
ST91-6477	Natural Gas Pipeline Co. of America	Arcadian Corporation	01-18-91	G-S	1,000
ST91-6478	Natural Gas Pipeline Co. of America	Centran Corporation	01-18-91	G-S	30,000
ST91-6479	Williston Basin Interstate P/L Co	Koch Hydrocarbon Company	01-18-91	G-S	141
ST91-6480	Columbia Gulf Transmission Co	Texaco Gas Marketing, Inc	01-18-91	G-S	25,000
ST91-6481	Columbia Gul Transmission Co	Exxon Corporation	01-18-91	G-S	175,000
ST91-6482	Trunkline Gas Co	Panhandle Trading Company	01-18-91	G-S	75,000
ST91-6483	Trunkline Gas Co	American Central Gas Marketing Company	01-18-91	G-S	25,000
ST91-6484	Northern Natural Gas Co	Union Texas Products Corporation	01-18-91	G-S	30,000
ST91-6485	Northern Natural Gas Co	Sanborn Municipal Gas Utility	01-18-91	B	600
ST91-6486	Northern Natural Gas Co	Grettinger Municipal Gas	01-18-91	B	275
ST91-6487	Northern Natural Gas Co	Eastex Hydrocarbon, Inc	01-18-91	G-S	100,000
ST91-6488	Northern Natural Gas Co	Minnegasco, Inc	01-18-91	B	50,000
ST91-6489	Northern Natural Gas Co	City of Two Harbors	01-18-91	B	1,111
ST91-6490	Lone Star Gas Company	El Paso Natural Gas Company	01-22-91	C	12,000
ST91-6492	Enserch Gas Transmission Company	United Gas Pipeline Company	01-22-91	C	100,000
ST91-6493	Valero Transmission, L.P	Natural Gas Pipeline Company of America	01-22-91	C	10,000
ST91-6494	Delhi Gas Pipeline Corp	Northern Natural Gas Co	01-22-91	C	10,000
ST91-6495	Delhi Gas Pipeline Corp	Natural Gas Pipeline Co. of America	01-22-91	C	10,000
ST91-6496	KN Energy, Inc	DYCO Gas Marketing, Inc	01-22-91	G-S	10,000
ST91-6497	KN Energy, Inc	Reliance Gas Marketing Co	01-22-91	G-S	10,000
ST91-6498	Natural Gas Pipeline Co. of America	V.H.C. Gas Systems, L.P	01-22-91	G-S	10,000
ST91-6499	Natural Gas Pipeline Co. of America	Chevron U.S.A., Inc	01-22-91	G-S	10,000
ST91-6500	Natural Gas Pipeline Co. of America	PSI Gas Marketing	01-22-91	G-S	10,000
ST91-6501	Seagull Shoreline System	VLDC, L.P	01-22-91	C	20,000
ST91-6502	Kentucky West Virginia Gas Company	Paintsville Utilities Commission	01-22-91	B	480
ST91-6503	Colorado Interstate Gas Company	Cheyenne Light, Fuel and Power Company	01-22-91	B	10,000
ST91-6504	Florida Gas Transmission Company	Amoco Energy Trading Company	01-22-91	G-S	150,000
ST91-6505	Florida Gas Transmission Company	Sebring Utilities Commission	01-22-91	G-S	514
ST91-6506	Transwestern Pipeline Company	Caspen Gas Company	01-22-91	G-S	60,000
ST91-6507	Transwestern Pipeline Company	OXY USA, Inc	01-22-91	G-S	5,000
ST91-6508	CNG Transmission Corporation	GTE Products Corporation	01-22-91	G-S	2,500
ST91-6509	CNG Transmission Corporation	New York State Electic & Gas Corp	01-22-91	B	37
ST91-6510	CNG Transmission Corporation	Niagara Mohawk Power Corporation	01-22-91	B	500
ST91-6511	CNG Transmission Corporation	Masonite Corporation	01-22-91	G-S	4,400
ST91-6512	CNG Transmission Corporation	Hope Gas, Inc	01-22-91	B	2,904

Docket No. [1]	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity [2]
ST91-6513	CNG Transmission Corporation	Niagara Mohawk Power Corporation	01-22-91	B	495
ST91-6514	CNG Transmission Corporation	Corning Natural Gas Corporation	01-22-91	B	130
ST91-6515	Southern Natural Gas Co	City of Jasper	01-22-91	G-S	281
ST91-6516	Equitrans, Inc	Panhandle Trading Co	01-22-91	G-S	50,604
ST91-6517	Equitrans, Inc	O & R Energy, Inc	01-22-91	G-S	600,000
ST91-6518	Enogex, Inc	Natural Gas Pipeline Co. of Amer	01-22-91	C	50,000
ST91-6519	Enogex, Inc	Arkla Energy Resources	01-22-91	C	50,000
ST91-6520	Enogex, Inc	Phillips Gas Pipeline Co	01-22-91	C	50,000
ST91-6521	Tennessee Gas Pipeline Co	National Fuel Gas Supply Corp	01-22-91	G	20,000
ST91-6522	Tennessee Gas Pipeline Co	Lone Star Gas Co. of Texas	01-22-91	B	40,000
ST91-6523	Tennessee Gas Pipeline Co	Distrigas of Massachusetts Corp	01-22-91	G	100,000
ST91-6524	Trunkline Gas Co	Eastex Hydrocarbons, Inc	01-22-91	G-S	50,000
ST91-6525	Trunkline Gas Co	Amoco Production Co	01-22-91	G-S	50,000
ST91-6526	Trunkline Gas Co	Catamount Natural Gas, Inc	01-22-91	G-S	50,000
ST91-6527	Texas Eastern Transmission Corp	Amerada Hess Corp	01-22-91	G-S	350,000
ST91-6528	Texas Eastern Transmission Corp	Brooklyn Interstate Natural	01-22-91	G-S	100,000
ST91-6529	Texas Eastern Transmission Corp	Elizabethtown Gas Co	01-22-91	B	15,000
ST91-6530	Texas Eastern Transmission Corp	Texas-Ohio	01-22-91	G-S	120,000
ST91-6531	Great Lakes Gas Transmission, L.P	Northern States Power Co	01-22-91	G-S	35,000
ST91-6535	Delhi Gas Pipeline Corp	Northern Natural Gas Co	01-23-91	C	60,000
ST91-6536	Natural Gas Pipeline Co. of America	Delhi Gas Pipeline Corp	01-23-91	B	150,000
ST91-6537	Natural Gas Pipeline Co. of America	Clajon Gas Co. L.P	01-23-91	B	100,000
ST91-6538	Louisiana Intrastate Gas Corp	Tennessee Gas Pipeline Co	01-23-91	C	40,000
ST91-6539	Seagull Shoreline System	Bayou Industrial Gas Corp	01-23-91	C	10,000
ST91-6540	Transcontinental Gas P/L Corp	United Texas Transmission Co	01-23-91	B	100,000
ST91-6541	Midwestern Gas Transmission Co	Howell Gas Management Co	01-23-91	G-S	50,000
ST91-6542	Tomcat	Texas Eastern Transmission Corp	01-23-91	C	25,000
ST91-6543	Northern Natural Gas Co	Iowa-Illinois Gas and Electric	01-23-91	B	15,000
ST91-6544	Florida Gas Transmission Co	City of Starke	01-23-91	G-S	178
ST91-6545	Florida Gas Transmission Co	Coastal Gas Marketing Co	01-23-91	G-S	50,000
ST91-6546	Texas Gas Transmission Corp	Ohio Valley Gas Corp	01-23-91	B	1,000
ST91-6547	Texas Gas Transmission Corp	Ohio Valley Gas Corp	01-23-91	B	500
ST91-6548	Texas Gas Transmission Corp	United Cities Gas Co	01-23-91	B	10,000
ST91-6549	Texas Gas Transmission Corp	Midwest Natural Gas Corp	01-23-91	B	4,139
ST91-6550	Texas Gas Transmission Corp	City of Henderson	01-23-91	B	8,876
ST91-6551	Texas Gas Transmission Corp	Ohio River Pipeline Corp	01-23-91	B	10,000
ST91-6552	Texas Gas Transmission Corp	Western Kentucky Gas Co	01-23-91	B	256
ST91-6553	Trunkline Gas Co	Columbia Gas Transmission Corp	01-23-91	G	150,000
ST91-6554	Columbia Gas Transmission Corp	Allied Corp	01-23-91	G-S	115,075
ST91-6555	Arkla Energy Resources	Mississippi Power & Light Co	01-23-91	G-S	55,000
ST91-6556	Louisiana Resources Co	Stingray Pipeline Co	01-23-91	C	30,000
ST91-6557	Mississippi River Transmission Corp	Midwest Gas	01-23-91	B	30,000
ST91-6558	Mississippi River Transmission Corp	City of Livermore	01-23-91	B	50,000
ST91-6559	Mississippi River Transmission Corp	Maury City Utilities	01-23-91	B	50,000
ST91-6560	Mississippi River Transmission Corp	Cincinnati Gas & Electric Co	01-23-91	B	30,000
ST91-6561	Mississippi River Transmission Corp	United Cities Gas Co	01-23-91	B	30,000
ST91-6562	Mississippi River Transmission Corp	South East Indian Natural Gas Co	01-23-91	B	50,000
ST91-6563	Mississippi River Transmission Corp	Citizens Gas & Coke Utility	01-23-91	B	30,000
ST91-6564	Mississippi River Transmission Corp	Cincinnati Gas & Electric Co	01-23-91	B	45,000
ST91-6565	Mississippi River Transmission Corp	Memphis Light, Gas & Water Division	01-23-91	B	11,000
ST91-6566	Mississippi River Transmission Corp	The City of Sturgis Kentucky	01-23-91	B	50,000
ST91-6567	Mississippi River Transmission Corp	Crockett Public Utility	01-23-91	B	50,000
ST91-6568	Mississippi River Transmission Corp	The City of Martin, Tennessee	01-23-91	B	50,000
ST91-6569	Mississippi River Transmission Corp	Leitchfield Utilities	01-23-91	B	50,000
ST91-6570	Mississippi River Transmission Corp	Northern Illinois Gas Co	01-23-91	B	30,000
ST91-6571	K N Energy, Inc	American Exploration Gas System	01-24-91	G-S	12,000
ST91-6572	K N Energy, Inc	K N Gas Marketing, Inc	01-24-91	G-S	798
ST91-6573	K N Energy, Inc	K N Gas Marketing, Inc	01-24-91	G-S	2,046
ST91-6574	Northern Natural Gas Co	Lake Park Municipal Utilities	01-24-91	B	190
ST91-6575	Panhandle Eastern Pipe Line Co	Phillips 66 Natural Gas Co	01-24-91	G-S	500
ST91-6576	Panhandle Eastern Pipel Line Co	Semco Energy Services, Inc	01-24-91	G-S	50,000
ST91-6577	Panhandle Eastern Pipe Line Co	Amgas, Inc	01-24-91	G-S	200
ST91-6578	Panhandle Eastern Pipe Line Co	Amgas, Inc	01-24-91	G-S	180
ST91-6579	Panhandle Eastern Pipe Line Co	Amgas, Inc	01-24-91	G-S	60
ST91-6580	Panhandle Eastern Pipe Line Co	Amgas, Inc	01-24-91	G-S	200
ST91-6581	United Gas Pipe Line Co	Fina Natural Gas Co	01-24-91	G-S	61,800
ST91-6582	Gulf Energy Pipeline Co	Trunkline Gas Co	01-24-91	C	1,500
ST91-6583	Williston Basin Interstate P/L Co	Amerada Hess Corp	01-24-91	G-S	550
ST91-6584	Trailblazer Pipeline Co	Northern Illinois Gas Co	01-25-91	B	353,000
ST91-6585	Black Marlin Pipeline Co	Philbro Energy, Inc	01-25-91	G-S	50,000
ST91-6586	Texas Gas Transmission Corp	O & R Energy, Inc	01-25-91	G-S	40,000
ST91-6587	Texas Gas Transmission Corp	Centran Corp	01-25-91	G-S	30,000
ST91-6588	United Gas Pipe Line Co	Transamerican Gas Transmission Corp	01-25-91	G-S	154,500
ST91-6589	United Gas Pipe Line Co	Oryx Gas Marketing Limited Partnership	01-25-91	G-S	61,800
ST91-6590	United Gas Pipe Line Co	Chevron U.S.A., Inc	01-25-91	G-S	103,000
ST91-6591	United Gas Pipe Line Co	Eagle Natural Gas Co	01-25-91	G-S	25,750
ST91-6592	United Gas Pipe Line Co	Enron Gas Marketing, Inc	01-25-91	G-S	51,500
ST91-6593	United Gas Pipe Line Co	Arkla Energy Marketing Co	01-25-91	G-S	206,000
ST91-6594	United Gas Pipe Line Co	Mobil Natural Gas Inc	01-25-91	G-S	51,500
ST91-6595	United Gas Pipe Line Co	Midcon Marketing Corp	01-25-91	G-S	721,000

Docket No. [1]	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity [2]
ST91-6596	Columbia Gulf Transmission Co	Chevron U.S.A., Inc	01-25-91	G-S	50,000
ST91-6597	Southern Natural Gas Co	Union Camp Corp	01-25-91	G-S	4,000
ST91-6598	Southern Natural Gas Co	Hassie Hunt Exploration	01-25-91	G-S	200
ST91-6599	Southern Natural Gas Co	Proctor and Gamble Paper Products Co	01-25-91	G-S	3,439
ST91-6600	Southern Natural Gas Co	Pennzoil Exploration Corp	01-25-91	G-S	5,000
ST91-6601	Seagull Shoreline System	VLDC, L.P.	01-25-91	C	600,000
ST91-6602	ANR Pipeline Co	Wisconsin Gas Co	01-25-91	B	75,000
ST91-6603	ANR Pipeline Co	Enron Gas Marketing, Inc	01-25-91	G-S	100,000
ST91-6604	ANR Pipeline Co	Associated Natural Gas Co	01-25-91	B	8,000
ST91-6605	ANR Pipeline Co	Washington Gas Light Co	01-25-91	B	20,540
ST91-6606	ANR Pipeline Co	Kaztex Energy Management, Inc	01-25-91	G-S	1,000
ST91-6607	ANR Pipeline Co	Amoco Gas Co	01-25-91	G-S	50,000
ST91-6608	ANR Pipeline Co	Indiana Gas Co	01-25-91	B	6,770
ST91-6609	ANR Pipeline Co	Union Texas Petroleum Corp	01-25-91	G-S	15,000
ST91-6610	ANR Pipeline Co	Scott Forge	01-25-91	G-S	600
ST91-6611	ANR Pipeline Co	NGC Transportation, Inc	01-25-91	G-S	3,000
ST91-6612	ANR Pipeline Co	Arco Natural Gas Marketing, Inc	01-25-91	G-S	200,000
ST91-6613	Delhi Gas Pipeline Corp	Texas Eastern Transmission Corp	01-28-91	C	125,000
ST91-6614	Delhi Gas Pipeline Corp	Natural Gas Pipeline Co. of America	01-28-91	C	550,000
ST91-6615	Channel Industries Gas Co	Northern Natural Gas Co	01-28-91	C	10,000
ST91-6616	Channel Industries Gas Co	Northern Natural Gas Co	01-28-91	C	10,000
ST91-6617	Tennessee Gas Pipeline Co	Eagle Natural Gas Co	01-28-91	G-S	10,000
ST91-6618	Stingray Pipeline Co	Amerada Hess Corp	01-28-91	K-S	40,000
ST91-6619	Stingray Pipeline Co	Stellar Gas Co	01-28-91	K-S	30,000
ST91-6620	Stingray Pipeline Co	Reliance Gas Marketing Co	01-28-91	K-S	30,000
ST91-6621	Natural Gas Pipeline Co. of America	Indiana Public Service Co	01-28-91	B	261,630
ST91-6622	Natural Gas Pipeline Co. of America	Tejas Power Corp	01-28-91	G-S	100,000
ST91-6623	Natural Gas Pipeline Co. of America	NGC Trnasportation, Inc	01-28-91	G-S	200,000
ST91-6624	Natural Gas Pipeline Co. of America	Vesta Energy Co	01-28-91	G-S	30,000
ST91-6625	Northwest Pipeline Corp	BC Gas Inc	01-28-91	G-S	10,000
ST91-6626	Louisiana Intrastate Gas Corp	Tennessee Gas Pipeline Co	01-28-91	C	5,000
ST91-6627	United Gas Pipe Line Co	Lone Star Gas Co. of Texas, Inc	01-28-91	B	51,500
ST91-6628	ANR Pipeline Co	Baltimore Gas and Electric	01-28-91	B	100,000
ST91-6629	Colorado Interstate Gas Co	Rangeline Corp	01-28-91	G-S	10,000
ST91-6630	Colorado Interstate Gas Co	Questar Energy Co	01-28-91	G-S	20,000
ST91-6631	Colorado Interstate Gas Co	Vesgas Co	01-28-91	G-S	10,000
ST91-6632	Colorado Interstate Gas Co	Associated Intrastate Pipeline Co	01-28-91	G-S	10,000
ST91-6633	Tennessee Gas Pipeline Co	Cincinnati Gas and Elect. Co	01-29-91	B	30,000
ST91-6634	Winnie Pipeline Co	Sabine Pipe Line Co	01-29-91	C	30,000
ST91-6635	Florida Gas Transmission Co	Aristech Chemical Co	01-29-91	G-S	43
ST91-6636	Columbia Gas Transmission Corp	Stone Resource and Energy Corp	01-29-91	G-S	5,000
ST91-6637	Columbia Gas Transmission Corp	Transco Energy Marketing Co	01-29-91	G-S	80,000
ST91-6638	Columbia Gas Transmission Corp	Southern Gas Co., Inc	01-29-91	G-S	1,110
ST91-6639	Columbia Gas Transmission Corp	Southern Gas Co., Inc	01-29-91	G-S	10,000
ST91-6640	Columbia Gas Transmission Corp	Sheldon Gas Co	01-29-91	G-S	500
ST91-6641	Columbia Gas Transmission Corp	Pike Natural Gas Co	01-29-91	B	5,000
ST91-6642	Delhi Gas Pipeline Corp	Northern Indiana Public Service Co	01-30-91	C	75,000
ST91-6643	Delhi Gas Pipeline Corp	Northern Natural Gas Co	01-30-91	C	370,000
ST91-6644	Delhi Gas Pipeline Corp	Arkla Energy Resources	01-30-91	C	5,000
ST91-6645	El Paso Natural Gas Co	Southwestern Public Service Co	01-30-91	G-S	103,000
ST91-6646	Texas Gas Transmission Corp	Mississippi Valley Gas Co	01-30-91	B	10,000
ST91-6647	Texas Gas Transmission Corp	Phibro Energy, Inc	01-30-91	G-S	1,000
ST91-6648	Texas Gas Transmission Corp	Bishop Pipeline Corp	01-30-91	G-S	50,000
ST91-6649	Texas Gas Transmission Corp	Enron Gas Marketing, Inc	01-30-91	G-S	150,000
ST91-6650	Stingray Pipeline Co	Enron Gas Marketing, Inc	01-30-91	K-S	25,000
ST91-6651	Natural Gas Pipeline Co. of America	USS, Div. of USX Corp	01-30-91	G-S	60,000
ST91-6652	Tennessee Gas Pipeline Co	Valley Resources, Inc	01-30-91	B	10,000
ST91-6653	Northern Natural Gas Co	St. Croix Valley Natural Gas Co., Inc	01-30-91	B	500
ST91-6654	Northern Natural Gas Co	Lower Colorado River Authority	01-30-91	G-S	4,500
ST91-6655	Northern Natural Gas Co	Arco Natural Gas Marketing, Inc	01-30-91	G-S	15,000
ST91-6656	Channel Industries Gas Co	Amoco Gas Co	01-30-91	C	70,000
ST91-6658	Transcontinental Gas Pipeline Corp	Philadelphia Electric Co	01-30-91	B	600,000
ST91-6659	Arkla Energy Resources	East Ohio Gas Co., Et Al	01-30-91	B	30,000
ST91-6660	United Gas Pipe Line Co	Mobil Natural Gas Inc	01-30-91	G-S	51,500
ST91-6661	United Gas Pipe Line Co	Enermark Gas Cathering Corp	01-30-91	G-S	103,000
ST91-6662	United Gas Pipe Line Co	Bishop Pipeline Corp	01-30-91	G-S	41,200
ST91-6663	United Gas Pipe Line Co	Pennzoil Gas Marketing Co	01-30-91	G-S	206,000
ST91-6664	Trunkline Gas Co	Equitable Resources Marketing Co	01-30-91	G-S	75,000
ST91-6665	Trunkline Gas Co	Brooklyn Union Gas Co., Et Al	01-30-91	B	100,000
ST91-6666	Trunkline Gas Co	Phibro Distributors Corp	01-30-91	G-S	100,000
ST91-6667	Trunkline Gas Co	Mississippi River Transmission Corp	01-30-91	G	100,000
ST91-6668	Trunkline Gas Co	Polaris Pipeline Corp	01-30-91	G-S	30,000
ST91-6669	Trunkline Gas Co	Conoco, Inc	01-30-91	G-S	5,000
ST91-6670	Natural Gas Pipeline Co. of America	Amoco Energy Trading Co	01-31-91	G-S	50,000
ST91-6671	Natural Gas Pipeline Co. of America	Midcon Marketing Corp	01-31-91	G-S	75,000
ST91-6672	Natural Gas Pipeline Co. of America	Tejas Power Corp	01-31-91	G-S	50,000
ST91-6673	Natural Gas Pipeline Co. of America	Clinton Gas Transmission, Inc	01-31-91	G-S	300
ST91-6674	Questar Pipeline Co	Chevron, U.S.A., Inc	01-31-91	G-S	86,400
ST91-6675	Questar Pipeline Co	Amoco Production Co	01-31-91	G-S	80,000
ST91-6676	Questar Pipeline Co	Mountain Fuel Supply Co	01-31-91	B	30,000

Docket No. [1]	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity [2]
ST91-6677	Questar Pipeline Co	Barrett Energy Co	01-31-91	G-S	14,000
ST91-6678	Questar Pipeline Co	Timberline Energy, Inc	01-31-91	G-S	1,500
ST91-6679	Questar Pipeline Co	Union Pacific Fuels, Inc	01-31-91	G-S	75,000
ST91-6680	Tennessee Gas Pipeline Co	Cincinnati Gas and Electic Co	01-31-91	B	100,000
ST91-6681	Channel Industries Gas Co	Houston Lighting & Power Co	01-31-91	C	50,000
ST91-6682	Northern Natural Gas Co	City of Waukee	01-31-91	B	150
ST91-6683	Northern Natural Gas Co	Virginia Public Utilities	01-31-91	B	800
ST91-6684	Northern Natural Gas Co.	City of Whittemore	01-31-91	B	375
ST91-6685	Northern Natural Gas Co	City of Waukee	01-31-91	B	450
ST91-6686	Northern Natural Gas Co	City of Gilmore City	01-31-91	B	175
ST91-6687	Northern Natural Gas Co	City of Brooklyn	01-31-91	B	250
ST91-6688	Transcontinental Gas Pipeline Corp.	Monterey Pipeline Co	01-31-91	B	100,000
ST91-6689	Kentucky West Virginia Gas Co	Southeastern Gas Co	01-31-91	G-S	1,000
ST91-6690	Columbia Gulf Transmission Co	Elf Exploration, Inc	01-31-91	G-S	15,000
ST91-6691	Panhandle Eastern Pipe Line Co.	Martin Exploration Management Co.	01-31-91	G-S	30,000
ST91-6692	United Gas Pile Line Co	Delhi Gas Pipeline Corp	01-31-91	G-S	103,000
ST91-6693	United Gas Pipe Line Co.	Enmark Gas Corp	01-31-91	G-S	46,350
ST91-6694	Mississippi River Transmission Corp	River Trading Co	01-31-91	G-S	14,000
ST91-6695	Mississippi River Transmission Corp	Arkla Energy Marketing Co	01-31-91	G-S	6,000
ST91-6696	Trunkline Gas Co	Kerr-McGee Corp	01-31-91	G-S	15,000
ST91-6697	Trunkline Gas Co	Howell Gas Management Co	01-31-91	G-S	50,000
ST91-6698	Trunkline Gas Co	Valero Transmission, L.P	01-31-91	B	200,000
ST91-6699	Texas Eastern Transmission Corp	Louisiana Gas Marketing Co	01-31-91	B	100,000
ST91-6700	Texas Eastern Transmission Corp	Bay State Gas Co	01-31-91	B	160,000
ST91-6701	Texas Eastern Transmission Corp	Algonquin Gas Transmission Co	01-31-91	G	214,528
ST91-6702	Texas Eastern Transmission Corp	Providence Gas Co. (The)	01-31-91	B	100,000
ST91-6703	Williston Basin Interstate P/L Co	Koch Hydrocarbon Co	01-31-91	G-S	130
ST91-6704	Williston Basin Interstate P/L Co	Amerada Hess Corp	01-31-91	G-S	41,000
ST91-6705	Williston Basin Interstate P/L Co	Koch Hydrocarbon Co	01-31-91	G-S	1,000
ST91-6706	Williston Basin Interstate P/L Co	Conex	01-31-91	G-S	2,336
ST91-6707	National Fuel Gas Supply Corp	Citizens Gas Supply Corp	01-31-91	G-S	38,500
ST91-6708	National Fuel Gas Supply Corp	Citizens Gas Supply Corp	01-31-91	G-S	40,000
ST91-6709	National Fuel Gas Supply Corp	CNG Transmission Corp	01-31-91	G	100,000
ST91-6712	South Georgia Natural Gas Co	City of Jasper	01-31-91	G-S	280
ST91-6713	South Georgia Natural Gas Co	City of Tifton	01-31-91	B	373
ST91-6714	South Georgia Natural Gas Co	City of Tifton	01-31-91	B	3,000
ST91-6715	South Georgia Natural Gas Co	Bishop Pipeline Corp	01-31-91	B	25,000
ST91-6716	South Georgia Natural Gas Co	City of Camilla	01-31-91	G-S	470
ST91-6717	South Georgia Natural Gas Co	City of Moultrie	01-31-91	G-S	1,400
ST91-6718	South Georgia Natural Gas Co	City of Ashburn	01-31-91	G-S	250
ST91-6719	South Georgia Natural Gas Co	City of Americus	01-31-91	G-S	1,500
ST91-6720	South Georgia Natural Gas Co	Proctor and Gamble Paper Products Co	01-31-91	G-S	3,422
ST91-6721	South Georgia Natural Gas Co	Fitzgerald Water, Light and Bond	01-31-91	G-S	972
ST91-6722	South Georgia Natural Gas Co	City of Havana	01-31-91	G-S	300
ST91-6723	South Georgia Natural Gas Co	City of Quincy	01-31-91	G-S	1,050
ST91-6724	South Georgia Natural Gas Co	City of Quitman	01-31-91	G-S	606
ST91-6725	South Georgia Natural Gas Co	City of Vienna	01-31-91	G-S	304
ST91-6726	South Georgia Natural Gas Co	City of Cordele	01-31-91	G-S	700
ST91-6727	South Georgia Natural Gas Co	City of Adel	01-31-91	G-S	317
ST91-6728	South Georgia Natural Gas Co	City of Cairo	01-31-91	G-S	750
ST91-6729	South Georgia Natural Gas Co	City of Bainbridge	01-31-91	G-S	825
ST91-6730	South Georgia Natural Gas Co	City of Blakely	01-31-91	G-S	350
ST91-6731	South Georgia Natural Gas Co	City of Americus	01-31-91	G-S	100,350
ST91-6732	South Georgia Natural Gas Co	City of Thomasville	01-31-91	G-S	100,000
ST91-6733	Tennessee Gas Pipeline Company	Southern Natural Gas Company	02-01-91	G	325,000
ST91-6734	Exxon Gas Systems, Inc	El Paso Natural Gas Company	02-01-91	C	100,000
ST91-6735	Williams Natural Gas Company	Gastrak Corporation	02-01-91	G-S	1,000
ST91-6736	Williams Natural Gas Company	Vesta Energy Company	02-01-91	G-S	1,250
ST91-6737	Northern Natural Gas Company	PSI Gas Marketing, Inc.	02-01-91	G-S	50,000
ST91-6738	Northern Natural Gas Company	City of Tipton	02-01-91	B	850
ST91-6739	Northern Natural Gas Company	City of Sac City	02-01-91	B	560
ST91-6740	Northern Natural Gas Company	PSI Gas Marketing, Inc.	02-01-91	G-S	20,657
ST91-6741	Northern Natural Gas Company	City of Ponca	02-01-91	B	190
ST91-6742	Northern Natural Gas Company	Peninsular Gas Company	02-01-91	B	800
ST91-6743	Northern Natural Gas Company	Natural Gas, Inc	02-01-91	B	900
ST91-6744	Northern Natural Gas Company	Fremont Department of Utilities	02-01-91	B	1,626
ST91-6745	Panhandle Eastern Pipe Line Company	Amgas, Inc	02-01-91	G-S	150
ST91-6746	Panhandle Eastern Pipe Line Company	Amgas, Inc	02-01-91	G-S	100
ST91-6747	Panhandle Eastern Pipe Line Company	Manville Sales Corporation	02-01-91	G-S	12,000
ST91-6748	Panhandle Eastern Pipe Line Company	Interline Natural Gas, Inc	02-01-91	G-S	12,000
ST91-6749	ANR Pipeline Co	Northern Indiana Public Service Co	02-01-91	B	150,000
ST91-6750	ANR Pipeline Co	Amerada Hess Corp	02-01-91	G-S	150,000
ST91-6751	ANR Pipeline Co.	Chevron U.S.A., Inc	02-01-91	G-S	50,000
ST91-6752	ANR Pipeline Co	Mobil Natural Gas Inc	02-01-91	G-S	50,000
ST91-6753	ANR Pipeline Co	Rochester Gas and Electric Corp	02-01-91	B	50,000
ST91-6754	ANR Pipeline Co	Hadson Gas Systems, Inc	02-01-91	G-S	50,000
ST91-6755	Transwestern Pipeline Co	Oryx Gas Marketing Limited Partnership	02-04-91	G-S	50,000
ST91-6756	Northern Natural Gas Co	Northern States Power Co	02-04-91	B	25,000
ST91-6757	Northern Natural Gas Co	Oxy USA, Inc	02-04-91	G-S	50,000
ST91-6758	Natural Gas Pipeline Co. of America	Seagull Marketing Services, Inc	02-04-91	G-S	50,000

Docket No. [1]	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity [2]
ST91-6759	Natural Gas Pipeline Co. of America	ARCO Oil & Gas Co	02-04-91	G-S	80,000
ST91-6760	Tennessee Gas Pipeline Co	Equitable Gas Co	02-04-91	B	200,000
ST91-6761	Midwestern Gas Transmission Co	Polaris Pipeline Corp (The)	02-04-91	G-S	25,000
ST91-6762	Williams Natural Gas Co	Reliance Gas Marketing Co	02-04-91	G-S	1,610
ST91-6763	Mississippi River Transmission Corp	Cincinnati Gas and Electric Company	02-04-91	B	15,000
ST91-6764	Mississippi River Transmission Corp	Niagara Mohawk Power Corporation	02-04-91	B	30,000
ST91-6765	Trunkline Gas Company	Equitable Resources Marketing Company	02-04-91	G-S	75,000
ST91-6766	Trunkline Gas Company	Bishop Pipeline Corporation	02-04-91	G-S	10,000
ST91-6767	Tennessee Gas Pipeline Company	Mississippi Fuel Company	02-04-91	B	50,000
ST91-6768	Transcontinental Gas Pipe Line Corp	Elizabethtown Gas Company	02-04-91	B	1,375,000
ST91-6769	Transcontinental Gas Pipe Line Corp	Columbia Gas Transmission Corporation	02-04-91	G	2,549,730
ST91-6770	Transcontinental Gas Pipe Line Corp	Access Energy Corporation	02-04-91	G-S	40,000
ST91-6771	Transcontinental Gas Pipe Line Corp	THC Pipeline, Inc	02-04-91	B	450,000
ST91-6772	Transcontinental Gas Pipe Line Corp	Peoples Natural Gas Corporation	02-04-91	B	300,000
ST91-6773	Transcontinental Gas Pipe Line Corp	City of Bessemer, North Carolina	02-04-91	B	24,600
ST91-6774	Transcontinental Gas Pipe Line Corp	Olympic Pipeline Company	02-04-91	B	50,000
ST91-6775	Kentucky West Virginia Gas Company	Interstate Natural Gas Company	02-01-91	G-S	1,000
ST91-6776	Seagull Shoreline System	Texas Eastern Transmission Company	02-01-91	C	10,000
ST91-6777	Trunkline Gas Company	Enron Gas Marketing, Inc	02-01-91	G-S	50,000
ST91-6778	ONG Transmission Company	Natural Gas Pipeline Company of America	02-04-91	C	50,000
ST91-6779	ANR Pipeline Company	Louis Dreyfus Energy Corporation	02-04-91	G-S	100,000
ST91-6780	Sonat Intrastate-Alabama Inc	Tennessee Gas Pipeline Company	02-04-91	C	1,000
ST91-6781	Trunkline Gas Company	TXG Gas Marketing Company	02-04-91	G-S	30,000
ST91-6782	Trunkline Gas Company	Panhandle Trading Company	02-04-91	G-S	100,000
ST91-6783	Trunkline Gas Company	Central Illinois Public Service Company	02-04-91	B	25,000
ST91-6784	Trunkline Gas Company	Eastex Hydrocarbons, Inc	02-04-91	G-S	50,000
ST91-6785	Trunkline Gas Company	Panhandle Trading Company	02-04-91	G-S	50,000
ST91-6786	Natural Gas Pipeline Co. of America	TXO Gas Marketing Corp	02-05-91	G-S	50,000
ST91-6787	Trailblazer Pipeline Company	Midwest Gas, A Div. of IA Pub. Serv. Co	02-05-91	B	353,000
ST91-6788	Northern Natural Gas Company	Enron Gas Marketing, Inc	02-05-91	G-S	500,000
ST91-6789	Northern Natural Gas Company	Minnegasco, Inc	02-05-91	B	100,000
ST91-6790	Northern Natural Gas Company	Coastal Gas Marketing Company	02-05-91	G-S	50,000
ST91-6791	Trailblazer Pipeline Company	Northwestern Public Service Company	02-05-91	B	9,000
ST91-6792	Texas Eastern Transmission Corporation	Monterey Pipeline Company	02-05-91	B	100,000
ST91-6793	Texas Eastern Transmission Corporation	Niagara Mohawk Power Corporation	02-05-91	B	608,600
ST91-6794	Texas Eastern Transmission Corporation	Bridgeline Gas Distribution Company	02-05-91	B	187,100
ST91-6795	Texas Eastern Transmission Corporation	Mississippi Fuel Company	02-05-91	B	60,000
ST91-6796	Algonquin Gas Transmission Company	NGC Transportation, Inc	02-05-91	G-S	200,000
ST91-6797	Algonquin Gas Transmission Co	Bristol and Warran Gas Co	02-05-91	B	36,585
ST91-6798	Algonquin Gas Transmission Company	Bristol and Warran Gas Company	02-05-91	G-S	500,000
ST91-6799	Valero Transmission, L.P	El Paso Natural Gas Company	02-06-91	C	10,000
ST91-6800	Enogex, Inc	Riverside Pipeline Company, L.P	02-06-91	C	150,000
ST91-6801 [3]	Panhandle Eastern Pipeline Company	BP Gas, Inc	02-06-91	G-S	50,000
ST91-6802	United Gas Pipe Line Company	Cimarron Gas Transmission, Inc	02-06-91	G-S	82,400
ST91-6803	United Gas Pipe Line Co	Midcon Marketing Corporation	02-06-91	G-S	150,174
ST91-6804	United Gas Pipe Line Co	Goodrich Oil Company	02-06-91	G-S	77,250
ST91-6805	Kentucky West Virginia Gas Company	East Kentucky Gas Company	02-06-91	G-S	50
ST91-6806	Kentucky West Virginia Gas Company	Maximum Oil and Gas, Inc	02-06-91	G-S	300
ST91-6807	Kentucky West Virginia Gas Company	JML Oil and Gas	02-06-91	G-S	100
ST91-6808	Kentucky West Virginia Gas Company	Angela Oil and Gas Company	02-06-91	G-S	500
ST91-6809	Kentucky West Virginia Gas Company	Monerco Investments	02-06-91	G-S	200
ST91-6810	Kentucky West Virginia Gas Company	Basin Energy Company	02-06-91	G-S	1,500
ST91-6811	Kentucky West Virginia Gas Company	Interstate Natural Gas Company	02-06-91	G-S	1,000
ST91-6812	Kentucky West Virginia Gas Company	National Energy Resources Corporation	02-06-91	G-S	100
ST91-6813	Kentucky West Virginia Gas Company	CDG Development Company	02-06-91	G-S	4,500
ST91-6814	Kentucky West Virginia Gas Company	Newport Oil Corporation	02-06-91	G-S	100
ST91-6815	Columbia Gulf Transmission Corporation	Tejas Power Corporation	02-06-91	G-S	150,000
ST91-6816	Columbia Gulf Transmission Corporation	Mobil Natural Gas Inc	02-06-91	G-S	30,000
ST91-6817	Columbia Gulf Transmission Corporation	Marathon Oil Company	02-06-91	G-S	979
ST91-6818	Columbia Gulf Transmission Corporation	Columbia Gas of Ohio, Inc	02-06-91	B	6,260
ST91-6819	Williston Basin Interstate Pipeline Co	Koch Hydrocarbon Company	02-06-91	G-S	1,900
ST91-6820	Williston Basin Interstate Pipeline Co	Amerada Hess Corporation	02-06-91	G-S	28,000
ST91-6821	Trailblazer Pipeline Company	Minnegasco, A Division of Arkla, Inc	02-07-91	B	353,000
ST91-6822	Natural Gas Pipeline Company of America	Arkansas Western Gas Company	02-07-91	B	2,000
ST91-6823 [3]	Natural Gas Pipeline Company of America	Delhi Gas Pipeline Corporation	02-07-91	G-S	150,000
ST91-6824	Delhi Gas Pipeline Corporation	Texas Eastern Transmission Corporation	02-07-91	C	50,000
ST91-6825	ONG Transmission Company	Williams Natural Gas Company	02-07-91	C	50,000
ST91-6826	Colorado Interstate Gas Company	PSI Gas Marketing, Inc	02-07-91	G-S	25,000
ST91-6827	Colorado Interstate Gas Company	Public Service Company of Colorado	02-07-91	B	10,000
ST91-6828	Colorado Interstate Gas Company	Amoco Gas Company	02-07-91	B	50,000
ST91-6829	Colorado Interstate Gas Company	PSI Gas Marketing, Inc	02-07-91	G-S	15,000
ST91-6830	Colorado Interstate Gas Company	PSI Gas Marketing, Inc	02-07-91	G-S	25,000
ST91-6831	Nycotex Gas Transport	Columbia Gas Transmission	02-07-91	C	5,000
ST91-6832	ANR Pipeline Co	Northern Illinois Gas Co	02-07-91	B	100,000
ST91-6833	ANR Pipeline Company	PSI Gas Marketing, Inc	02-07-91	G-S	150,000
ST91-6834	ANR Pipeline Company	J I Case Co	02-07-91	G-S	250
ST91-6835	ANR Pipeline Company	Northern Illinois Gas Company	02-07-91	B	50,000
ST91-6836	ANR Pipeline Company	Bridgeline Gas Distribution Company	02-07-91	B	250,000
ST91-6837	ANR Pipeline Company	Amoco Energy Trading Corporation	02-07-91	G-S	20,000
ST91-6838	ANR Pipeline Company	Northern Illinois Gas Company	02-07-91	B	50,000

Docket No. [1]	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity [2]
ST91-6839	Equitrans, Inc	O&R Energy, Inc	02-07-91	G-S	20,242
ST91-6840	Carnegie Natural Gas Company	Peoples Natural Gas Company (The)	02-08-91	B	1,000
ST91-6841	Columbia Gas Transmission Corporation	Pennzoil Gas Marketing Company	02-07-91	G-S	5,000
ST91-6842	Natural Gas Pipeline Company of America	PSI Gas Marketing, Inc	02-08-91	G-S	115,000
ST91-6843	Natural Gas Pipeline Company of America	Centran Corporation	02-08-91	G-S	10,000
ST91-6844	Transcontinental Gas Pipe Line Corp	Coastal States Gas Transmission Company	02-08-91	B	50,000
ST91-6845	Channel Industries Gas Company	Moss Bluff Gas Storage Systems	02-08-91	C	75,000
ST91-6846	Acadian Gas Pipeline System	Sabine Pipe Line Company	02-08-91	C	3,000
ST91-6848	Texas Eastern Transmission Corporation	Equitable Resources Marketing Company	02-08-91	G-S	200,000
ST91-6849	Texas Eastern Transmission Corporation	BHP Gas Marketing Company	02-08-91	G-S	49,700
ST91-6850	Texas Eastern Transmission Corporation	Endevco Oil & Gas Company	02-08-91	G-S	400,000
ST91-6851	Colorado Interstate Gas Company	Northern Utilities	02-08-91	B	50,000
ST91-6852	Delhi Gas Pipeline Corporation	Panhandle Eastern Pipe Line Company	02-11-91	C	49,000
ST91-6853	Valero Transmission, L.P	Texas Eastern Transmission Corporation	02-11-91	C	5,000
ST91-6854	Michigan Gas Storage Company	Southeastern Michigan Gas Co., et al	02-11-91	B	45,000
ST91-6856	Michigan Gas Storage Co	Consumers Power Co	02-11-91	G-S	150,000
ST91-6857	Tennessee Gas Pipeline Co	KN Gas Marketing, Inc	02-11-91	G-S	150,000
ST91-6858	Tennessee Gas Pipeline Co	Texas Eastern Transmission Corp	02-11-91	G	5,000
ST91-6859	Tennessee Gas Pipeline Co	Piedmont Natural Gas Co	02-11-91	B	40,000
ST91-6860	El Paso Natural Gas Co	Southern Union Gas Co	02-11-91	B	567
ST91-6863	Natural Gas Pipeline Co of America	Corn Products	02-11-91	G-S	2,000
ST91-6864	Transcontinental Gas Pipe Line Corp	Philadelphia Electric Co, et al	02-11-91	B	823,000
ST91-6865	Trunkline Gas Co	Elf Aquitaine, Inc	02-11-91	G-S	5,600
ST91-6866	Williams Natural Gas Co	Philips "66" Natural Gas Co	02-11-91	G-S	2,550
ST91-6867	Williams Natural Gas Co	Reliance Gas Marketing Co	02-11-91	G-S	2,115
ST91-6868	Mississippi River Transmission Corp	Vesta Energy Co	02-11-91	G-S	100,000
ST91-6869	Tejas Gas Corp	Mississippi River Transmission Corp	02-11-91	C	5,845
ST91-6870	Delhi Gas Pipeline Corp	Williams Natural Gas Co	02-12-91	C	250,000
ST91-6871	Delhi Gas Pipeline Corp	Texas Eastern Transmission Corp	02-12-91	C	125,000
ST91-6872	Red River Pipeline	Arkla Energy Resources Co	02-12-91	C	30,000
ST91-6873	United Gas Pipe Line Co	Lone Star Gas Co	02-12-91	B	51,500
ST91-6874	Transcontinental Gas Pipe Line Corp	Bay State Gas Co	02-12-91	B	440,000
ST91-6875	Transcontinental Gas Pipe Line Corp	Piedmont Natural Gas Co	02-12-91	B	83,500
ST91-6876	Transcontinental Gas Pipe Line Corp	North Carolina Natural Gas Corp	02-12-91	B	350,000
ST91-6877	Transcontinental Gas Pipe Line Corp	City of Winder	02-12-91	B	120,000
ST91-6878	Transcontinental Gas Pipe Line Corp	North Carolina Natural Gas Corp	02-12-91	B	571,000
ST91-6879	Texas Gas Transmission Corp	Olin Corp	02-12-91	G-S	2,500
ST91-6880	Texas Gas Transmission Corp	Tennessee Valley Authority	02-12-91	G-S	250,000
ST91-6881	Texas Gas Transmission Corp	Riverside Energy Resources, Inc	02-12-91	G-S	80,000
ST91-6882	Texas Gas Transmission Corp	Indiana Gas Co., Inc	02-12-91	B	5,000
ST91-6883	Texas Gas Transmission Corp	Ohio River Pipeline Corp	02-12-91	B	300
ST91-6884	Texas Gas Transmission Corp	Bishop Pipeline Corp	02-12-91	G-S	20,000
ST91-6885	Natural Gas Pipeline Co. of America	Entrade Corp	02-12-91	G-S	150,000
ST91-6886	Enogex Inc	Williams Natural Gas Co	02-12-91	C	100,000
ST91-6887	Enogex Inc	Panhandle Eastern Pipeline Co	02-12-91	C	5,000
ST91-6888	Enogex Inc	Arkla Energy Resources	02-12-91	C	100,000
ST91-6889	Florida Gas Transmission Co	City Gas Co. of Florida	02-12-91	G-S	4,200
ST91-6890	Florida Gas Transmission Co	Citizens Gas Supply Corp	02-12-91	G-S	800,000
ST91-6891	Florida Gas Transmission Co	Tropicana Products, Inc	02-12-91	G-S	50,000
ST91-6892	Florida Gas Transmission Co	Consolidated Fuel Corp	02-12-91	G-S	20,000
ST91-6893	Florida Gas Transmission Co	Heath Petro Resources	02-12-91	G-S	100,000
ST91-6894	Florida Gas Transmission Co	Lake Apoka Natural Gas District	02-12-91	G-S	10,500
ST91-6895	Northern Natural Gas Co	AMOCO Energy Trading Corp	02-12-91	G-S	25,000
ST91-6896 [3]	Superior Offshore Pipeline Co	Mobil Natural Gas Inc	02-12-91	G-S	50,000
ST91-6897 [3]	Superior Offshore Pipeline Co	Mobil Natural Gas Inc	02-12-91	G-S	50,000
ST91-6898 [3]	Superior Offshore Pipeline Co	Mobil Expl. & Prod. North America Inc	02-12-91	G-S	70,000
ST91-6899 [3]	Superior Offshore Pipeline Co	Mobil Natural Gas Inc	02-12-91	G-S	5,000
ST91-6900 [3]	Superior Offshore Pipeline Co	Llog Exploration Co	02-12-91	G-S	14,000
ST91-6901 [3]	Superior Offshore Pipeline Co	Northern Michigan Exploration Co	02-12-91	G-S	29,075
ST91-6902 [3]	Superior Offshore Pipeline Co	LGC Intrastate	02-12-91	G-S	20,000
ST91-6903 [3]	Superior Offshore Pipeline Co	Dynamic Exploration Inc	02-12-91	G-S	3,300
ST91-6904	Arkla Energy Resources	Vesta Energy Co	02-12-91	G-S	10,000
ST91-6905	Colorado Interstate Gas Co	Public Service Co. of Colorado	02-12-91	B	50,000
ST91-6906	Colorado Interstate Gas Co	AMOCO Gas Co	02-12-91	B	50,000
ST91-6907	Midwestern Gas Transmission Co	Central Illinois Public Service Co	02-12-91	B	150,000
ST91-6908	Trunkline Gas Co	Enserch Gas Co	02-12-91	G-S	50,000
ST91-6909	Trunkline Gas Co	Panhandle Trading Co	02-12-91	G-S	80,000
ST91-6910	Trunkline Gas Co	Bishop Pipeline Corp	02-12-91	G-S	40,000
ST91-6911	Trunkline Gas Co	Boyd Rosene and Associates, Inc	02-12-91	G-S	5,000
ST91-6912	Trunkline Gas Co	Entrade Corp	02-12-91	G-S	100,000
ST91-6913	Trunkline Gas Co	Tejas Power Corp	02-12-91	G-S	100,000
ST91-6914	Trunkline Gas Co	Brooklyn Union Gas Co., et al	02-12-91	B	100,000
ST91-6915	Trunkline Gas Co	Enserch Gas Co	02-12-91	G-S	50,000
ST91-6916	Western Transmission Corp	Sagebrush Services, Inc	02-13-91	G-S	1,000
ST91-6917	United Texas Transmission Co	Transcontinental Gas Pipe Line Corp	02-13-91	C	50,000
ST91-6919	Natural Gas Pipeline Co. of America	Entrade Corp	02-13-91	G-S	200,000
ST91-6920	Valero Transmission, L.P	El Paso Natural Gas Co	02-13-91	C	40,000
ST91-6921	Northern Natural Gas Co	Northern State Power Co	02-14-91	B	15,937
ST91-6922	Viking Gas Transmission Co	Kaztex Energy Management, Inc	02-14-91	G-S	25,000
ST91-6923	Natural Gas Pipeline Co. of America	AMOCO Gas Co	02-14-91	G-S	25,000

Docket No. [1]	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity [2]
ST91-6924	Trailblazer Pipeline Co	Iowa Electric Light and Power Co	02-14-91	B	353,000
ST91-6925	Florida Gas Transmission Co	Florida Power & Light Co	02-14-91	G-S	662,898
ST91-6926	Florida Gas Transmission Co	Georgia Pacific Corp	02-14-91	G-S	25,323
ST91-6927	Florida Gas Transmission Co	Consolidated Minerals Inc	02-14-91	G-S	7,349
ST91-6928	Florida Gas Transmission Co	City of Vero Beach	02-14-91	G-S	25,000
ST91-6929	Florida Gas Transmission Co	Ft. Pierce Utilities Authority	02-14-91	G-S	14,000
ST91-6930	Florida Gas Transmission Co	Ft. Pierce Utilities Authority	02-14-91	G-S	25,000
ST91-6931	Florida Gas Transmission Co	City of Sunrise	02-14-91	G-S	15,000
ST91-6932	Florida Gas Transmission Co	Citizens Gas Supply Corp	02-14-91	G-S	800,000
ST91-6933	Florida Gas Transmission Co	Orlando Utilities Commission	02-14-91	G-S	157,947
ST91-6934	Florida Gas Transmission Co	City of Leesburg	02-14-91	G-S	7,200
ST91-6935	Florida Gas Transmission Co	Enron Gas Processing Co	02-14-91	G-S	150,000
ST91-6936	Williston Basin Interstate P/L Co	Merrion Oil & Gas Corp	02-14-91	G-S	100
ST91-6937	Williston Basin Interstate P/L Co	Western Gas Processors, Ltd	02-14-91	G-S	52,484
ST91-6938	Louisiana Resources Company	Sabine Pipe Line Company	02-14-91	C	20,000
ST91-6939	Transcontinental Gas Pipe Line Corp	Public Service Company of North Carolina	02-14-91	B	134,316
ST91-6940	Columbia Gas Transmission Corporation	Newport Steel Corporation	02-14-91	G-S	12,000
ST91-6941	Columbia Gas Transmission Corporation	Columbia Gas of Ohio, Inc	02-14-91	B	150
ST91-6942	Columbia Gas Transmission Corporation	National Fuel Distribution Co., et al	02-14-91	B	500
ST91-6943	Columbia Gas Transmission Corporation	Columbia Gas of Ohio, Inc	02-14-91	B	8,000
ST91-6944	Columbia Gas Transmission Corporation	Total Minatome Corporation	02-14-91	G-S	100,000
ST91-6945	Columbia Gas Transmission Corporation	The Polaris Pipeline Corporation	02-14-91	G-S	45,000
ST91-6946	Equitrans, Inc	Virginia Electric & Power Company	02-14-91	G-S	42,033
ST91-6947	Southern Natural Gas Company	Louisiana Municipal Nat. Gas Authority	02-14-91	G-S	25,000
ST91-6948	Southern Natural Gas Company	Dravo Line Company	02-14-91	G-S	5,000
ST91-6949	Southern Natural Gas Company	Lehigh Portland Cement Company	02-14-91	G-S	6,000
ST91-6950	Southern Natural Gas Company	Consolidated Fuel Corporation	02-14-91	G-S	12,000
ST91-6951	Southern Natural Gas Company	Shell Gas Trading Company	02-14-91	G-S	40,000
ST91-6952	Southern Natural Gas Company	Borden Packaging & Industrial Products	02-14-91	G-S	800
ST91-6953	Southern Natural Gas Company	Amerada Hess Corporation	02-14-91	G-S	100,000
ST91-6954	Southern Natural Gas Company	City of Wrens, Georgia	02-14-91	G-S	324
ST91-6955	Southern Natural Gas Company	Graniteville Company	02-14-91	G-S	10,000
ST91-6956	Southern Natural Gas Company	Vulcan Materials Company	02-14-91	G-S	500
ST91-6957	Southern Natural Gas Company	Lafarge Corporation	02-14-91	G-S	10,000
ST91-6958	Southern Natural Gas Company	Stellar Gas Company	02-14-91	G-S	50,000
ST91-6959	Superior Offshore Pipeline Company	MNGI	02-14-91	G-S	50,000
ST91-6960	Superior Offshore Pipeline Company	Nipsco, et al	02-14-91	B	42,000
ST91-6961	Superior Offshore Pipeline Company	City of Richmond Dept. of Pub. Utilities	02-14-91	B	29,166
ST91-6962	Superior Offshore Pipeline Company	Kerr-McGee Corporation	02-14-91	G-S	42,000
ST91-6963	Superior Offshore Pipeline Company	Oryx Gas Marketing Limited Partnership	02-14-91	G-S	5,000
ST91-6964	Superior Offshore Pipeline Company	Nipsco, Et Al	02-14-91	B	42,000
ST91-6965	Superior Offshore Pipeline Company	Oryx Gas Marketing Limited Partnership	02-14-91	G-S	5,000
ST91-6966	Superior Offshore Pipeline Company	Samedan Oil Corporation	02-14-91	G-S	28,000
ST91-6967	Superior Offshore Pipeline Company	Samedan Oil Corporation	02-14-91	G-S	29,166
ST91-6968	Trunkline Gas Company	Equitable Resources Marketing Company	02-15-91	G-S	10,000
ST91-6969	Trunkline Gas Company	Baltimore Gas & Electric Company	02-15-91	B	100,000
ST91-6970	Trunkline Gas Company	Panhandle Trading Company	02-15-91	G-S	10,000
ST91-6971	Colorado Interstate Gas Company	North Central Oil Corporation	02-15-91	G-S	25,000
ST91-6972	Colorado Interstate Gas Company	Northern Gas of Wyoming	02-15-91	B	400
ST91-6973	Colorado Interstate Gas Company	Associated Intrastate Pipeline Company	02-15-91	G-S	50,000
ST91-6974	Transcontinental Gas Pipe Line Corp	Bay State Gas Company	02-15-91	B	100,000
ST91-6975	Mississippi River Transmission Corp	The Doe Run Company	02-15-91	G-S	1,125
ST91-6976	Equitrans, Inc	Harrison Energy Corporation	02-15-91	G-S	5,060
ST91-6977	Tennessee Gas Pipeline Company	Equitrans, Inc	02-15-91	G	15,000
ST91-6978	Mississippi River Transmission Corp	Rochester Gas and Electric Corporation	02-15-91	B	45,000
ST91-6979	Florida Gas Transmission Company	Peoples Gas System, Inc	02-15-91	B	645
ST91-6980	Florida Gas Transmission Company	Reedy Creek Improvement District	02-15-91	G-S	2,586
ST91-6981	United Gas Pipe Line Company	Tejas Hydrocarbons Company	02-15-91	G-S	154,500
ST91-6982	Williams Natural Gas Company	Delhi Gas Pipeline Corporation	02-15-91	B	50,000
ST91-6983	El Paso Natural Gas Company	Sinclair Oil Corporation	02-15-91	G-S	204
ST91-6984	Pacific Gas Transmission Company	Pacific Gas and Electric Company	02-19-91	B	103,520
ST91-6985	Pacific Gas Transmission Company	William Gas Company	02-19-91	B	228,375
ST91-6986	Pacific Gas Transmission Company	Pacific Gas and Electric Company	02-19-91	B	104,799
ST91-6987	Viking Gas Transmission Company	Hadson Gas System, Inc	02-19-91	G-S	200,000
ST91-6988	Viking Gas Transmission Company	Unigas Energy, Inc	02-19-91	G-S	75,000
ST91-6989	Tennessee Gas Pipeline Company	National Fuel Gas Supply Corporation	02-19-91	G	18,594
ST91-6990	Northern Natural Gas Company	Muny Natural Gas	02-19-91	B	500
ST91-6991	Northern Natural Gas Company	Peninsular Gas Company	02-19-91	B	450
ST91-6992	Northern Natural Gas Company	Winconsin Southern Gas Company, Inc	02-19-91	B	1,500
ST91-6993	Northern Natural Gas Company	Natural Gas Pipeline Company of America	02-19-91	G-S	75,000
ST91-6994	Northern Natural Gas Company	Natural Gas Pipeline Company of America	02-19-91	G-S	27,500
ST91-6995	Northern Natural Gas Company	Sheehan's Gas Company	02-19-91	B	200
ST91-6996	Northern Natural Gas Company	Midwest Natural Gas, Inc	02-19-91	B	1,000
ST91-6997	Northern Natural Gas Company	City of Westbend	02-19-91	B	500
ST91-6998	Northern Natural Gas Company	Enron Gas Marketing, Inc	02-19-91	G-S	32,000
ST91-6999	Northern Natural Gas Company	K N Energy, Inc	02-19-91	G-S	32,000
ST91-7000	Northern Natural Gas Company	Western Gas Utilities	02-19-91	B	20,000
ST91-7001	Northern Natural Gas Company	Enron Gas Marketing, Inc	02-19-91	G-S	9,000
ST91-7002	Northern Natural Gas Company	City of New Ulm	02-19-91	B	1,680
ST91-7003	Great Lakes Gas Transmission L.P	Renaissance Energy Ltd	02-19-91	G-S	50,000

Docket No. [1]	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity [2]
ST91-7004	Northern Natural Gas Company	ANR Pipeline Company	02-19-91	G	77,708
ST91-7005	Transok, Inc	Northern Natural Gas Company	02-19-91	C	50,000
ST91-7006	Transok, Inc	Arkla Energy Resources	02-19-91	C	20,000
ST91-7007	United Gas Pipe Line Company	Bishop Pipeline Corporation	02-19-91	G-S	41,200
ST91-7008	United Gas Pipe Line Company	Citizens Gas Supply Corporation	02-19-91	G-S	20,600
ST91-7009	United Gas Pipe Line Company	Graham Energy Marketing Corporation	02-19-91	G-S	123,600
ST91-7010	Enogex, Inc	Arkla Energy Resources	02-19-91	C	100,000
ST91-7012	Equitrans, Inc	Columbia Gas of Pennsylvania	02-19-91	G-S	30,362
ST91-7013	Transcontinental Gas Pipe Line Corp	Ensearch Gas Transmission Company	02-19-91	B	1,000
ST91-7014	Transcontinental Gas Pipe Line Corp	Dow Pipeline Company	02-19-91	B	5,000
ST91-7015	Transcontinental Gas Pipe Line Corp	Tennessee Gas Pipeline Company	02-19-91	G	15,000
ST91-7016	Transcontinental Gas Pipe Line Corp	Northern Illinois Gas Company	02-19-91	B	60,000
ST91-7017	Transcontinental Gas Pipe Line Corp	Public Service Electric & Gas Company	02-19-91	B	200,000
ST91-7018	Transcontinental Gas Pipe Line Corp	Municipal Gas Authority	02-19-91	B	120,000
ST91-7019	Transcontinental Gas Pipe Line Corp	North Carolina Natural Gas Company	02-19-91	B	300,000
ST91-7020	Natural Gas Pipeline Company of America	Reliance Pipeline Company	02-19-91	B	20,000
ST91-7021	Natural Gas Pipeline Company of America	American Central Gas Company	02-19-91	G-S	100,000
ST91-7022	Natural Gas Pipeline Company of America	Williams Gas Marketing Company	02-19-91	G-S	75,000
ST91-7023	Natural Gas Pipeline Company of America	NGC Transportation, Inc	02-19-91	G-S	100,000
ST91-7024	Columbia Gas Transmission Corporation	Columbia Gas of Ohio, Inc	02-19-91	B	30,292
ST91-7025	Florida Gas Transmission Company	Transco Energy Marketing Company	02-20-91	G-S	40,000
ST91-7026	Northern Natural Gas Company	Entrade Corporation	02-20-91	G-S	20,000
ST91-7027	K N Energy, Inc	Northern Natural Gas Company	02-20-91	G	35,000
ST91-7028	Transcontinental Gas Pipe Line Corp	Alabama Gas Corporation, Et Al	02-20-91	B	600,000
ST91-7029	Transcontinental Gas Pipe Line Corp	Pennsylvania Gas and Water Company	02-20-91	B	156,000
ST91-7030	United Gas Pipe Line Company	NGC Transportation, Inc	02-20-91	G-S	154,500
ST91-7031	United Gas Pipe Line Company	Laser Marketing Co	02-20-91	G-S	618,000
ST91-7032	ANR Pipeline Co	NGC Transportation, Inc	02-20-91	G-S	10,000
ST91-7033	ANR Pipeline Co	Wisconsin Public Service Corp	02-20-91	B	146,000
ST91-7034	ANR Pipeline Co	Clinton Gas Marketing, Inc	02-20-91	B	10,000
ST91-7035	ANR Pipeline Co	CMS Gas Marketing	02-20-91	G-S	25,000
ST91-7036	ANR Pipeline Co	Wisconsin Fuel and Light Co	02-20-91	B	2,500
ST91-7037	ANR Pipeline Co	PSI Gas Marketing, Inc	02-20-91	G-S	150,000
ST91-7038	ANR Pipeline Co	Coast Energy Group, Inc	02-20-91	G-S	75,000
ST91-7039	Texas Eastern Transmission Corp	FMI Hydrocarbon Co	02-20-91	G-S	100,000
ST91-7040	Columbia Gulf Transmission Corp	Superior Natural Gas Corp	02-20-91	G-S	30,000
ST91-7041	Columbia Gulf Transmission Corp	Seagull Marketing Services, Inc	02-20-91	G-S	75,000
ST91-7042	Columbia Gulf Transmission Corp	NGC Transportation, Inc	02-20-91	G-S	200,000
ST91-7043	Tennessee Gas Pipeline Co	Mississippi Valley Gas Co	02-20-91	B	20,000
ST91-7044	Natural Gas Pipeline Company of America	Seagull Marketing Services, Inc	2-20-91	G-S	100,000
ST91-7045	Natural Gas Pipeline Company of America	Seagull Marketing Services, Inc	2-20-91	G-S	50,000
ST91-7046	Natural Gas Pipeline Company of America	Enserch Gas Co	2-20-91	G-S	100,000
ST91-7047	United Gas Pipe Line Co	Transamerican Gas Transmission Corp	2-20-91	G-S	154,500
ST91-7048	Transcontinental Gas Pipe Line Corp	City of Monroe	2-20-91	B	35,000
ST91-7049	Delhi Gas Pipeline Corp	El Paso Natural Gas Co	2-20-91	C	10,000
ST91-7050	Delhi Gas Pipeline Corp	Transwestern Pipe Line Co	2-20-91	C	1,500
ST91-7051	Williams Natural Gas Co	Oryx Gas Marketing Limited Partnership	2-20-91	G-S	80,000
ST91-7052	ANR Pipeline Company	Battle Creek Gas Company	2-21-91	B	100,000
ST91-7053	ANR Pipeline Company	NGC Transportation Inc	2-21-91	G-S	250,000
ST91-7054	ANR Pipeline Company	Baltimore Gas and Electric Company	2-21-91	B	30,000
ST91-7055	ANR Pipeline Company	Pold Energy Corporation	2-21-91	G-S	1,000
ST91-7056	ANR Pipeline Company	CMS Gas Marketing	02-21-91	G-S	25,000
ST91-7057	ANR Pipeline Company	Coast Energy Group, Inc	02-21-91	G-S	75,000
ST91-7058	Panhandle Eastern Pipe Line Company	City of Morton	02-21-91	B	20,000
ST91-7059	Panhandle Eastern Pipe Line Company	Premier Gas Company	02-21-91	G-S	30,000
ST91-7060	Panhandle Eastern Pipe Line Company	Citizens Gas Supply Corporation	02-21-91	G-S	75,000
ST91-7061	Panhandle Eastern Pipe Line Company	Indiana Gas Company	02-21-91	B	2,000
ST91-7062	Alabama-Tennessee Natural Gas Company	Union Camp Corporation	02-21-91	G-S	400
ST91-7063	Alabama-Tennessee Natural Gas Company	EFP South Corporation	02-21-91	G-S	600
ST91-7064	Columbia Gas Transmission Corporation	Meridian Marketing & Transmission Corp	02-21-91	G-S	600
ST91-7065	Columbia Gulf Transmission Corporation	Brooklyn Interstate Natural Gas Corp	02-21-91	G-S	30,000
ST91-7066	Columbia Gulf Transmission Corporation	Hadson Gas Systems	02-21-91	G-S	121,500
ST91-7067	Columbia Gulf Transmission Corporation	Superiod Natural Gas Corporation	02-21-91	G-S	30,000
ST91-7068	Columbia Gulf Transmission Corporation	Coastal Gas Marketing Company	02-21-91	G-S	100,000
ST91-7069	Columbia Gulf Transmission Corporation	Hunt Oil Corporation	02-21-91	G-S	80,000
ST91-7070	Columbia Gulf Transmission Corporation	Chevron U.S.A., Inc	02-21-91	G-S	200,000
ST91-7071	Columbia Gulf Transmission Corporation	Centran Corporation	02-21-91	G-S	30,000
ST91-7072	Valero Transmission, L.P	Valero Interstate Transmission Company	02-22-91	C	2,000
ST91-7073	Valley Gas Transmission, Inc	Citizens Gas Supply Corporation	02-22-91	G-S	4,000
ST91-7074	Natural Gas Pipeline Company of America	Village of Bethany, Illinois	02-22-91	B	300
ST91-7075	El Paso Natural Gas Company	Meridian Oil Trading, Inc	02-22-91	G-S	10,300
ST91-7076	Northern Natural Gas Company	Santanna Natural Gas Corporation	02-22-91	G-S	250,000
ST91-7077	Northern Natural Gas Company	Conoco, Inc	02-22-91	G-S	0,000
ST91-7078	Northern Natural Gas Company	Enron Gas Marketing, Inc	02-22-91	G-S	500,000
ST91-7079	Northern Natural Gas Company	Tenngasco Corporation	02-22-91	G-S	150,000
ST91-7080	Williston Basin Interstate Pipeline Co	Wyoming Gas Company	02-22-91	B	1,920
ST91-7081	Colorado Interstate Gas Company	The Kansas Power and Light Company	02-22-91	B	10,000
ST91-7082	Green Canyon Pipe Line Company	OXY, USA, Inc	02-22-91	G-S	20,000
ST91-7083	Valero Transmission, L.P	Texas Gas Transmission	02-25-91	C	800,000
ST91-7084	Valero Transmission, L.P	El Paso Natural Gas Company	02-25-91	C	5,000

Docket No. [1]	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity [2]
ST91-7085	U-T Offshore System	El Paso Natural Gas Company	02-25-91	K	10,000
ST91-7086	U-T Offshore System	Panhandle Trading Company	02-25-91	K-S	50,000
ST91-7087	Transcontinental Gas Pipe Line Corp	Neches Gas Distribution Company	02-25-91	B	6,175,000
ST91-7088	Tennessee Gas Pipeline Company	Suncor, Inc	02-25-91	G-S	100,000
ST91-7089	Tennessee Gas Pipeline Company	New York State Electric and Gas Company	02-25-91	B	50,000
ST91-7090	Williston Basin Interstate Pipeline Co	Amoco Production Company	02-25-91	G-S	86,100
ST91-7091	Tex/Con Gas Pipeline Company	ANR Pipeline Company	02-25-91	C	5,000
ST91-7092	Tejas Gas Corporation	Mississippi River Transmission Corp	02-25-91	C	9,000
ST91-7093	Arkla Energy Resources	Arkansas Louisiana Gas Company	02-25-91	B	1,000
ST91-7094	Valero Transmission, L.P	Arkla Energy Resources	02-26-91	C	800,000
ST91-7095	Texas Gas Transmission Corporation	Bishop Pipeline Corporation	02-26-91	G-S	2,595
ST91-7096	Texas Gas Transmission Corporation	Stellar Gas Company	02-26-91	G-S	40,000
ST91-7097	Tennessee Gas Pipeline Company	Sipco Gas Transmission Corporation	02-26-91	B	50,000
ST91-7098	Transcontinental Gas Pipe Line Corp	Public Service Company of North Carolina	02-26-91	B	350,000
ST91-7099	United Gas Pipe Line Co	Rangeline Corp	02-26-91	G-S	2,060
ST91-7100	United Gas Pipe Line Co	Transamerican Gas Transmission Corp	02-26-91	G-S	103,000
ST91-7101 [3]	United Gas Pipe Line Co	Wellhead Ventures Corp	02-26-91	G-S	57,680
ST91-7102 [3]	United Gas Pipe Line Co	Tex-La Gas Co	02-26-91	G-S	10,300
ST91-7103 [3]	United Gas Pipe Line Co	Wellhead Ventures Corp	02-26-91	G-S	7,210
ST91-7104 [3]	United Gas Pipe Line Co	Wellhead Ventures Corp	02-26-91	G-S	2,060
ST91-7105 [3]	United Gas Pipe Line Co	Tex-La Gas Co	02-26-91	G-S	15,450
ST91-7106	Trunkline Gas Co	Tennessee River Intrastate Gas Co	02-26-91	B	100,000
ST91-7107	U-T Offshore System	Penzoil Gas Marketing Co	02-26-91	K-S	2,250,000
ST91-7108	Trunkline Gas Co	Seagull Marketing Services, Inc	02-26-91	G-S	100,000
ST91-7109	U-T Offshore System	Meridian Oil Trading, Inc	02-26-91	K-S	30,000
ST91-7110	U-T Offshore System	Entrade Corp	02-26-91	K-S	20,000
ST91-7111	U-T Offshore System	Inland Steel Co	02-26-91	K-S	20,000
ST91-7112	U-T Offshore System	Eagle Natural Gas Co	02-26-91	K-S	40,000
ST91-7113	Transcontinental Gas Pipe Line Corp	Appalacian Gas Sales	02-26-91	G-S	10,000
ST91-7114	Tennessee Gas Pipeline Co	Inland Gas Co	02-26-91	B	8,500
ST91-7115	Natural Gas Pipeline Co. of America	NGC Transportation, Inc	02-27-91	G-S	250,000
ST91-7116	Natural Gas Pipeline Co. of America	Enron Gas Marketing, Inc	02-27-91	G-S	200,000
ST91-7117	Natural Gas Pipeline Co. of America	Tejas Powr Corp	02-27-91	G-S	100,000
ST91-7118	Natural Gas Pipeline Co. of America	Centran Corp	02-27-91	G-S	30,000
ST91-7119	Panhandle Eastern Pipe Line Co	Enserch Gas Co	02-27-91	G-S	50,000
ST91-7120	Panhandle Eastern Pipe Line Co	Baltimore Gas and Electric Co	02-27-91	B	100,000
ST91-7121	Panhandle Eastern Pipe Line Co	Fuel Services Group, Inc	02-27-91	G-S	3,333
ST91-7122	Panhandle Eastern Pipe Line Co	Associated Natural Gas, Inc	02-27-91	G-S	25,000
ST91-7123	Columbia Gulf Transmission Co	Shell Offshore, Inc	02-27-91	G-S	50,000
ST91-7124	Columbia Gulf Transmission Co	Catamount Natural Gas, Inc	02-27-91	G-S	100,000
ST91-7125	Columbia Gulf Transmission Co	Loutex Energy, Inc	02-27-91	G-S	80,000
ST91-7126	Tennessee Gas Pipeline Co	Columbia Gulf Transmission Co	02-27-91	G	20,000
ST91-7127	United Gas Pipe Line Co	Bishop Pipeline Corp	02-27-91	G-S	41,200
ST91-7128	United Gas Pipe Line Co	Bishop Pipeline Corp	02-27-91	G-S	41,200
ST91-7129	United Gas Pipe Line Co	Delhi Gas Pipeline Corp	02-27-91	G-S	103,000
ST91-7130	United Gas Pipe Line Co	Arkla Energy Resources	02-27-91	G-S	103,000
ST91-7131	United Gas Pipe Line Co	Bishop Pipeline Corp	02-27-91	G-S	41,200
ST91-7132	United Gas Pipe Line Co	NGC Transportation, Inc	02-27-91	G-S	154,500
ST91-7133	Natural Gas Pipeline Co. of America	Midcon Marketing Corp	02-28-91	G-S	75,000
ST91-7134	Natural Gas Pipeline Co. of America	Transamerican Gas Transmission Corp	02-28-91	B	250,000
ST91-7135	Natural Gas Pipeline Co. of America	PSI Gas Marketing, Inc	02-28-91	G-S	100,000
ST91-7136	Natural Gas Pipeline Co. of America	North American Resources Co	02-28-91	G-S	30,000
ST91-7137	Natural Gas Pipeline Co. of America	Peoples Natural Gas Co	02-28-91	B	100,000
ST91-7138	Natural Gas Pipeline Co. of America	Midcon Marketing Corp	02-28-91	G-S	150,000
ST91-7139	Natural Gas Pipeline Co. of America	City of Lenox	02-28-91	B	935
ST91-7140	Natural Gas Pipeline Co. of America	Tejas Hydrocarbons Co	02-28-91	G-S	100,000
ST91-7141	Valero Transmission, L.P	Arkla Energy Resources	02-28-91	C	10,000
ST91-7142	United Gas Pipe Line Co	Rally Pipeline Corp	02-28-91	G-S	58,710
ST91-7143	United Gas Pipe Line Co	Louisiana Gas System, Inc	02-28-91	G-S	25,750
ST91-7144	United Gas Pipe Line Co	Rangeline Corp	02-28-91	G-S	1,545
ST91-7145	Mississippi River Transmission Corp	Cerro Copper Products Co	02-28-91	G-S	1,545

Below are twelve St-Docketed initial reports which are noticed out of sequence. These initial reports were not noted previously because they required additional Commission staff review.

ST91-5324 [3]	Mississippi River Transmission Corp	Cerro Copper Products Co	02-28-91	G-S	1,545
ST91-5611	Northern Natural Gas Co	Manning Municipal Utilities	12-11-90	B	500
ST91-5613	Northern Natural Gas Co	Peoples Natural Gas Co., Div. Utilicorp	12-11-90	B	4,000
ST91-5725	Green Canyon Pipe Line Co	Seagull Marketing Services, Inc	12-12-90	G-S	25,000
ST91-5751	Colorado Interstate Gas Co	Coastal Chem., Inc	12-13-90	G-S	5,000
ST91-5753	ANR Pipeline Co	Coastal Gas Marketing Co	12-13-90	G-S	169,708
ST91-5895	Exxon Gas System, Inc	Sabine Pipe Line Co	12-19-90	C	70,000
ST91-5901	Northern Natural Gas Co	Panda Resources, Inc	12-19-90	B	25,000
ST91-6023	Equitrans, Inc	Columbia Gas of Pennsylvania, Inc	12-21-90	G-S	18,026
ST91-6081	Columbia Gulf Transmission	Columbia Gas Development Corp	12-27-90	G-S	315,900
ST91-6083	Arkla Energy Resources	USA Gas Pipeline	12-27-90	B	200,000
ST91-6086 [3]	ANR Pipeline Co	ADA Cogeneration	12-28-90	G-S	7,500

[1] Notice of transactions does not constitute a determination that filings comply with Commission regulations in accordance with Order No. 436 (final rule and notice requesting supplemental comments, 50 FR 42,372,10/10/85).

[2] Estimated maximum daily volumes includes volumes reported by the filing company, in MMBTU, MCF and DT.

[3] Transportation service converted from authority under 18 CFR section 284.106, subpart B, to authority under 18 CFR section 284.223(F)(1), subpart G-S

[FR Doc. 91-11474 Filed 5-14-91; 8:45 a.m.]

BILLING CODE 6717-01-M

[Docket No. RP91-148-000]

Great Lakes Gas Transmission Limited Partnership; Proposed Changes in FERC Gas Tariff

May 8, 1991.

Take notice that Great Lakes Gas Transmission Limited Partnership ("Great Lakes") on May 6, 1991, pursuant to § 154.63(a)(1) of the Regulations of the Federal Energy Regulatory Commission ("Commission") tendered for filing the following tariff sheets to its FERC Gas Tariff proposed to be effective June 1, 1991:

First Revised Volume No. 1

First Revised Twenty-Third Revised Sheet No. 4
Fourteenth Revised Sheet No. 52
Eleventh Revised Sheet No. 54
Ninth Revised Sheet No. 54-A
Third Revised Sheet No. 54-A1
Third Revised Sheet No. 56-C
Second Revised Thirty-Ninth Sheet No. 57(i)

Original Volume No. 2

Third Revised Sheet No. 3-A
First Revised Thirteenth Revised Sheet No. 151
First Revised Tenth Revised Sheet No. 223
Third Revised Sheet No. 224
First Revised Tenth Revised Sheet No. 245
Fourth Revised Sheet No. 246
First Revised Fourth Revised Sheet No. 269
First Revised Fourth Revised Sheet No. 270

Great Lakes advises that the primary purpose of this filing is to enable a Great Lakes customer, ANR Pipeline Company ("ANR"), to provide the company use gas needed by Great Lakes to transport such customer's gas volumes. The tariff sheets referenced above reflect the changes necessary to implement this change in Rate Schedule CQ-2 of First Revised Volume No. 1 and Rate Schedules T-6, T-8, T-9 and T-10 of Original Volume No. 2 of Great Lakes FERC Gas Tariff.

Great Lakes further states that ANR has agreed that, effective June 1, 1991, it will provide that company use gas to Great Lakes which is needed to transport volumes. Concurrent with the effectiveness of this change, ANR would no longer be subject to Great Lakes' PGA tariff provisions as it relates to company use gas.

Great lakes indicates that there are two major reasons for the proposed change. First, since customers in Great Lakes' open access program (implemented on November 1, 1990, pursuant to the Commission Order issued on September 13, 1990, in Docket No. CP89-2198-000), directly provide their company use gas, conversion of Great Lakes' traditional customers to a similar arrangement provides administrative convenience and uniformity. Second, it is critical to Great Lakes' planning to timely determine if it will need to purchase company use gas in the future. Gas purchase contracts, under which Great Lakes purchases most of its company use gas requirements from TransCanada, terminate on November 1, 1991.

Great Lakes requested waiver of the 30-day notice requirements of § 154.51 of the Commission's Regulations so as to permit the June 1, 1991 effective date.

Any person desiring to be heard or to protest said filing should file a Motion to Intervene or protest with the Federal Energy Regulatory Commission 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before May 15, 1991.

Protests will be considered by the Commission in determining the appropriate action to be taken, but will not service to make protestants parties to the proceeding. Copies of this filing are on file with the commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 91-11470 Filed 5-14-91; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 8075-001]

James River-Groveton, Inc.; Dismissing Petition

May 8, 1991.

On February 13, 1984, James River-Groveton, Inc., now James River Corporation (James River), filed with the Commission an application for an exemption from licensing to develop a hydroelectric project on the Connecticut River in Guildhall, Vermont, and Northumberland, New Hampshire. On October 3, 1986, James River filed a petition for declaratory order regarding a state agency's jurisdiction to impose mandatory conditions with respect to the proposed hydroelectric project.

On April 17, 1991, James River withdrew its application for exemption from licensing. No one filed a motion in opposition to the notice of withdrawal, and the Commission took no action to disallow the withdrawal. Pursuant to § 385.216 of the Commission's Rules of Practice and Procedure, 18 CFR 385.216 (1990), the withdrawal became effective on May 2, 1991.

Because the exemption application which was the subject of the petition for declaratory order has been withdrawn, the petition is dismissed as moot.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 91-11475 Filed 5-14-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-121-001]

Mississippi River Transmission Corporation; Proposed Change in FERC Gas Tariff

May 8, 1991.

Take notice that on May 6, 1991 Mississippi River Transmission Corporation (MRT) tendered for filing the following tariff sheets to its FERC Gas Tariff, Original Volume No. 1-A:

Sub. Second Revised Sheet No. 24
Sub. Second Revised Sheet No. 25
Sub. Third Revised Sheet No. 58

The subject tariff sheets bear an issue date of May 6, 1991 and a proposed effective date of April 20, 1991.

MRT states that this tariff filing is being made in compliance with an order issued by the Commission on April 19, 1991, in which the Commission directed MRT to add tariff language which would permit discounted shippers to retain priority by paying up to the maximum rate, and to add tariff language delineating under what circumstances imbalance penalties may be assessed.

MRT states that a copy of this filing has been mailed to each of MRT's jurisdictional customers and to the State Commissions of Arkansas, Illinois and Missouri.

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 rule 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211. All such protests should be filed on or before May 15, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 91-11471 Filed 5-14-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-150-000]

Northwest Pipeline Corporation; Change in FERC Gas Tariff

May 8, 1991.

Take notice of that on May 2, 1991 Northwest Pipeline Corporation ("Northwest") tendered the following for filing and acceptance to be a part of its FERC Gas Tariff:

Second Revised Volume No. 1

First Revised Sheet No. 8
Second Revised Sheet No. 26
First Revised Sheet No. 94
First Revised Sheet No. 101
First Revised Sheet No. 105
First Revised Sheet No. 109
Second Revised Sheet No. 150
First Revised Sheet No. 154
First Revised Sheet No. 223

First Revised Volume No. 1-A

First Revised Sheet No. 401
First Revised Sheet No. 402
First Revised Sheet No. 408
First Revised Sheet No. 409
First Revised Sheet No. 410
First Revised Sheet No. 415
First Revised Sheet No. 416
First Revised Sheet No. 417
Original Sheet No. 417-A
First Revised Sheet No. 431
First Revised Sheet No. 442
Sheet Nos. 508 and 509
Sheet Nos. 517 through 600

Northwest states that the purpose of this filing is to make minor revisions to Northwest's tariff to reflect the actual operating conditions of the pipeline. Northwest further states that the requirement necessary to maintain a priority date for interruptible transportation customers have been clarified. Several actions of the tariff have also been revised to remove any reference to take-or-pay credits, in compliance with Order No. 500-H.

Northwest has requested an effective date of June 2, 1991 for the tendered sheets. Northwest states that a copy of the filing has been served on Northwest's jurisdictional customer list and affected state regulatory commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North 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 May 15, 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.

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 91-11472 Filed 5-14-91; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Cases Filed During the Week of April 12 Through April 19, 1991

During the Week of April 12 through April 19, 1991, the appeals and applications for exception or other relief listed in the appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: May 8, 1991.

Richard W. Dugan,

Acting Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of April 12 through April 19, 1991]

Date	Name and location of applicant	Case No.	Type of submission
April 15, 1991	Texaco/Forrest Ave. Texaco, Gadsden, AL	RR321-58	Request for Modification/Rescission in the Texaco Refund Proceeding. If Granted: The 3/29/91 Decision and Order (Case No. RF321-9103 & RF321-13651) issued to Forrest Ave. Texaco would be modified regarding the firm's application for refund submitted in the Texaco refund proceeding.
April 17, 1991	Inel Research Bureau, Moscow, ID	LFA-0113	Appeal of an Information Request Denial. If Granted: The 3/15/91 Freedom of Information Request Denial issued by the Idaho Operations Office would be rescinded, and Inel Research Bureau would receive access to DOE information.
April 18, 1991	David DeKok, Harrisburg, PA	LFA-0114	Appeal of an Information Request Denial. If Granted: The failure to act on a 2/12/90 Freedom of Information Request by the Office of Administrative Services would be treated as a constructive denial, and David DeKok would receive access to DOE information.
April 18, 1991	Metropolitan Petroleum Co., Inc. & Metropolitan Fuel Oil Co., Washington, D.C.	LEF-0032	Implementation of Special Refund Procedures. If Granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 C.F.R., Part 205, Subpart V, in connection with March 30, 1990 Final Judgment entered into with the Metropolitan Petroleum Co., Inc., and Metropolitan Fuel Oil Co.
April 18, 1991	Stanco Petroleum, Inc. Washington, D.C.	LEF-0031	Implementation of Subpart V. If Granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 C.F.R., Part 205, Subpart V in connection with March 24, 1988 Consent Order entered into with Stanco Petroleum, Inc.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of April 12 through April 19, 1991]

Date	Name and location of applicant	Case No.	Type of submission
April 19, 1991	Texaco/Ridge Service Station, Memphis, TN	RR321-59	Request for Modification/Rescission in the Texaco Refund Proceeding. If Granted: The 3/18/90 Decision and Order (Case No. RF321-11270 & RF321-13462) issued to Ridge Service Station would be modified regarding the firm's application for refund submitted in the Texaco refund proceeding.

REFUND APPLICATIONS RECEIVED

Date received	Name of refund proceeding/name of refund application	Case No.
4/12/91 thru 4/19/91	Crude Oil Refund, applications received.	RF272-89260 thru RF272-89284.
4/12/91 thru 4/19/91	Gulf Oil Refund, applications received.	RF300-16370 thru RF300-16446.
4/12/91 thru 4/19/91	Texaco refund, applications received.	RF321/14782 thru RF321-14821.
4/15/91	Enterprise Products Company.	RF326-258.
4/16/91	Holicer Gas Company, Inc.	RF326-259.
4/16/91	Marion B. Wachel, Sr.	RF307-10183.
4/16/91	Ray Wachel	RF307-10184.
4/16/91	Frank T. Wasniowski.	RF304-12208.
4/16/91	Gerald W. Ehrhart.	RF304-12209.
4/16/91	Heberer Shell	RF315-10142.
4/16/91	J.H. Rudolph & Co., Inc.	RA272-37.
4/18/91	Gateway Transportation Co., Inc.	RF304-12211.
4/18/91	Quinn Freight Lines, Inc.	RF304-12212.
4/18/91	Maislin Transport	RF304-12213
4/18/91	Maislin Trans. of Delaware.	RF304-12214.
4/18/91	Lee Way Motor Freight, Inc.	RF304-12215.
4/18/91	Motor Freight Express.	RF304-12216.
4/18/91	Associated Transport.	RF304-12217.
4/18/91	B & P Motor Express, Inc..	RF304-12218.
4/18/91	Koch Refining Company.	RF326-260.
4/18/91	Schroeder Fuel Co.	RF334-7.

[FR Doc. 91-11546 Filed 5-14-91; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders

Week of March 25 Through March 22, 1991

During the week of March 25 through March 29, 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.

Appeals

Chem-Nuclear Environmental Service, 3/25/91 LFA-0106

Chem-Nuclear Environmental Services (CNES) filed as Appeal from a determination issued by the DOE's Oak Ridge Operations Office (ORO) of a request for information under the Freedom of Information Act (FOIA). CNES had sought a copy of the successful proposal of Ecotek, Inc. for a subcontract awarded by Westinghouse Materials Co. of Ohio, the DOE's prime contractor at the Feed Materials Production Center. In denying the Appeal, the DOE found that the agency did not create or own the document, and had never had possession of it. Therefore, the requested subcontract proposal did not qualify as an agency record which was subject to the FOIA. The Appeal was accordingly denied.

Glen Milner, 3/25/91 LFA-0103

On February 25, 1991, Glen Milner filed an Appeal from a denial by the Department of Energy's Albuqerque Operations Office of three requests for waivers of fees which he had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that: (i) release of the information requested by Milner would not significantly contribute to the public's understanding of the operations and activities of the government; and (ii) milner is not a "representative of the news media" and therefore could properly be charged both search and duplication fees for processing of his FOIA requests. The Appeal was accordingly denied.

James L. Schwab, 3/25/91 LFA-0098

James L. Schwab filed an Appeal from a denial by the DOE's Office of the Inspector General (OIG) of a Request for Information which Schwab had submitted under the Freedom of Information Act (FOIA). Schwab sought information pertaining to an OIG investigation of his claim that a DOE subcontractor had wrongfully discharged him from his job as a result of his complaint about an allegedly work-related injury. OIG released two documents—an OIG memorandum and an investigation report prepared in response to Schwab's complaint. In releasing the documents, however OIG deleted names of individuals, as well as various other items which OIG claimed might identify individuals, pursuant to Exemption 7(C). Schwab sought the release of the deleted information in his Appeal. With respect to dates, occupations, and items which did not identify specific individuals, OHA granted Schwab's Appeal and remanded the case to OIG either for release of the information or issuance of a detailed explanation why the information should be withheld. With respect to individual's names and titles, and pronouns referring to specific individuals, OHA denies the Appeal on the grounds that release of that information could reasonably be expected to cause an unwarranted invasion of personal privacy.

U.S. Rentals, 3/27/91 LFA-0104

U.S. Rentals filed an Appeal from a partial denial by the Albuquerque Operations Office of a Request for Information submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the withheld information consisted of confidential unit pricing data that was protected by Exemption 4 of the FOIA because its release would result in substantial competitive harm to the submitter. The Appeal was therefore denied.

Refund Applications

Babler Bros., Inc., Gallagher Asphalt Corp., 3/29/91 *RF272–61124, RD272–61124, RF272–63552, RD272–63522*

The Department of Energy (DOE) issued a Decision and Order granting refund monies from crude oil overcharges to two paving companies. The DOE rejected objections filed by a consortium of States and Territories in regards to these Applications, finding them insufficient to rebut the presumption of injury. Therefore, the Applications for refund of these two firms were granted and Motions for Discovery filed by the States in regard to these Applications were denied. Babler Bros., Inc. was granted a refund of $40,181. Gallagher Asphalt Corp., was granted a refund of $35,722.

Brostroms Rederi AB, et al., 3/28/91 *RF272–61368, et al., RD272–61368, et al.*

The Department of Energy (DOE) issued a Decision and Order granting refund monies from crude oil overcharges to six foreign flag ocean carriers. The DOE rejected identical objections filed by a consortium of States and territories (the States) finding them insufficient to rebut the presumptions of injury. Therefore, the Applications for refund of these six firms were granted and Motions for Discovery filed by the States in regard to these Applications were denied. The refund amount granted to these seven applicants was $741,611.

Charles E. Smith Companies, Milford Management Corporation, Riverwood Management Corporation, 3/27/91 *RF272–0219, RD272–0219, RF272–8337, RD272–8337, RF272–8338*

Three real estate management companies, Charles E. Smith Companies (Smith), Milford Management Corporation (Milford) and Riverwood Management Corporation (Riverwood), filed Applications for Refund from the subpart V crude oil overcharge monies based upon their purchases of fuel oil that was consumed for purposes of space and water heating. A group of thirty States and two Territories of the United States ("the States") filed objections opposing the receipt of refunds by Smith and Milford. With regard to Smith, the States argued that Smith suffered no injury from crude oil overcharges since: (i) the firm had passthrough clauses in its leases which enabled it pass on fuel increases to its tenants, and (ii) the firm was profitable during the price control period. With regard to Milford, the States argued that the firm suffered no injury since it was able to pass through fuel cost increases by virtue of rent surcharges authorized by the New York City Rent Guidelines Board (RGB). In connection with these objections, the States also filed a Motion for Discovery in these two proceedings. In considering the States' objections, the DOE determined that Smith's commercial property leases, as opposed to residential leases, did contain passthrough clauses and therefore reduced Smith's refund gallonage by the amount attributable to its commercial properties; the DOE rejected, however, the States' alternative contention that Smith's refund application should be denied on the basis of the profitability of the firm. The DOE rejected the States' objection regarding Milford based upon its finding that the RGB surcharges did not constitute a means to fully compensate Milford for fuel cost increases as incurred. The DOE further determined that the States had failed to justify discovery with regard to either Smith or Milford. Accordingly, the refund applications of Milford and Riverwood were approved while Smith's Application for Refund was granted in part. The total of the refunds granted in this decision is $30,297.

DC Energy Office, 3/29/91, RF272–23229

The Department of Energy (DOE) isssued a Decision and Order granting refund monies from crude oil overcharge funds to the Idaho Transportation Department based on its purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981. The applicant is an agency of the government of the District of Columbia that applied for a refund based solely on its purchases of refined petroleum products for end-use. Philip P. Kalodner, counsel for utilities, transporters and manufacturers, filed conditional objections to this application. Mr. Kalodner argued that governmental entities are ineligible to receive subpart V crude oil refunds and that non-governmental claimants should have priority in receiving refunds. Moreover, Mr. Kalodner attempted to rebut DC's reliance on the end-user presumption. The DOE found Mr. Kalodner's objections to the applicant's eligibility unconvincing and granted DC a refund of $147,975.

Empire Construction Company, 3/25/91, RF272–45521, RD272–45521

The DOE issued a Decision and Order concerning an application for refund filed on behalf of Empire Construction Company in the subpart V crude oil refund proceeding. The DOE determined that the refund claim was meritorious and granted a refund of $16,725. The DOE found that the industry-wide econometric data submitted by a consortium of 28 states and 2 territories did not rebut the presumption that the applicant was injured by crude oil overcharges. 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. See, e.g., Christian Haaland A/S, 17 DOE ¶ 85,439 (1988).

Gulf Oil Corporation/T.L. Jake Ferguson's Gulf, et al., 3/29/91, RF300–12148, et al.

The Department of Energy (DOE) issued a Decision and Order granting refund monies from consent order funds obtained by the DOE through a settlement with the Gulf Oil Corporation to five applicants based upon their purchases of refined petroleum products during the period August 19, 1973, through January 27, 1981. Each applicant based their gallonage claim upon a customer listing supplied by Chevron USA, Inc. In some instances, this customer listing reports the total volume of refined petroleum products purchased at a station during the consent order period. Each applicant basing their volume total on such a listing was required either to accept a fraction of their original gallonage claim based on the percentage of the consent order period that they owned the station, or to prove that they purchased the entire volume total. The total refund granted to the five applicants was $4,224.

Idaho Transportation Department, 3/26/91, RF272–22860

The Department of Energy (DOE) issued a Decision and Order granting refund monies from crude oil overcharge funds to the Idaho Transportation Department based on its purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981. The applicant is an agency of a state government that applied for a refund based solely on its purchases of refined petroleum products for end-use in its motor vehicle fleet. Philip P. Kalodner, counsel for utilities, transporters and manufacturers filed conditional objections to this application. Mr. Kalodner argued that governmental entities are ineligible to receive subpart V crude oil refunds and that non-governmental claimants should have priority in receiving refunds. Moreover, Mr. Kalodner attempted to rebut Idaho's reliance on the end-user presumption. The DOE found Mr. Kalodner's objections to the applicant's eligibility unconvincing and granted Idaho a refund of $15,535.

Marshall School District, 3/27/91, RF272–78705

The Department of Energy issued a Decision and Order granting a refund from the crude oil overcharge funds to Marshall School District (Marshall). Based on the additional information submitted by Marshall, the DOE determined that the estimation method used by Marshall's filing service, Petroleum Funds, Inc., was reasonable. The total refund granted to Marshall in this Decision is $913.

Pathfinder Mines Corporation, 3/28/91, RF272–8802, RF272–8805, RF272–9084

The Department of Energy (DOE) issued a Decision and Order granting refund monies from the crude oil overcharge funds to Pathfinder Mines Corporation based on its purchases of refined petroleum products between August 19, 1973 and January 27, 1981. The applicant was an end-user of the refined petroleum products and based its claim on a presumption of injury for end-users. A group of 26 States and two territories (the States) filed statements of objection with respect to two of Pathfinder's three applications. The DOE found that the States' filings were insufficient to rebut the presumption of injury. Therefore, Pathfinder's Applications for Refund were granted. The refund granted to Pathfinder was $43,426.

W.J. Runyon and Son, Inc., et al., 3/28/91, RF272–61189, et al., RD272–61189, et al.

The DOE issued a Decision and Order granting a refund from crude oil overcharge funds to five firms based on their purchases of refined petroleum products during the price control period (August 19, 1973 through January 27, 1981). A group of states and territories (the States) had filed Objections in opposition to four of the five firms. The DOE found that the evidence presented by the State was insufficient to rebut the presumption of end-user injury. In addition, the DOE denied four Motions for Discovery filed by the States. The total of refunds granted in this decision is $250,813.

Washington School District #6, 3/29/91, RF272–78874

The Department of Energy issued a Decision and Order granting a refund from the crude oil overcharge funds to Washington School District #6 (Washington). Based on additional information submitted by Washington, the DOE determined that the estimation method used by Washington, and not its filing service, Petroleum Funds, Inc., was a reasonable approximation of Washington's purchases. The total refund granted to Washington in this Decision is $815.

West Coast Oil Company/Corn Construction Co., 3/27/91, RF328–1

The DOE issued a Decision and Order denying the refund application of Corn Construction Company in the West Coast Oil Company special refund proceeding. Corn Construction had not purchased any petroleum products that were eligible for refund in the West Coast proceeding.

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.

B & N Hot Shot Service.	RF272–71282.	03/28/91
NBC Escort Service.	RF272–71282.	.....
Exxon Corporation/ Ron & Ron's Exxon.	RF307–10177.	03/29/91
Gulf Oil Corporation/ Bats Service Center et al.	RF300–11237.	03/28/91
Gulf Oil Corporation/ Don White Oil Service, Inc. et al.	RF300–11561.	03/28/91
Michelin Tire Corporation et al.	RF272–60301.	03/29/91
Texaco Inc./ Bedwell Oil Co. et al.	RF321–2475 ..	03/29/91
Texaco Inc./E.B. Kingman Company et al.	RF321–6500 ..	03/29/91
Texaco Inc./ Gene's Texaco.	RF321–9103 ..	03/29/91
Forrest Avenue Texaco.	RF321–13651.	.....
Texaco Inc./ Gonzalez Texaco.	RF321–14599.	03/29/91
Texaco Inc./Grant Fought Auto et al.	RF321–308.....	03/25/91
Texaco Inc./Seals Texaco et al.	RF321–33.....	03/27/91
Texaco Inc./The University of Texas at San Antonio.	RF321–4772 ..	03/29/91
State of Texas.....	RF321–6368 ..	.....
Texas Dept of Mental Health & Retardation.	RF321–6605 ..	.....
State Dept of Hgwys & Public Transportation.	RF321–6650 ..	.....
Texas Department of Public Safety.	RF321–7670 ..	.....

DISMISSALS

The following submissions were dismissed:

Name	Case No.
Buick Motor Division	RF321–4581.
Curtis Beard Service, Inc.	RF321–68.
Dubeansky's Texaco	RF321–996.
Franks Gulf Service	RF300–12265.
General Motors Corp.	RF321–6026.
Green's Gulf	RF300–12117.
Harry Courts Texaco	RF321–348.
Kenneth Paulsen	RF321–12817.
Linden Fox Gulf	RF300–11050.
Mark Matchett Gulf	RF300–11103.
Mark Scott's Gulf	RF300–11107.
Michael Petriella Gulf	RF300–12089.
North Trimble Car Wash	RF300–11053.
Pik Record Company	RF272–75655.
Ralph Gonzales Trucking	RF300–11087.
Rotolo's Gulf	RF300–11106.
Sam's Texaco	RF321–6336.
Scobey Elem #1	RF272–80756.
Scobey HS #1	RF272–80772.
Springs Valley Texaco	RF321–11340.
Verne's Automotive	RF300–11061.
Virginia Shell	RF315–913.

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 p.m. and 5 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: May 8, 1991.

Richard W. Dugan,

Acting Director, Office of Hearings and Appeals.

[FR Doc. 91–11547 Filed 5–14–91; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–3956–5]

Stratospheric Ozone Advisory Committee

ACTION: Announcement of Advisory Committee Meeting.

SUMMARY: The next meeting of the U.S. Environmental Protection Agency (EPA) Federal Advisory Council on Stratospheric Ozone Protection (STOPAC) will be held on Thursday,

May 23, 1991. The meeting will take place from 9 to 11 a.m., at the Washington-Sheraton Hotel, 2660 Woodley Road, at Connecticut Ave., NW., Washington, DC. The public is invited to attend the meeting. Seating will be on a first come, first serve basis.

The purpose of the meeting will be to provide information on the new scientific findings on stratospheric ozone depletion and to discuss the next meeting of the Parties to the Montreal Protocol. The status of the regulatory implementation process under Title VI of the 1990 Clean Air Act Amendments will be addressed by the U.S. EPA.

FOR FURTHER INFORMATION CONTACT: David Lee, Chief, Stratospheric Ozone Protection Branch, (202) 475–7497, or write to the Division of Global Change, Office of Air and Radiation, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Dated: May 9, 1991.

Eileen B. Claussen,

Director, Office of Atmospheric and Indoor Air Programs.

[FR Doc. 91–11519 Filed 5–14–91; 8:45 am]

BILLING CODE 6560–50–M

[PF–546; FRL–3891–6]

Pesticide Tolerance Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces an initial filing, a withdrawal, and two amendments of pesticide petitions (PP) proposing the establishment of regulations for residues of certain pesticide chemicals in or on various agricultural commodities.

ADDRESSES: By mail, submit written comments to: Public Docket and Freedom of Information Section, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 246, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment 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 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. All written comments will be available for public inspection in rm. 246 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (H-7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, contact the PM named in each petition at the following office location/ telephone number:

Product Manager	Office location/ telephone number	Address
Susan Lewis (PM 21).	Rm. 227, CM #2, 703-557-1900.	1921 Jefferson Davis Hwy., Arlington, VA.
Joanne Miller (PM 23).	Rm. 237, CM #2, 703-557-1830.	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions as follows regarding the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various agricultural commodities.

Initial Filing

1. *PP 1F3974.* Ciba-Geigy Corp., P.O. Box 18300, Greensboro, NC 27419, proposes to amend 40 CFR 180.434 by establishing a regulation to permit the residues of the fungicide propiconazole (1-[[2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl]methyl]-1H-1,2,4-triazole) and its metabolite determined as 2,4-dichlorobenzoic acid expressed as parent in or on grass seed screenings at 70 parts per million (ppm), grass straw at 40 ppm, and grass forage at 2.0 ppm. The analytical method used is capillary gas chromatography. (PM-21)

Amended Petitions

2. *PP 4F3122.* Sandoz Crop Protection Corp., 1300 East Touhy Ave., Des Plaines, IL 60018, has submitted a revised Section F proposing to amend 40 CFR 180.356 by establishing tolerances for the combined residues of the herbicide norflurazone [4-chloro-(5-methyl-amino)-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3(2*H*)-pyridazinone] and its desmethyl metabolite [4-chloro-5-(amino-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3(2*H*)-pyridazinone] in or on the raw agricultural commodities small fruits and berries (except strawberries) at 0.2 ppm and tree nuts (except pistachio nuts) at 0.1 ppm. The proposed method for determining residues is gas chromatography using an electron-capture detector. Previously announced proposed tolerances under this petition were announced in notices appearing in the **Federal Register** of October 17, 1984 (49 FR 46059) and March 13, 1985 (50 FR 10106). (PM-23)

3. *PP 9F3702.* Sandoz Crop Protection Corp., 1300 East Touhy Ave., Des Plaines, IL 60018, has submitted a revised Section F proposing to amend 40 CFR 180.356 by establishing tolerances for the combined residues of the herbicide norflurazone [4-chloro-5(methylamino)-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3(2*H*)-pyridazinone] and its desmethyl metabolite [4-chloro-5-(amino)-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3-(2*H*)-pyridazinone] in or on the following raw agricultural commodities: peanuts at 0.05 ppm; peanuts, hulls at 1.5 ppm; peanuts, vines at 1.5 ppm; and peanuts, hay at 5.5 ppm. The proposed analytical method for determining residues is gas chromatography using an electron-capture detector. The notice of the initial filing of PP 9F3702 was published in the **Federal Register** of February 8, 1989 (54 FR 6170). (PM-23)

Withdrawal of Petition

4. *PP 3F2951.* Ciba-Geigy Corp., Agricultural Division, P.O. Box 18300, Greensboro, NC 27419, has withdrawn without prejudice to future filing PP 3F2951, which proposed amending 40 CFR 180.368 by establishing tolerances for the combined residues of the herbicide metolachlor [2-chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylethyl)acetamide] and its metabolites determined as 2-[(2-ethyl-6-methylphenyl)-amino]-1-propanol and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone, each expressed as parent
metholachlor, in or on the raw commodities sorghum forage and fodder at 10.0 ppm. Notice of the filing of this petition appeared in the **Federal Register** of September 30, 1983 (48 FR 44903). (PM-23)

Authority: 7 U.S.C. 136a.

Dated: May 1, 1991.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 91–11107; Filed 5–14–91; 8:45 am]

BILLING CODE 6560–50–F

[OPP-42066A; FRL-3878-5]

Cheyenne River Sioux Tribe; Notice of Approval of the Tribal Plan for the Certification of Pesticide Applicators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of approval of Cheyenne River Sioux Tribal Plan.

SUMMARY: In the **Federal Register** of November 30, 1990, EPA announced its intent to approve the Cheyenne River Sioux Tribe's Plan for Certification of Applicators of Pesticides Classified for Restricted Use. EPA hereby announces final approval of this Tribal Plan.

ADDRESSES: Copies of the Cheyenne River Sioux Tribal Plan are available for review at the following locations during normal business hours:

1. Cheyenne River Sioux Tribe, Pesticide Enforcement Office, P.O. Box 590, Eagle Butte, SD 57625, Telephone: (605–964–6558).
2. Toxic Substances Branch, Air and Toxics Division, Region VIII, Environmental Protection Agency, 999 18th St., suite 500, Denver, CO 80202, Telephone: (303–293–1730).
3. Field Operations Division (H7506C), Office of Pesticide Programs, rm. 1101, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, Telephone: (703–557–7371).

FOR FURTHER INFORMATION CONTACT: Dallas Miller, Air and Toxics Division (8AT–TS), Region VIII, Environmental Protection Agency, 999 18th St., suite 500, Denver, CO 80202–2405, Telephone: (303–293–1743).

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 30, 1990 (55 FR 49701), EPA announced its intent to approve the Cheyenne River Sioux Tribe's Plan for Certification of Applicators of Pesticides Classified for Restricted Use. Interested persons were given 30 days to comment; no comments were received.

EPA therefore grants final approval of the Cheyenne River Sioux Tribal Plan for Certification of Applicators of Pesticides Classified for Restricted Use.

Dated: April 30, 1991.

James J. Scherer,

Regional Administrator, Region VIII.

[FR Doc. 91–11109 Filed 5–14–91; 8:45 am]

BILLING CODE 6560–50–F

[OPP-42065A; FRL-3878-6]

Rosebud Sioux Tribe; Notice of Approval of the Tribal Plan for the Certification of Pesticide Applicators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of approval of Rosebud Sioux Tribal Plan.

SUMMARY: In the **Federal Register** of November 30, 1990, EPA announced its intent to approve the Rosebud Sioux Tribe's Plan for Certification of Applicators of Pesticides Classified for Restricted Use. EPA hereby announces final approval of this Tribal Plan.

ADDRESSES: Copies of the Rosebud Sioux Tribal Plan are available for review at the following locations during normal business hours:

1. Rosebud Sioux Tribe, Department of Natural Resources, Rosebud, SD 57570, Telephone: (605–747–2559).
2. Toxic Substances Branch, Air and Toxics Division, Region VIII, Environmental Protection Agency, 999 18th St., suite 500, Denver, CO 80202, Telephone: (303–293–1730).
3. Field Operations Division (H7506C), Office of Pesticide Programs, rm. 1101, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, Telephone: (703–557–7371).

FOR FURTHER INFORMATION CONTACT: Dallas Miller, Air and Toxics Division (8AT–TS), Region VIII, Environmental Protection Agency, 999 18th St., suite 500, Denver, CO 80202–2405, (303–293–1743).

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 30, 1990 (55 FR 49702), EPA announced its intent to approve the Rosebud Sioux Tribe's Plan for Certification of Applicators of Pesticides Classified for Restricted Use. Interested persons were given 30 days to comment; no comments were received.

EPA therefore grants final approval of the Rosebud Sioux Tribal Plan for Certification of Applicators of Pesticides Classified for Restricted Use.

Dated: April 30, 1991.

James J. Scherer,

Regional Administrator, Region VIII.

[FR Doc. 91–11108 Filed 5–14–91; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Michael J. Benns et al.; Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for four new FM stations:

Applicant, city and state	File No.	MM docket No.
	I	
A. Michael J. Benns; Signal Mountain, TN.	BPH–891031M	91–97
B. Broadcast Company of America; Signal Mountain, TN.	BPH–891031MF	
C. Group 90, Inc; Signal Mountain, TN.	BPH–891101MF	
D. ARB Communications, Inc.; Signal Mountain, TN.	BPH–891101MH	
E. Ladies of the 80's Broadcasting, Inc.; Signal Mountain, TN.	BPH–891101MI	
F. Rainmaker Broadcasting Group, Inc.; Signal Mountain, TN.	BPH–891102MF	
G. Sage Broadcasting Corporation of Chattanooga, Tennessee; Signal Mountain, TN.	BPH–891102MG	
H. (Peter B. Fulton d/b/a) 98 Rocks; Signal Mountain, TN.	BPH–891102MH	
I. Signal Mountain Broadcasting, LP; Signal Mountain, TN.	BPH–891102MI	
J. Special T Communications, Inc.; Signal Mountain, TN.	BPH–891102ML	
K. Tri-State Communications, L.P.; Signal Mountain, TN.	BPH–891102MN	
L. Signal Mountain Radio Partners; Signal Mountain, TN.	BPH–891102MM (dismissed herein)	.....
Issue heading and applicants 1. Cross Interest, C 2. Air Hazard, G, J 3. Comparative, A–K 4. Ultimate, A–K		
	II	
A. Gary Leu and Michael L. Swaringim, d/b/a Lee Brother Partnership; Troy, MO.	BPH–891006MT	91–89
B. James C. Magee; Troy, MO.	BPH–891006ND	
Issue heading and applicants 1. Comparative, A, B 2. Ultimate, A, B		
	III	
A. John W. Barger; Amarillo, TX.	BPH–891010ME	91–88
B. John A Gay, Jr.; Amarillo, TX.	BPH–891011MI	

Applicant, city and state	File No.	MM docket No.
C. American Indian Broadcast Group, Inc; Amarillo, TX.	BPH-891012MR	

Issue heading and applicants
1. Air Harzard, C
2. Comparative, A through C
3. Ultimate, A through C

IV

A. Marnu, Inc.; Millersburg, PA.	BPH-890824MF	91-90
B. Hepco Communications, Inc.; Millersburg, PA.	BPH-890825MF	
C. Douglas W. George; Millersburg, PA.	BPH-890828MR	

Issue heading and applicants
1. Comparative, A, B, C
2. Ultimate, A, B, C

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.

3. 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, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036 (telephone 202-452-1422).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 91-11457 Filed 5-14-91; 8:45 am]

BILLING CODE 6712-01-M

William F. Peel, Jr. et al.; Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and state	File No.	MM docket
A. William F. Peel, Jr.; White City, FL.	BPH-890906MM	91-86
B. Sage Broadcasting Corporation of Ft. Pierce, Florida; White City, FL.	BPH-890912ME	
C. Capestancy Broadcasting, Limited Partnership; White City, FL.	BPH-890913ME	
D. Sam Idas; White City, FL.	BPH-890913MM	
E. Mystic Radio Corporation; White City, FL.	BPH-890914MH	
F. Minority Broadcasting Group Limited; White City, FL.	BPH-890914MT	
G. Karen M. Lowery; White City, FL.	BPH-890914MU	
H. Sea Oaks Broadcasting; White City, FL.	BPH-890914ND	
I. Crystal Communications, Inc.; White City, FL.	BPH-890914NF	
J. Coastal Broadcasting Corporation; White City, FL.	BPH-890914NH	
K. White City Radio Partners; White City, FL.	BPH-890914NJ	
L. White City Broadcasting, Inc.; White City, FL.	BPH-890914NP	
M. Q Prime Inc.; White City, FL.	BPH-890914NV	
N. Heater Willson Cass; White City, FL.	BPH-890914NW	
O. James H. Hummel; White City, FL.	BPH-890914NY	
P. Midway Broadcasting Company; White City, FL.	BPH-890914OD	
Q. Lucille Ann Lacy; White City, FL.	BPH-890914OG	

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 Applicants

1. Air Hazard—A, B, C, D, E, G, H, I, J, K, J, N, O
2. Environmental—A, B, C, D, H, J, K, O
3. Comparative—All
4. Ultimate—All

3. If there is any non-standardized issue in this proceeding, the full text of the issue and the applicant 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, Downtown Copy Center, 1114 21st Street NW., Washington, DC 20036 (Telephone 202-452-1422).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 91-11459 Filed 5-14-91; 8:45 am]

BILLING CODE 6712-01-M

White Stone Broadcasting Co. et al. Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and state	File No.	MM docket No.
A. White Stone Broadcasting Company, White Stone, VA.	BPH-891018MJ	91-99
B. Windmill Communications, A General Partnership, White Stone, VA.	BPH-891018MK	

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 19,347 (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 Applicants

1. Comparative—A, B
2. Ultimate—A, B

3. If there are any non-standardized issues in this proceeding, the full text of the issue and the applicant 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, Downtown Copy Center, 1114 21st

Street, NW., Washington, DC 20036 (telephone (202) 452-1422).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 91-11458 Filed 5-14-91; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

North Carolina State Ports Authority/ Safbank Line, Ltd. et al; 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 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-200512.

Title: North Carolina State Ports Authority/Safbank Line, Ltd. Terminal Agreement.

Parties:

North Carolina State Ports Authority
Safbank Line, Ltd.

Synopsis: The Agreement, filed May 8, 1991, provides for reduced tariff rates for terminal services based on the number of vessel calls (at the Port of Wilmington, North Carolina) counted from January 1, 1991. The Agreement's term is one year, subject to renewal.

Agreement No.: 224-200511.

Title: The Board of Trustees of the Galveston Wharves/H. E. Schurig & Company, Inc. Terminal Agreement.

Parties:

The Board of Trustees of the Galveston Wharves (Galveston)
H. E. Schurig & Company, Inc. (Schurig).

Synopsis: The Agreement, filed May 7, 1991, provides for: (1) Schurig to lease certain property from Galveston for 30 months; (2) Schurig to pay Galveston a rent of $15,000 per month, beginning August 1, 1991 to October 31, 1991, $30,000 per month, beginning November 1, 1991 to October 31, 1992; and $35,000 per month, beginning November 1, 1992; (3) certain port charges related to project cargo collected by Galveston to be credited against the minimum monthly rentals on a cumulative yearly basis; and (4) Schurig to have preferential first call on a Pier 37 berth.

Dated: May 10, 1991.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 91-11524 Filed 5-14-91; 8:45 am]

BILLING CODE 6730-01-M

Agreements Filed; Kawasaki Kisen Kaisha, Ltd., et al.

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.: 217-011331.

Title: KL, MOL and HMM Space Charter Agreement in the Far East-U.S. Pacific Northwest Trades.

Parties:

Kawasaki Kisen Kaisha, Ltd. ("KL")
Mitsui O.S.K. Lines, Ltd. ("MOL")
Hyundai Merchant Marine Co., Ltd. ("HMM")

Synopsis: The proposed Agreement would authorize KL and MOL to charter space to HMM in the trade between the Far East and the States of Oregon and Washington. KL and MOL would be authorized to charter up to 500 TEU's to HMM on any of their vessels operated in the trade.

Dated: May 9, 1991.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 91-11467 Filed 5-14-91; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Leslie John Boudreaux, 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 June 3, 1991.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. Leslie John Boudreaux, Marrero, Louisiana; Claude Joseph Autin, Gretna, Louisiana; and Benjamin Seale, New Orleans, Louisiana; to acquire an additional 22.65 percent of the voting shares of IBT Bancshares, Inc., Gretna, Louisiana, for a total of 41.42 percent, and thereby indirectly acquire Investors Bank and Trust Company, Gretna, Louisiana.

Board of Governors of the Federal Reserve System, June 3, 1991.

William W. Wiles,

Secretary of the Board.

[FR Doc. 91-11491 Filed 5-14-91; 8:45 am]

BILLING CODE 6210-01-F

Gulf West Coast Bancorp; 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 June 3, 1991.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. Gulf West Coast Bancorp, St. Petersburg, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Mercantile Bank, St. Petersburg, Florida.

Board of Governors of the Federal Reserve System, May 9, 1991.

William W. Wiles,

Secretary of the Board.

[FR Doc. 91-11490 Filed 5-14-91; 8:45 am]

BILLING CODE 6210-01-F

Middle Georgia Bankshares, Inc.; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 3, 1991.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. Middle Georgia Bankshares, Inc., Unadilla, Georgia; to engage *de novo* through its subsidiary, MGB Collections, Vienna, Georgia, in the operation of a collection agency pursuant to § 225.25(b)(23) of the Board's Regulation Y. This activity will be conducted throughout the middle and southern portions of the State of Georgia, from Bibb County to the Georgia-Florida border.

Board of Governors of the Federal Reserve System, May 9, 1991.

William W. Wiles,

Secretary of the Board.

[FR Doc. 91-11492 Filed 5-14-91; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

[File Nos. 892 3231; and 892 3229]

Audio Communications, Incorporated; and Teleline, Inc.; Proposed Consent Agreements With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreements.

SUMMARY: In settlement of alleged violations Federal law prohibiting unfair acts and practices and unfair methods of competition, the two consent agreements, accepted subject to final Commission approval, would prohibit, among other things, two separate companies, that market "900" number information services to children, from making misrepresentations regarding free gifts; would require a clear statement, or preamble, at the beginning of each children's message giving the child a chance to hang up without charge; and would require the companies to provide a means for parents to prevent, or not be charged for, unauthorized calls by their children.

DATES: Comments must be received on or before July 15, 1991.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th St., and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Joel Winston, FTC/S–4002, Washington, DC 20580. (202) 326–3153.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following two consent agreements containing consent orders to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, have been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order to Cease and Desist

In the Matter of Audio Communications, Incorporated, a corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Audio Communications Incorporated, a corporation, hereinafter sometimes referred to as proposed respondent, and it now appears that proposed respondent is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed that by and between Audio Communications Incorporated, by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Audio Communications Incorporated is a corporation organized, existing and doing business under and by virtue of the laws of the State of Nevada with its office and principal place of business located at 3140 Polaris Avenue, suite 27, Las Vegas, Nevada 89102.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft complaint here attached.

3. Proposed respondent waives:

(a) Any procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusion of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the

validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access To Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft complaint here attached.

6. The agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without futher notice to proposed respondent: (1) Issue its complaint corresponding in form and substance with the draft complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding; and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to-order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any rights it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

Definitions

For purposes of this order, the term "children" or "child" shall mean a person of age twelve or under.

For purposes of this order, the term "information service for children" shall mean a telephone message accessed through a numbered exchange (*e.g.*, "900") for which a fee is charged, consisting of recorded statements promoted or sold primarily to children in any of the following ways: (a) In advertisements appearing in publications primarily directed to children including, but not limited to, children's magazines and comic books; (b) in advertisements during or adjacent to television or radio programs primarily directed to children including, but not limited to, children's animated programs, children's game shows, and children's after-school specials; (c) in advertisements appearing on product packaging primarily directed to children including, but not limited to, children's cereals, toys and beverages; or (d) in any advertisement, regardless of when or where it appears, that is primarily directed to children in light of its subject matter, visual content, language, characters, tone, message, or the like.

For purposes of this order, the term "premium" shall mean any item respondent offers to send to those who call its information service for children.

For purposes of this order, the term "information service message" shall mean any live or recorded story, program or other communication transmitted to callers of respondent's information service for children.

For purposes of this order, the term "video advertisement" shall mean any advertisement intended for dissemination on television broadcast, cablecast, home video, or theatrical release.

This order shall not apply to respondent's service bureau functions with regard to information service messages for children that are limited to either or both of the following:

(1) Distribution or dissemination of any information service for children; or

(2) Creation or production of the non-promotional story content of such information service messages.

I.

It is ordered that respondent Audio Communications Incorporated, a corporation, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, promotion, offering for sale, sale or transmission of any information service for children in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, directly or by implication:

A. The number of calls required to receive a premium; and

B. The ease with which a premium is obtainable.

II.

It is further ordered that Audio Communications Incorporated, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, promotion, offering for sale, sale or transmission of any information service for children in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from failing to disclose, clearly and prominently, whenever an offer of any premium is made, all the material terms, conditions and obligations upon which receipt and retention of the premium is contingent. Such terms, conditions, and obligations shall include, but not be limited to, the number of calls necessary to receive the premium, if more than one, and the need to have a writing implement and paper available to record the necessary information given during the information service message.

The disclosure shall be made in a manner understandable to children, and shall be made in the same medium in which the offer of the premium is made and, in addition, in any information service message. The material terms, conditions and obligations to be disclosed in media other than the information service message shall include the number of calls necessary to receive the premium, if greater than one, and the need to have a writing implement and paper available to record the necessary information, and any other information material to: (1) The decision to attempt to obtain the premium, or (2) the ability to take advantage of the premium offer by calling the information service. The

name and address to which the premium request must be sent need not be disclosed in any medium other than the information service message.

In a video advertisement, the premium disclosure shall be displayed as a legible superscript with a simultaneous voice-over recitation of the disclosure in a manner designed to ensure clarity and prominence.

In a print advertisement, the premium disclosure shall be printed in a typeface and color that are clear and prominent. In multipage documents, the premium disclosure shall appear on the cover or first page.

In a radio advertisement, the premium disclosure shall be included in a manner designed to ensure clarity and prominence.

In an information service message, the premium disclosure shall be included in a manner designed to ensure clarity and prominence with sufficient time for the child to record all information needed to obtain the premium upon the first hearing of the message, including, but not limited to, the address where a request must be sent.

III.

It is further ordered that respondent do forthwith cease and desist from disseminating or causing to be disseminated any advertisement in any medium for an information service for children that does not include the following statement:

Kids, You Must Ask your mon or dad and get their permission before you call. This call costs money.

The above-required disclosure shall be presented in a manner designed to ensure clarity and prominence, as follows:

A. In any video advertisement, the disclosure shall be presented simultaneously in both the audio and video portions of the advertisement. The disclosure shall appear immediately following the first video presentation of the "900" telephone number, but in any event shall begin within the first fifteen (15) seconds of the advertisement. The audio portion shall be presented in a slow and deliberate manner. Each line of the video portion shall be at least as large as one-half of the size of the largest presentation of the "900" number that appears on the screen during the advertisement, shall be of a color or shade that readily contrasts with the background, and shall appear on the screen for the duration of the audio disclosure.

B. In any print advertisement, the disclosure shall be parallel with the base of the advertisement and shall be placed in close proximity to the 900 number. All lines of the disclosure when taken together shall be at least as large as one-half the size of the largest presentation of the 900 number, but in any event the type size of each line of the disclosure shall be no less than 12 point, bold-face type.

C. In any radio advertisement, the disclosure shall be presented in a slow and deliberate manner and shall appear immmediately following the first presentation of the "900" telephone number, but in any event it shall begin within the first fifteen (15) seconds of the advertisement.

Nothing contrary to, inconsistent with, or in mitigation of the above-required statement shall be used in any advertisement in any medium.

IV.

It is further ordered that respondent do forthwith cease and desist from disseminating or causing to be disseminated any advertisement in any medium for any information service for children that does not include a disclosure of the cost of a call to the information service. This disclosure shall be presented in a manner designed to ensure clarity and prominence. In any video advertisement, the disclosure shall be presented simultaneously in both the audio and video portions of the advertisement.

V.

It is further ordered that respondent do forthwith cease and desist from disseminating or causing to be disseminated any information service message for children that does not include, at the beginning of the message, an introductory preamble that states in a slow, deliberate and clear manner the following:

This telephone call costs money. If you do not have your mom or dad's permission, hang up now and there will be no charge for this call.

VI.

It is further ordered that respondent do forthwith cease and desist from billing or causing to be billed, or collecting any funds or causing any funds to be collected, for any call to any information service for children terminated within no less than five (5) seconds of the end of the introductory preamble, as required by paragraph V of this Order.

VII.

It is further ordered that respondent do forthwith cease and desist from inducing children to call its information service for children and thereby incur charges, without providing any reasonable means for the person responsible for payment of such charges to exercise control over the transaction. For purposes of this paragraph, if the respondent does not provide, prior to placement of any call by a child, a reasonable means for the person responsible for payment to avoid unauthorized calls, the provision of a reasonable means to exercise control over the transaction shall be the use of the respondent's best efforts to ensure that one-time refunds or credits are provided upon request for unauthorized calls made by children, as specified below. Best efforts shall include at least the following:

A. Contracting with the appropriate interstate common carrier or local exchange carrier to:

(1) Identify in all telephone bills containing charges for calls to respondent's information service for children each telephone call to such service by the characters "child call;"

(2) Place in all telephone bills containing charges for calls to respondent's information service for children, clearly and prominently in close proximity to the itemization of those charges, a toll-free or local telephone number specified to be used for consumer inquiries concerning charges on the telephone bill; provided, that a general billing inquiry telephone number for customer inquiries concerning charges on the telephone bill shall satisfy this requirement;

(3) Refer all customers who call the toll-free number inquiring about the charges for respondent's information service for children to their local exchange carrier for information regarding the availability of blocking in their jurisdiction; and

(4) Provide a one-time prompt and full credit or refund at the customer's request for all such calls, whether such request is made to the toll-free or local telephone number specified herein or in any other manner: *provided,* that respondent must contract with the carrier to provide a second prompt and full credit or refund to any customer who requests the first credit or refund during a period of the billing cycle where unauthorized calls have been made, but do not yet appear on the customer's bill, and subsequently requests a second credit or refund for any additional unauthorized calls made before the date of the first request for a credit or refund;

provided, that if the interstate common carrier utilized by respondent employs local exchange carriers to provide billing inquiry services, respondent shall

be in compliance with subparagraphs A (3) and (4) of this Paragraph if its contract with the interstate common carrier provides that the interstate common carrier notify each local exchange carrier of the interstate common carrier's policies to:

(i) Provide the customer with information regarding the availability of blocking of 900 number calls; and

(ii) Provide upon request one-time refunds or credits for unauthorized calls by children, as provided in subparagraph A(4) of this paragraph.

B. In the event that respondent receives any information that the interstate common carrier has failed to fulfill its obligations under the contract required by subparagraph A of this paragraph, immediately notifying the interstate common carriers:

(1) Of the existence of the alleged failure(s);

(2) Of the interstate common carrier's responsibility to fulfill its obligations under the contract;

(3) Of the need to investigate and correct all past failures; and

(4) That if a pattern or practice of failures continues, respondent will terminate the use of said interstate common carrier for any information service for children; and

C. Terminating the use of said interstate common carrier for any information service for children, in the event that the interstate common carrier does not correct all past failures of which it is aware or continues to fail to fulfill its obligations under said contract.

D. Compliance with the requirements set forth in subparagraphs A–C of this paragraph is deemed to be satisfactory compliance with this paragraph.

Provided, that for purposes of this paragraph, the mere inclusion of any audio or video disclosure relating to parental authorization in advertisements or information service messages is expressly deemed not be a reasonable means, prior to placement of any call by a child, for the person responsible for payment to avoid unauthorized calls.

VIII.

It is further ordered that for three (3) years from the date of service of this Order, respondent shall maintain and upon request make available to the Federal Trade Commission for inspection and copying: (1) All advertisements for information services for children and all corresponding information service messages: (2) a record of all credit or refund requests made for charges billed for respondent's information services for children; (3) all documents relating to compliance with paragraph VII of this Order; and (4) all consumer complaints and dispositions thereof relating to respondent's information services for children.

IX.

It is further ordered that respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the corporation such as dissolution, assignment or sale resulting in the emergence of a successor corporation or corporations, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this Order.

It is further ordered that respondent shall forthwith distribute a copy of this Order to each of its operating divisions and any carrier(s) or other entities providing billing and/or collection service for its information services for children.

XI.

It is further ordered that respondent shall, within sixty (60) days after service of this Order and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Audio Communications, Inc. ("respondent" or "ACI").

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter concerns ACI's advertisements for its telephone information services for children. These are services accessed by calling a 900 number in which callers hear recorded stories or games featuring animated or fictional characters (such as Santa Claus and the Easter Bunny).

The Commission's complaint in this matter charges respondent with engaging in unfair and deceptive practices in connection with the advertising and sale of its information services for children. According to the complaint, respondent's ads represented that children who complete a call to respondent's information service for children will readily and easily obtain the "free" gift (or "premium") specified in the advertisement and that callers will receive the premium by making a single call. These representations are alleged to be false and misleading. First, callers must follow several steps to obtain the premium, which are explained in a rapid and difficult to follow manner during the recorded message. Second, in many cases, more than one call is necessary to obtain the premium.

The complaint also alleges that respondent's advertisements deceptively failed to disclose that there are material terms and conditions for obtaining the premium, including the need for a writing implement to transcribe the ordering information. While the phone message recited the terms and conditions, it did not provide sufficient notice or time for the caller to obtain a writing implement and transcribe the information.

Finally, the complaint alleges that respondent has induced children to call its information services without providing any reasonable means for the person responsible for paying the charges to exercise control over the transaction. The admonition in ACI's advertisements that children should seek parental permission before calling did not provide such reasonable means, according to the complaint. These practices are alleged to cause substantial consumer injury and constitute unfair practices.

The consent order contains provisions designed to remedy the violations charged and to prevent respondent from engaging in similar deceptive and unfair acts and practices in the future.

The order does not apply when ACI is acting as a service bureau and it merely distributes information services for children or creates non-promotional story content for recorded phone messages.

Part I of the order prohibits respondent from misrepresenting in the advertising or sale of its information services for children the number of calls required to receive a premium and the ease with which a premium is obtainable. The order defines information services for children as fee-charged phone services promoted or sold primarily to children aged twelve or under.

Part II of the order requires respondent to disclose, clearly and prominently, in both the advertisements for their information services for children and in the telephone messages themselves, the material terms, conditions and obligations upon which

receipt and retention of any premium is contingent. These terms must include, at minimum, the number of calls needed to receive the premium, if more than one, and the need for a writing implement to transcribe the ordering information.

Part III of the order requires respondent to include the following disclosure, presented in a manner designed to ensure clarity and prominence, in its advertisements for its information services for children: "Kids, must ask your mom or dad and get their permission before you call. This call costs money." The order sets forth detailed requirements on where and how the disclosures required by parts II and III must appear in different media.

Part IV of the order requires respondent to disclose in a manner designed to ensure clarity and prominence, in all of their advertisements for information services for children, the cost of the telephone call.

Part V of the order requires respondent to include in its recorded phone messages for children the following introductory message in a slow, deliberate and clear manner: "This telephone call costs money. If you do not have your mom or dad's permission, hang up now and there will be no charge for this call."

Part VI of the order prohibits respondent from collecting any funds for any call terminated within five seconds of the end of the introductory preamble by part V.

Part VII of the order requires that respondent not induce children to call its information services for children unless it provides a reasonable means for persons responsible for payment to exercise control over the transaction. If respondent does not provide a reasonable means for such persons to avoid unauthorized calls before they are made, the provision of a reasonable means to exercise control over the transaction shall be the use of respondent's best efforts to ensure that one-time credits or refunds are provided upon request for unauthorized calls made by children. According to part VII, best efforts is defined to include, at minimum, contracting with the appropriate carrier to: (1) Identify in all telephone bills containing charges for calls to respondent's information service for children each telephone call to such service by the characters "Child call;" (2) place in all bills containing charges for respondent's information service for children, a toll-free number for customer inquiries; (3) refer all customers who call such toll-free number to their local phone company for information on blocking of 900 calls; and (4) provide a one-time prompt and full refund or credit, upon request, for unauthorized calls made by children. Best efforts also requires respondent to monitor the phone company's compliance with the order requirements and take certain action, including termination of its contract with the phone company, if the phone company does not fulfill its obligations under its contract with respondent.

Part VIII of the order requires respondent to maintain all advertisements for information services for children and all corresponding information service messages, records of all credits or refund requests and their dispositions, all consumer complaints, and all documents relating to the implementation of part VII.

Part IX of the order requires respondent to notify the Commission prior to any change in the corporation that may affect compliance obligations arising out of this order.

Part X of the order requires respondent to distribute a copy of the order to each of its operating divisions and to any entity providing billing and/or collection services for its information services for children.

Part XI of the order requires respondent to file a compliance report.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order, or to modify in any way their terms.

Agreement Containing Consent Order to Cease and Desist

In the Matter of Teleline, Inc., a corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Teleline, Inc., a corporation, hereinafter sometimes referred to as proposed respondent, and it now appearing that proposed respondent is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed that by and between Teleline, Inc. by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Teleline, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its office and principal place of business located at 9777 Wilshire Boulevard, suite 918, Beverly Hills, California 90212.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft complaint here attached.

3. Proposed respondent waives:

(a) Any procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access To Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft complaint here attached.

6. The agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent: (1) Issue its complaint corresponding in form and substance with the draft complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding; and (2) make information public in respect thereto. When so entered, the order to cease and disist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to-order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any rights it may have to any other

manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

Definitions

For purposes of this order, the term "children" or "child" shall mean a person of age twelve or under.

For purposes of this order, the term "information service for children" shall mean a telephone message accessed through a numbered exchange (*e.g.*, "900") for which a fee is charged, consisting of recorded statements promoted or sold primarily to children in any of the following ways: (a) In advertisements appearing in publications primarily directed to children including, but not limited to, children's magazines and comic books; (b) in adverstisements during or adjacent to television or radio programs primarily directed to children including, but not limited to, children's animated programs, children's game shows, and children's after-school specials; (c) in advertisements appearing on product packaging primarily directed to children including, but not limited to, children's cereals, toys and beverages; or (d) in any advertisement, regardless of when or where it appears, that is primarily directed to children in light of its subject matter, visual content, language, characters, tone, message, or the like.

For purposes of this order, the term "premium" shall mean any item respondent offers to send to those who call its information service for children.

For purposes of this order, the term "information service message" shall mean any live or recorded story, program or other communication transmitted to callers of respondent's information service for children.

For purposes of this order, the term "video advertisement" shall mean any advertisement intended for dissemination of television broadcast, cablecast, home video, or theatrical release.

This order shall not apply to respondent's service bureau functions with regard to information service messages for children that are limited to either or both of the following:

(1) Distribution or dissemination of any information service for children; or

(2) Creation or production of the non-promotional story content of such information service messages.

I.

It is ordered that respondent Teleline, Inc., a corporation, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, promotion, offering for sale, sale or transmission of any information service for children in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, directly or by implication:

A. The total cost for hearing one complete information service message;

B. The number of calls required to receive a premium; and

C. The ease with which a premium is obtainable.

II.

It is further ordered that respondent Teleline, Inc., its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, promotion, offering for sale, sale or transmission of any information service for children in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from failing to disclose, clearly and prominently, whenever and offer of any premium is made, all the material terms, conditions and obligations upon which receipt and retention of the premium is contingent. Such terms, conditions, and obligations shall include, but not be limited to, the number of calls necessary to receive the premium, if more than one, and the need to have a writing implement and paper available to record the necessary information given during the information service message.

The disclosure shall be made in a manner understandable to children, and shall be made in the same medium in which the offer of the premium is made and, in addition, in any information service message. The material terms, conditions and obligations to be disclosed in media other than the information service message shall include the number of calls necessary to receive the premium, if greater than one, and the need to have a writing implement and paper available to record the necessary information, and any other information material to (1) the decision to attempt to obtain the premium, or (2) the ability to take advantage of the premium offer by calling the information service. The name and address to which the premium request must be sent need not be disclosed in any medium other than the information service message.

In a video advertisement, the premium disclosure shall be displayed as a legible superscript with a simultaneous voice-over recitation of the disclosure in a manner designed to ensure clarity and prominence.

In a print advertisement, the premium disclosure shall be printed in a typeface and color that are clear and prominent. In multipage documents, the premium disclosure shall appear on the cover or first page.

In a radio advertisement, the premium disclosure shall be included in a manner designed to ensure clarity and prominence.

In an information service message, the premium disclosure shall be included in a manner designed to ensure clarity and prominence with sufficient time for the child to record all information needed to obtain the premium upon the first hearing of the message, including, but not limited to, the address where a request must be sent.

III.

It is further ordered that respondent do forthwith cease and desist from disseminating or causing to be disseminated any advertisement in any medium for an information service for children that does not include the following statement:

"Kids, you must ask your mom or dad and get their permission before you call. This call costs money."

The above-required disclosure shall be presented in a manner designed to ensure clarity and prominence, as follows:

A. In any video advertisement, the disclosure shall be presented simultaneously in both the audio and video portions of the advertisement. The disclosure shall appear immediately following the first video presentation of the "900" telephone number, but in any event shall begin within the first fifteen (15) seconds of the advertisement. The audio portion shall be presented in a slow and deliberate manner. Each line of the video portion shall be at least as large as one-half of the size of the

largest presentation of the "900" number that appears on the screen during the advertisement, shall be of a color or shade that readily contrasts with the background, and shall appear on the screen for the duration of the audio disclosure.

B. In any print advertisement, the disclosure shall be parallel with the base of the advertisement and shall be placed in close proximity to the 900 number. All lines of the disclosure when taken together shall be at least as large as one-half the size of the largest presentation of the 900 number, but in any event the type of each line of the disclosure shall be no less than 12 point, bold-face type.

C. In any radio advertisement, the disclosure shall be presented in a slow and deliberate manner and shall appear immediately following the first presentation of the "900" telephone number, but in any event it shall begin within the first fifteen (15) seconds of the advertisement.

Nothing contrary to, inconsistent with, or in mitigation of the above-required statement shall be used in any advertisement in any medium.

IV.

It is further ordered that respondent do forthwith cease and desist from disseminating or causing to be disseminated any advertisement in any medium for any information service for children that does not include a disclosure of the cost of a call to the information service. This disclosure shall be presented in a manner designed to ensure clarity and prominence. In any video advertisement, the disclosure shall be presented simultaneously in both the aduio and video portions of the advertisement.

V.

It is further ordered that respondent do forthwith cease and desist from disseminating or causing to be disseminated any information service message for children that does not include, at the beginning of the message, an introductory preamble that states in a slow, deliberate and clear manner the following:

"This telephone call costs money. If you do not have your mom or dad's permission, hang up now and there will be no charge for this call."

VI.

It is further ordered that respondent do forthwith cease and desist from billing or causing to be billed, or collecting any funds or causing any funds to be collected, for any call to any information service for children terminated within no less than five (5) seconds of the end of the introductory preamble, as required by paragraph V of this Order.

VII.

It is further ordered that respondent do forthwith cease and desist from inducing children to call its information service for children and thereby incur charges, without providing any reasonable means for the person responsible for payment of such charges to exercise control over the transaction. For purposes of this Paragraph, if the respondent does not provide, prior to placement of any call by a child, a reasonable means for the person responsible for payment to avoid unauthorized calls, the provision of a reasonable means to exercise control over the transaction shall be the use of the respondent's best efforts to ensure that one-time refunds or credits are provided upon request for unauthorized calls made by children, as specified below. Best efforts shall include at least the following:

A. Contracting with the appropriate interstate common carrier or local exchange carrier to:

(1) Identify in all telephone bills containing charges for calls to respondent's information service for children each telephone call to such service by the characters "Child call,"

(2) Place in all telephone bills containing charges for calls to respondent's information service for children, clearly and prominently in close proximity to the itemization of those charges, a toll-free or local telephone number specified to be used for consumer inquiries concerning charges on the telephone bill; provided, that a general billing inquiry telephone number for customer inquiries concerning charges on the telephone bill shall satisfy this requirement;

(3) Refer all customers who call the toll-free number inquiring about the charges for respondent's information service for children to their local exchange carrier for information regarding the availability of blocking in their jurisdicition; and

(4) Provide a one-time prompt and full credit or refund at the customer's request for all such calls, whether such request is made to the toll-free or local telephone number specified herein or in any other manner; provided, that respondent must contract with the carrier to provide a second prompt and full credit or refund to any customer who requests the first credit or refund during a period of the billing cycle where unauthorized calls have been made, but do not yet appear on the customer's bill, and subsequently requests a second credit or refund for any additional unauthorized calls made before the date of the first request for a credit or refund;

provided, that if the interstate common carrier utilized by respondent employs local exchange carriers to provide billing inquiry services, respondent shall be in compliance with subparagraphs A (3) and (4) of this Paragraph if its contract with the interstate common carrier provides that the interstate common carrier notify each local exchange carrier of the interstate common carrier's policies to:

(i) Provide the customer with information regarding the availability of blocking of 900 number calls; and

(ii) Provide upon request one-time refunds or credits for unauthorized calls by children, as provided in subparagraph A(4) of this Paragraph.

B. In the event that respondent receives any information that the interstate common carrier has failed to fulfill its obligations under the contract required by subparagraph A of this paragraph, immediately notifying the interstate common carrier:

(1) Of the existence of the alleged failure(s);

(2) Of the interstate common carrier's responsibility to fulfill its obligations under the contract;

(3) Of the need to investigate and correct all past failures; and

(4) That if a pattern or practice of failures continues, respondent will terminate the use of said interstate common carrier for any information service for children; and

C. Terminating the use of said interstate common carrier for any information service for children, in the event that the interstate common carriers does not correct all past failures of which it is aware or continues to fail to fulfill its obligations under said contract.

D. Compliance with the requirements set forth in subparagraphs A–C of this paragraph is deemed to be satisfactory compliance with this paragraph.

Provided, that for purposes of this paragraph, the mere inclusion of any audio or video disclosure relating to parental authorization in advertisements or information service messages is expressly deemed not to be a reasonable means, prior to placement of any call by a child, for the person responsible for payment to avoid unauthorized calls.

VIII.

It is further ordered that for three (3) years from the date of service of this Order, respondent shall maintain and upon request make available to the Federal Trade Commission for inspection and copying: (1) All advertisements for information services for children and all corresponding information service messages; (2) a record of all credit or refund requests made for charges billed for respondent's information services for children; (3) all documents relating to compliance with paragraph VII of this Order; and (4) all consumer complaints and dispositions thereof relating to respondent's information services for children.

IX.

It is further ordered that respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the corporation such as dissolution, assignment or sale resulting in the emergence of a successor corporation or corporations, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this Order.

X.

It is further ordered that respondent shall forthwith distribute a copy of this Order to each of its operating divisions and any carrier(s) or other entities providing billing and/or collection service for its information services for children.

XI.

It is further ordered that respondent shall, within sixty (60) days after service of this Order and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Teleline, Inc. ("respondent" or "Teleline").

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter concerns Teleline's advertisements for its telephone information services for children. These are services accessed by calling a 900 number in which callers hear recorded stories or games featuring animated or fictional characters (such as Freddy Pumpkin and the Easter Bunny).

The Commission's complaint in this matter charges respondent with engaging in unfair and deceptive practices in connection with the advertising and sale of its information services for children. According to the complaint, respondent's ads represented that children who complete a call to respondent's information service for children will readily and easily obtain the "free" gift (or "premium") specified in the advertisement and that callers will receive the premium by making a single call. These representations are alleged to be false and misleading. First, callers must follow several steps to obtain the premium, which are explained in a rapid and difficult to follow manner during the recorded message. Second, in many cases, more than one call is necessary to obtain the premium.

The complaint also alleges that respondent represented in its ads that the total cost for hearing one complete information service message is two dollars and forty-five cents. This representation is alleged to be false and misleading because in many cases the total cost for hearing one complete message exceeds that amount. This is because respondent's entire phone message often exceeds two minutes in duration and, in addition, the point at which the caller enters the message does not always coincide with the beginning of the story. For these reasons, consumers who listen to the entire recorded message will be charged a minimum amount of two dollars and ninety cents.

The complaint also alleges that respondent's advertisements deceptively failed to disclose that there are material terms and conditions for obtaining the premium, including the need for a writing implement to transcribe the ordering information. While the phone message recited the terms and conditions, it did not provide sufficient notice or time for the caller to obtain a writing implement and transcribe the information.

Finally, the complaint alleges that respondent has induced children to call its information services without providing any reasonable means for the person responsible for paying the charges to exercise control over the transaction. The admonition in Teleline's advertisements that children should seek parental permission before calling did not provide such reasonable means, according to the complaint. These practices are alleged to cause substantial consumer injury and constitute unfair practices.

The consent order contains provisions designed to remedy the violations charged and to prevent respondent from engaging in similar deceptive and unfair acts and practices in the future.

The order does not apply when Teleline is acting as a service bureau and it merely distributes information services for children or creates non-promotional story content for recorded phone messages.

Part I of the order prohibits respondent from misrepresenting in the advertising or sale of its information services for children the number of calls required to receive a premium and the ease with which a premium is obtainable. Part I of the order also prohibits respondent from misrepresenting the total cost for hearing one complete information service message. The order defines information services for children as fee-charged phone services promoted or sold primarily to children aged twelve or under.

Part II of the order requires respondent to disclose, clearly and prominently, in both the advertisements for their information services for children and in the telephone messages themselves, the material terms, conditions and obligations upon which receipt and retention of any premium is contingent. These terms must include, at minimum, the number of calls needed to receive the premium, if more than one, and the need for a writing implement to transcribe the ordering information.

Part III of the order requires respondent to include the following disclosure, presented in a manner designed to ensure clarity and prominence, in its advertisements for its information services for children:

"Kids, you must ask your mom or dad and get their permission before you call. This call costs money."

The order sets forth detailed requirements on where and how the disclosures required by parts II and III must appear in different media.

Part IV of the order requires respondent to disclose in a manner designed to ensure clarity and prominence, in all of their advertisements for information services for children, the cost of the telephone call.

Part V of the order requires respondent to include in its recorded

phone messages for children the following introductory message in a slow, deliberate and clear manner: "This telephone call costs money. If you do not have your mom or dad's permission, hang up now and there will be no charge for this call."

Part VI of the order prohibits respondent from collecting any funds for any call terminated within five seconds of the end of the introductory preamble required by part V.

Part VII of the order requires that respondent not induce children to call its information services for children unless it provides a reasonable means for persons responsible for payment to exercise control over the transaction. If respondent does not provide a reasonable means for such persons to avoid unauthorized calls before they are made, the provision of a reasonable means to exercise control over the transaction shall be the use of respondent's best efforts to ensure that one-time credits or refunds are provided upon request for unauthorized calls made by children. According to part VII, best efforts is defined to include, at minimum, contracting with the appropriate carrier to: (1) Identify in all telephone bills containing charges for calls to respondent's information service for children each telephone call to such service by the characters "child call;" (2) place in all bills containing charges for respondent's information service for children, a toll-free number for customer inquiries; (3) refer all customers who call such toll-free number to their local phone company for information on blocking of 900 calls; and (4) provide a one-time prompt and full refund or credit, upon request, for unauthorized calls made by children. Best efforts also requires respondent to monitor the phone company's compliance with the order requirements and take certain action, including termination of its contract with the phone company, if the phone company does not fulfill its obligations under its contract with respondent.

Part VIII of the order requires respondent to maintain all advertisements for information services for children and all corresponding information service messages, records of all credits or refund requests and their dispositions, all consumer complaints, and all documents relating to the implementation of part VII.

Part IX of the order requires respondent to notify the Commission prior to any change in corporation that may affect compliance obligations arising out of this order.

Part X of the order requires respondent to distribute a copy of the order to each of its operating divisions and to any entity providing billing and/or collection services for its information services for children.

Part XI of the order requires respondent to file a compliance report.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order, or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 91-11526 Filed 5-14-91; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Announcement of the Final Definitions and Funding Priority for Grants for Centers of Excellence in Minority Health Professions Education

The Health Resources and Services Administration (HRSA) announces the final definitions and funding priority for fiscal year (FY) 1991 for Grants for Centers of Excellence (COE) in Minority Health Professions Education under the authority of section 782 of the Public Health Service Act (the Act), as amended by the "Disadvantaged Minority Health Improvement Act of 1990", Public Law 101-527. Regulations at 42 CFR part 57, subpart V (54 FR 28067) govern this program. The FY 1991 grant cycle for Centers of Excellence at certain Historically Black Colleges and Universities was in process prior to enactment of Public Law 101-527 and, therefore, is not a part of this notice.

Institutions may not apply for more than one Center of Excellence or for more than one discipline.

Eligibility

Section 782, as amended by Public Law 101-527, authorizes the Secretary to make grants to schools of medicine, dentistry and pharmacy for the purpose of assisting the schools in supporting programs of excellence in health professions education for Black, Hispanic and Native American individuals. To qualify as a COE, a school is required to:

1. Have a significant number of minority individuals enrolled in the school, including individuals accepted for enrollment in the school;

2. Demonstrate that it has been effective in assisting minority students of the school to complete the program of education and receive the degree involved;

3. Show that it has been effective in recruiting minority individuals to attend the school, including providing scholarships and other financial assistance to such individuals, and encouraging minority students of secondary educational institutions to attend the health professions schools; and

4. Demonstrate that it has made significant recruitment efforts to increase the number of minority individuals serving in faculty or administrative positions at the school.

Also, for Hispanic Centers of Excellence, the health professions schools must agree go give priority to carrying out the duties with respect to Hispanic individuals.

For Native American Centers of Excellence, the health professions schools must agree to:

1. Give priority to carrying out duties with respect to native Americans.

2. Establish a linkage with one or more public or nonprofit private institutions of higher education whose enrollment of students has traditionally included a significant number of Native Americans for purposes of identifying potential Native American health professions students of the institution who are interested in a health professions career and facilitating their entry into health professions schools; and

3. Make efforts to recruit Native American students, including those who have participated in the undergraduate program of the linkage school, and will assist them in completing the degree requirements of the health professions school.

To qualify as an "Other Minority Health Professions Education Center of Excellence" a health professions school (i.e., a school of medicine, dentistry, or pharmacy) must have an enrollment of underrepresented minorities above the national average for student enrollments in that health professions discipline.

Purposes

Grants for Hispanic, Native American and other Centers of Excellence may be used by the school for the following purposes:

1. To establish, strengthen, or expand programs to enhance the academic performance of minority students attending the school;

2. To establish, strengthen, or expand programs to increase the number and

quality of minority applicants to the school;

3. To improve the capacity of such school to train, recruit, and retain minority faculty;

4. To carry out activities to improve the information resources and curricula of the school and clinical education at the school with respect to minority health issues; and

5. To facilitate faculty and student research on health issues particularly affecting minority groups.

Applicants must address at least three of the five legislative purposes.

Healthy People 2000 Objectives

The PHS is encouraging applicants to submit proposals that address achievement of Healthy People 2000 (a recent Departmental report) objectives, as applicable. In developing your application for this program, please consider the 22 priority areas set forth in the report.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9324 (Telephone 202–783–3238).

Training and Service Linkage

As part of its long-range planning, HRSA will be targeting its efforts to strengthening linkages between its training programs and Public Health Service programs which provide comprehensive primary care services to the underserved.

Statutory Requirements

Duration of Grants

Payments under grants for Centers of Excellence may not exceed 3 years, subject to annual approval by the Secretary and to the availability of appropriations for the fiscal year involved.

Maintenance of Effort

A health professions school which is a public school receiving a grant will be required to maintain expenditures of non-Federal amounts for the specified activities at a level not less than the level maintained by the school for the fiscal year preceding the first fiscal year for which the school applies after fiscal year 1990 to receive a grant. Nonprofit private health professions schools that are grant recipients will be required to maintain non-Federal expenditures only to the extent of the level of non-Federal amounts available to the school for the purpose. With respect to any other Federal amounts received by a health professions school and available for carrying out activities of the type supported under the Centers of Excellence authority, a school receiving a Centers of Excellence grant will be required to expend those other Federal funds before expending the Centers of Excellence grant.

Statutory Definitions

Health professions schools mean schools of medicine, dentistry and pharmacy, as defined in section 701(4) and as accredited in section 701(5) of the Act. For purposes of the Historically Black Colleges and Universities' COEs, this definition means those schools described in section 701(4) of the Act and which have received a contract under section 788B of the Act (Advanced Financial Distress Assistance) for fiscal year 1987.

Native Americans mean American Indians, Alaskan Natives, Aleuts and Native Hawaiians.

Programs of Excellence means any programs carried out by a health professions school with funding under section 782 Grants for Centers of Excellence in Minority Health Professions Education.

Proposed definitions and a proposed funding priority were published in the **Federal Register** on March 7, 1991 (56 FR 9705) for public comment. During the 30-day comment period, the Department did not receive any comments relating to the proposals. The definitions and funding priority will be retained as proposed.

Final Definitions for Fiscal Year 1991

A significant number of minority individuals enrolled in the school means that to be eligible to apply for an Hispanic COE, a medical or dental school must have at least 25 enrolled Hispanic students, and a school of pharmacy must have at least 20 enrolled Hispanic students. To apply as a Native American COE, an eligible medical or dental school must have at least 8 enrolled Native American students and a school of pharmacy must have at least 5 enrolled Native American students. To be eligible to apply for an Other Minority Health Professions Education COE, an eligible school must have above the national average of underrepresented minorities (allopathic medicine 13%, dentistry 15%, pharmacy 11%) enrolled in the school. These numbers represent the critical mass necessary for a viable program. A viable program is one in which there is a sufficient number of students to warrant a Center of Excellence level educational program. Data from relevant professional associations indicate sharp differentiation in target group numbers among schools. Stated numerical levels are just above the median for schools reporting a critical mass necessary for a viable program. The requirement that schools applying for Other Minority Health Professions Education Centers have an enrollment of underrepresented students that is above the national average for that discipline is statutory.

Effectiveness in Providing Financial Assistance will be evaluated by examining the data on scholarships and other financial aid provided to the targeted group in relation to the scholarships and financial aid provided to the total school population.

Effectiveness in Recruitment will be evaluated by examining the first-year and total enrollments of targeted students in relation to the first-year and total enrollments for the entire school.

Effectiveness in Retaining Students will be determined by retention rates for targeted group (e.g., 90 percent retention in the discipline realizing graduation from medical or dental school in 5 years and pharmacy in 4 years); and academic and non-academic support systems operative for the target group of students at the school.

Hispanic means a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish origin.

Minority means an indivdiual whose race/ethnicity is classified as American Indian or Alaskan Native, Asian or Pacific Islander, Black or Hispanic.

Underrepresented Minority means, for any given health profession, a racial or ethnic group whose percentage among the total supply of practitioners in that health profession is below that group's percentage in the total population. This definition has consistently encompassed Blacks, Hispanics, and Native Americans.

Final Funding Priority for Fiscal Year 1991

A priority for designating Hispanic Centers of Excellence will go to health professions schools located in the Continental United States.

Other Consideration

HRSA hopes to achieve geographic dispersion of awards. Contingent on the outcome of the grant review process, HRSA plans to make awards in as many sections of the country as possible.

Review criteria

The review of applications will take into consideration the following criteria:

1. The degree to which the proposed project meets the legislative intent;

2. The administrative and managerial ability of the applicant to carry out the project in a cost effective manner;

3. The adequacy of the staff and faculty to carry out the program;

4. The soundness of the budget for assuring effective utilization of grant funds, and the proportion of total program funds which come from non-Federal sources and the degree to which they are projected to increase over the grant period;

5. The technical merit of the project as determined by the following elements:

a. Delineation of specific objectives which are consistent with the legislative purposes, measurable, and outcome oriented.

b. Description of a methodology which corresponds to the objectives and provides specific details on the activities, projects, or services which will be implemented to achieve the objectives, time frames for implementing the activities, projects or services, target population, responsible staff, and facilities which will be used to accomplish the objectives.

c. Description of a comprehensive evaluation plan inclusive of all objectives and activities and program performance indicators.

6. The number of individuals who can be expected to benefit from the project;

7. The overall impact the project will have on strengthening the school's capacity to train the targeted minority health profesisonals and increase the supply of such minority health professionals available to serve minority populations in underserved areas; and

8. The degree to which the applicant can arrange to continue the proposed project beyond the federally-funded project period.

Questions regarding programmatic information should be directed to: Division of Disadvantaged Assistance, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, room 8A–09, Rockville, Maryland 20857, Telephone: (301) 443–2100.

The Program, Grants for Centers of Excellence in Minority Health Professions Education is listed at 93.157 in the Catalog of Federal Domestic Assistance. Applications submitted in response to this announcement are not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs, (as implemented through 45 CFR part 100).

Dated: May 9, 1991.

John H. Kelso,

Deputy Administrator.

[FR Doc. 91–11479 Filed 5–14–91; 8:45 am]

BILLING CODE 4160–15–M

Health Resources and Service Administration

Statement of Organization, Functions and Delegations of Authority

Part H, chapter HB (Health Resources and Services Administration) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (47 FR 38409–24, August 31, 1982, as amended most recently at 55 FR 48295, November 20, 1990) is amended to reflect the current functions assigned to the AIDS Program Office within the Office of the Administrator, Health Resources and Services Administration (HRSA).

Under HB–10, Organization and Functions, insert the following functional statement after the Office of Rural Health Policy (HBA13) functional statement:

AIDS Program Office (HBA14). Serves as the Agency's focal point for AIDS Programs and activities. Specifically: (1) Coordinates all AIDS-related activities within the Agency; (2) administers and coordinates AIDS-related grants programs of National significance; (3) advises the Administrator on policy, clinical, and educational issues pertaining to the administration of HRSA's AIDS programs; (4) keeps the Administrator informed of any difficulties arising either within or outside of HRSA, that might adversely affect the Agency's ability to carry out its AIDS responsibilities; (5) coordinates the formulation of an overall strategy and policy for the HRSA AIDS programs; (6) working with the Office of Planning, Evaluation and Legislation, coordinates the preparation of HRSA's AIDS-related programmatic, budgetary, and legislative proposals, including the preparation of testimony and budgetary information to be presented to the Congress; (7) monitors and analyzes AIDS-related policy and legislative developments, both within and outside the Department, for their potential impact on HRSA's AIDS activities, and advises the Administrator on alternative courses of action for responding to such developments; (8) serving as the point of contact for the Agency, develops and coordinates working relationships and conducts specific joint activities among HRSA's Bureaus and with outside organizations, including other Public Health Service (PHS) and Departmental components and including the PHS Regional Offices to assure optimum interaction on related AIDS activities and to minimize duplication and overlap; (9) reviews AIDS-related program activities to determine their consistency with established policy, delegated authority, and assigned responsibilities; (10) coordinates HRSA's comments on AIDS-related reports, position papers, legislative proposals, etc., prepared outside the Agency; (11) coordinates responses to requests for information received from other OPDIVs of the Department and from outside the Department; (12) coordinates responses to incoming correspondence that concern AIDS-related issues involving more than one HRSA Bureau; (13) represents the Agency and the Department at AIDS-related meetings, conferences, task forces, or other gatherings for the purpose of dispensing or gathering information relevant to the conduct of HRSA's AIDS programs; and (14) plans and carries out special AIDS-related assignments for the Administrator.

This reorganization is effective upon date of signature.

Dated: May 7, 1991.

Robert G. Harmon,

Administrator.

[FR Doc. 91–11480 Filed 5–14–91; 8:45 am]

BILLING CODE 4160–15–M

Social Security Administration

Social Security and Supplemental Security Income Disability Program Demonstration Project

AGENCY: Social Security Administration, HHS.

ACTION: Notice.

SUMMARY: The Commissioner of Social Security (the Commissioner) announces the following 18 demonstration projects to be conducted under the authority of section 505(a) of Public Law 96–265, as amended, and, as appropriate, section 1110(b) of the Social Security Act (the Act). These projects, which will focus on vocational assessment, rehabilitation and placement into competitive employment for disabled beneficiaries, will be funded under these laws.

Section 505(a) of Public Law 96–265, as amended by section 12101 of Public Law 99–272 and by section 10103 of Public Law 101–239, authorizes the Secretary of Health and Human Services (the Secretary) to develop and carry out demonstration projects designed to test various methods of encouraging Social Security Disability Insurance (SSDI) beneficiaries to return to work. Section 505(a) of Public Law 96–265, as amended, also authorizes the Secretary to waive certain provisions of titles II and XVIII of the Act in carrying out

demonstration projects under section 505(a).

Sixteen of the 18 demonstration projects pertain to the SSDI program under title II of the Act. Ten of these 16 demonstration projects require that section 222(a) of the Act be waived (vocational rehabilitation (VR) referral waiver), permitting direct referral of SSDI beneficiaries from the Social Security Administration (SSA) or the State agencies that make disability determinations for SSA, to the organizations named in this notice. Four of the demonstration projects, including three of the 10 projects referred to previously, require that section 222(c)(4)(A) of the Act be waived, permitting deferral of the trial work period (TWP) for up to 6 consecutive months of employment. Additionally, two of the three demonstrations needing multiple waivers of provisions of title II of the Act will require waiver of current section 25(b)(1) of the Act insofar as may be necessary to permit beneficiaries participating in approved non-State VR programs through these projects to have the same benefit continuation rights as those who medically recover while participating in approved State VR programs. Five of the 16 demonstrations relating to the SSDI program do not require any waiver of statutory provisions. We are publishing this notice to comply with 20 CFR 404.1599(e), which requires publication of a notice in the **Federal Register** before starting certain demonstration projects.

Several of the 16 demonstration projects discussed above will involve individuals who are receiving concurrent SSDI and Supplemental Security Income (SSI) payments. Section 1110(b) of the Act auhorizes the Secretary to waive requirements of title XVI of the Act to carry out demonstration projects designed to promote the objectives or facilitate the administration of the SSI program. Therefore, for several of the projects discussed above, section 1615(a) of the Act will be waived, in appropriate cases, to permit referral of SSI recipients to an organization other than the State VR agency for employment services. For the two projects requiring waiver of section 225(b)(1) of the Act, current section 1631(a)(6)(A) will also be waived insofar as may be necessary, to permit continuation of payments in appropriate cases to SSI recipients participating in approved non-State VR plans who medically recover.

Two of the 18 disability demonstration projects will involve only SSI recipients and will be conducted under the authority of section 1110(b) of the Act. These two projects do not require a waiver of statutory provisions. However, for one of these projects a waiver of section 1615(a) of the Act has been requested and a decision on that request is pending. For these two projects, and for the several projects that will involve individuals receiving concurrent SSDI and SSI payments, we are publishing this notice to comply with 20 CFR 416.250(e), which requires such notification.

FOR FURTHER INFORMATION CONTACT: W. David Bedingfield, Social Security Administration, Office of Disability, 2223 Annex, 6401 Security Boulevard, Baltimore, MD 21235, (301) 965–0098.

SUPPLEMENTARY INFORMATION:

Background

The Social Security Disability Amendments of 1980, Public Law 96–265, section 505(a), as amended by Public Law 99–272, section 12101, and by Public Law 101–239, section 10103, direct the Secretary to develop and carry out experiments and demonstration projects designed to:

(1) Encourage disabled beneficiaries to return to work, and (2) Accure trust fund savings or otherwise promote the objectives or facilitate the administration of title II of the Act. Section 505 of Public Law 96–265, as amended, also authorizes the Secretary to waive certain provisions of the Act as is necessary to conduct these experiments and demonstration projects. This includes the authority to waive section 222(a) of the Act which requires SSA to refer disability beneficiaries to State VR agencies. This also includes authority to waive section 222(c)(4)(A) which provides that any month an individual renders services must be counted in determining the TWP and to waive, to the extent necessary, the requirement of section 225(b)(1) which currently permits eligibility for benefit continuation under section 225(b) only if the individual's VR program is one carried out under an approved State VR plan.

In general, section 1110(b) of the Act authorizes the Secretary to waive requirements of title XVI of the Act to carry out demonstration projects which are likely to assist in promoting the objectives or facilitate the administration of the title XVI program. This includes: (1) Authority to waive section 1615(a) of the Act which requires SSA to refer disabled or blind SSI recipients to State VR agencies and (2) authority to waive, to the extent necessary, the requirement of section 1631(a)(6)(A) which currently permits eligibility for benefit continuation under section 1631(a)(6) only if the individual is participating in an approved State VR program.

Sections 225(b) and 1631(a)(6) currently provide for continuation of SSDI benefits or SSI payments based on disability or blindness, respectively, for an individual who medically recovers while participating in an approved VR program under an approved State plan for VR services if the Commissioner determines that completion or continuation of the program will increase the likelihood that the individual may be permanently removed from the rolls. The waiver of section 225(b)(1) and, as appropriate, section 1631(a)(6)(A) of the Act will permit the Commissioner to continue benefits for individuals enrolled in non-State rehabilitation programs. However, a recent amendment to sections 225(b)(1) and (2) and 1631(a)(6) (A) and (B) of the Act may make the waiver of these provisions unnecessary for certain project participants. Section 5113 of Public Law 101–508, the Omnibus Budget Reconciliation Act of 1990, enacted November 5, 1990, amends sections 225(b) (1) and (2) and 1631(a)(6) (A) and (B) of the Act to extend eligibility for benefit continuation under sections 225(b) and 1631(a)(6) to SSDI beneficiaries and disabled or blind SSI recipients who medically recover while participating in a non-State VR program that has been approved by the Secretary. The amendments made by section 5113 of Public Law 101–508 are effective for benefits payable for months beginning after October 1991 and apply only to individuals who medically recover after October 1991.

Overall Objectives

SSA wishes to assist its disabled beneficiaries in returning to competitive employment. SSA's focus is on significantly improved integration and use of VR and other employment program resources providing for more employment opportunities, better mechanisms for indentifying and referring candidates for rehabilitation and other employment services, more effective incentives for rehabilitation and employment, increased access to employment service systems and networks, and more effective and efficient employment intervention for beneficiaries.

Description of Demonstration Projects

(1) *American Horticultural Therapy Association:* Gaithersburg, Maryland; "Project Access" (VR referral waiver required). This project will focus on employing disabled individuals in

horticultural jobs. It will demonstrate an innovative, industry-based matching and screening model using private sector rehabilitation services including an employer national referral network.

(2) *C.A.R.E., Incorporated:* Orange County, California; "Re-employment Assistance Program at Continuing Disability Review Stage" (VR referral waiver, waiver deferring the TWP for up to 6 consecutive months, and waiver relating to continuation of benefits while participating in an approved non-State VR plan are required). This project will test the effects of an intensive private rehabilitation program on beneficiaries for whom medical improvement is possible or expected. It will assess the effects of an increased TWP and various intervention techniques by comparing results of test and control groups.

(3) *Goodwill Industries of America, Incorporated:* Bethesda, Maryland; "Marketing Supported Employment Opportunities Through National Employer Agreements for SSA Recipients" (VR referral waiver required). This project will develop and evaluate an employer-based model for SSA beneficiaries. It will link beneficiaries with national employers using elements of supported employment. It will guarantee productive employment for beneficiaries by obtaining agreements from at least four national employers.

(4) *Hocking Technical College:* Nelsonville, Ohio; "Individual Technical Training and Placement" (VR referral waiver required). This project will design and test an individualized technical training model for rural area disabled individuals. The model will provide for regional employment opportunities, a disability support team, training, individualized job placement, and special employment incentives. It will use the expertise of existing technical colleges to expand the service provider market for the disabled.

(5) *Independence Center:* St. Louis, Missouri; "Increasing Employability for the Chronically Mentally Ill" (VR referral waiver and waiver deferring the TWP for up to 6 months out of a 9 to 12-month study period are required). This project will demonstrate that the removal of certain disincentives to employment and specific enhancements to the transitional employment technique for returning disabled individuals to work can lead to improvement in the vocational performance of chronically mentally ill adults. The projects will target a segment of the mentally ill population which historically has not fared well at retaining substantial gainful employment.

(6) *Multi Resource Centers, Incorporated:* Minneapolis, Minnesota;"Multi Resource Centers/ Vinland National Centers Cooperative Employment Program" (VR referral waiver, waiver deferring the TWP for up to 6 consecutive months, and waiver relating to continuation of benefits while participating in an approved non-State VR plan are required). This project will seek to improve the employability of disabled individuals through counseling, rehabilitation, case management, and placement services. It will provide rehabilitation and teach job placement skills to beneficiaries undergoing continuing disability review. The project will draw individuals from anywhere in the State of Minnesota.

(7) *National Alliance of Business:* Washington, DC; "Hiring the Disabled: Business Initiatives for Permanent Employment of SSA Beneficiaries" (VR referral waiver required). This project will demonstrate and test replicable employment programs for disabled individuals in targeted areas where hospitality, service, and retail industries are experiencing labor shortages. It will disseminate the results of the project through a national campaign to promote the disabled population as an important labor source for business. The project will draw individuals from three major cities (Chicago, Boston and Los Angeles) and the State of Florida.

(8) *National Association of Rehabilitation Facilities:* Washington, DC; "Incentive Based Vocational Rehabilitation Program" (VR referral waiver required). This project seeks to demonstrate the cost-effectiveness of the direct purchase of VR services from a private, community-based VR facility, using an incentive payment system for placement of disabled individuals with employment potential into substantial gainful employment. It will test a reimbursement-for-successful-placements-only formula.

(9) *New Jersey Department of Labor:* Trenton, New Jersey; "New Jersey Vocational Rehabilitation Counselor Incentive Bonus Project" (no waiver required). This project will test the impact of a monetary incentive bonus paid to State VR counselors for each successfully rehabilitated beneficiary. Using a computerized system, the project will track the work of all State VR counselors and other staff who have received project orientation. The tracking period will extend for a potential 6-year period but will include only cases initiated during one fiscal year.

(10) *New York State Education Department:* Albany, New York; "NYS/ OVR Workers Compensation Model Project for SSDI Recipients" (no waiver required). This project will demonstrate the effectiveness of applying the New York State/Office of Vocational Rehabilitation (NYS/OVR) workers' compensation model for early intervention and placement of our beneficiaries. If effective, the model will provide a more rapid referral, comprehensive assessment and evaluation of beneficiaries, which will lead to their rapid job placement.

(11) *Oklahoma State Department of Human Services:* Oklahoma City, Oklahoma; "RSD Professional Growth Seminar Incentive" (no wavier required). This project will test an incentive program designed to increase the number of applications for State rehabilitation services, the number accepted for services, and the number placed in substantial gainful employment. It will offer incremental rewards to the top 10 producing VR counselors in Oklahoma to be applied to approved professional growth seminars anywhere in the nation.

(12) *Rochester Tooling and Machining Institute, Incorporated:* Rochester, New York; "Employment/Training for Chemically Dependent" (waiver deferring the TWP for up to 6 consecutive months required). This project will identify, train, and provide employment in the tooling and machining industry for chemically dependent beneficiaries, who are outpatients in the Park Ridge Chemical Dependency Program, while providing these beneficiaries with clinical and ongoing counseling services. The NYS/ OVR will make determinations of eligibility for participation in the project, develop individualized rehabilitation plans, and sponsor the training activity.

(13) *Set Industries, Incorporated:* Hardwick, Vermont; "Investigate Impact of Comprehensive Case Management and Selected Work Incentives" (VR referral waiver required). This project will directly link beneficiaries with employers, resulting in permanent employment for these beneficiaries. Set Industries and Boston University's Department of Rehabilitation Counseling will coordinate and implement the project in collaboration with two State offices of VR in order to promote maximum use of resources for developing comprehensive VR employment plans for participants and to optimize evaluation of the project. The project will operate in Vermont and Massachusetts.

(14) *Southwest Business, Industry and Rehabilitation Association:* Scottsdale, Arizona; "Franchise" (VR referral waiver required). This project will

demonstrate the replicability of a successful coordinated job placement model by franchising this product to existing organizations at established delivery sites. It will also demonstrate the effectiveness of a performance based incentive fee payment plan, per beneficiary, to be distributed to the grantee and the franchised organization. The project will be tested throughout the western United States.

(15) *Southwest Business, Industry and Rehabilitation Association:* Scottsdale, Arizona; "Project Succeed" (no waiver required). This project will test placement techniques targeting Social Security disability beneficiaries with "organ disorders." A self-assessment tool designed for the project will be used to measure the impact of the participants' self concept and how it effects their return to work. Data will be collected and compared to results from a prior grant which did not target only the organ disorder beneficiaries. This will be used to determine the effects of the specialized self-assessment tool.

(16) *University of Oregon:* Eugene, Oregon; "The Employer Development Project" (waiver not required). The project will create a more effective community and business system for employing persons with developmental disabilities in integrated jobs. It is designed to establish and document the effects and impact of integrated employment across the entire community, specifically on the benefits and costs to the service system and to Social Security.

(17) *Resource Center for the Handicapped:* Seattle, Washington; "Project Communicate—Business-to-Business Telemarketing." (VR referral waiver requested, decision pending). This 24-month project will target and train disabled adults who do not have the reading, writing, math, communication, and work skills necessary to succeed in business-to-business telemarketing. Concepts of self-help, self-improvement, and pride be taught. Participants will [then be taught reading, writing, math, and communication skills in a simulated work related setting. It is expected that 30 Supplemental Security Income recipients will be trained and placed in substantial gainful activity and subsequently removed from SSA's rolls.

(18) *Matrix Research Institute:* Philadelphia, Pennsylvania; "Improving the Effective Use of SSA Work Incentives by the Mentally Ill" (no waiver required). This 24-month project will implement and assess the effectiveness of a program using work incentive advocates to increase knowledge about attitudes towards and use of work incentives by SSI recipients with long-term metal illness. The project will employ former or current mental health patients as work incentive advocates.

Authority: Section 505(a) of Pub. L. 96–265 (the Social Security Disability Amendments of 1980), as amended by section 12101 of Pub. L. 99–272 and by section 10103 of Pub. L. 101–239; and section 1110(b) of the Social Security Act, 42 U.S.C. 1310(b).

Dated: April 30, 1991.

Gwendolyn S. King,

Commissioner of Social Security.

[FR Doc. 91–11448 Filed 5–14–91: 8:45 am]

BILLING CODE 4190–29–M

DEPARTMENT OF THE INTERIOR

Southern Alaska Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and agenda of a meeting of the Southern Alaska Advisory Council.

DATES: June 12, 1991, 8 a.m. until 5 p.m.

ADDRESSES: Bureau of Land Management, Anchorage District Office, 6881 Abbott Loop, Anchorage, Alaska.

FOR FURTHER INFORMATION CONTACT: Danielle Allen, Public Affairs Specialist, Anchorage District, Bureau of Land Management, 6881 Abbott Loop Road, Anchorage, Alaska 99507 (907) 267–1258.

SUPPLEMENTARY INFORMATION: The agenda for the meeting is as follows:

1. Introductions and opening remarks.
2. Election of Chairperson and vice chair.
3. Review previous meetings' minutes.
4. Lands Program update.
5. Resources Program update.
6. A–J Mine Project.
7. Field Season.
8. Glennallen District update.

The meeting is open to the public, interested persons may make oral statements to the Council between 3–3:30 p.m. or file written statements for the Council's consideration.

Richard J. Vernimen,

Anchorage District Manager.

[FR Doc. 91–11489 Filed 5–14–91; 8:45 am]

BILLING CODE 4310–JA–M

National Park Service

Chesapeake and Ohio Canal National Historical Park Commission Meeting

Notice is hereby given in accordance with Federal Advisory Committee Act that a meeting will be held Saturday, June 15, 1991, at Allegany Community College, Cumberland, Maryland.

The Commission was established by Public Law 91–664 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Chesapeake and Ohio Canal National Historical Park.

The members of the Commission are as follows:

Mrs. Sheila Rabb Weidenfeld, Chairman, Washington, DC
Mrs. Dorothy Tappe Grotos, Delaplane, Virginia
Mr. Samuel S.D. Marsh, Bethesda, Maryland
Mr. James F. Scarpelli, Sr., Cumberland, Maryland
Ms. Elise B. Heinz, Arlington, Virginia
Captain Thomas F. Hahn, Shepherdstown, West Virginia
Mr. Rockwood H. Foster, Washington, DC
Mr. Barry A. Passett, Washington, DC
Mrs. Jo Reynolds, Potomac, Maryland
Ms. Nancy C. Long, Glen Echo, Maryland
Mrs. Minny Pohlmann, Dickerson, Maryland
Dr. James H. Gilford, Frederick, Maryland
Mr. Edward K. Miller, Hagerstown, Maryland
Mrs. Sue Ann Sullivan, Williamsport, Maryland
Mr. Terry W. Hepburn, Hancock, Maryland
Mr. Robert L. Ebert, Cumberland, Maryland

Matters to be discussed at this meeting include:

1. Old and new business
2. Superintendent's report
3. Committee reports
4. Public comments

The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed. Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact Thomas O. Hobbs, Superintendent, C&O Canal National Historical Park, P.O. Box 4, Sharpsburg, Maryland 21782.

Minutes of the meeting will be available for public inspection six (6) weeks after the meeting at Park Headquarters, Sharpsburg, Maryland

Dated: May 6, 1991.

Ronald N. Wrye,

Acting Regional Director, National Capital Region.

[FR Doc. 91–11555 Filed 5–14–91; 8:45 am]

BILLING CODE 4310–20–M

Golden Gate National Recreation Area Advisory Commission; Meeting Agenda Correction

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission previously noticed in the Federal Register to be held at 10:30 a.m. (PDT) on Saturday, May 18, 1991 at West Marin School in Point Reyes Station, California will have a corrected agenda.

The main agenda items at the May 18 public meeting should be corrected to be: update reports on issues relating to management of Point Reyes National Seashore, including minor expansion and rehabilitation plans of Point Reyes Bird Observatory; an overview of historic ranches at Point Reyes and in the Olema Valley; a resource management report; a presentation on the Drakes Visitor Center exhibit plans; a presentation on demonstration dairies; and a report on the Statement for Management for the Golden Gate National Recreation Area.

Dated: May 6, 1991.

W.H. Patton,

Acting Regional Director, Western Region.

[FR Doc. 91-11556 Filed 5-14-91; 8:45 am]

BILLING CODE 4310-70-M

Minerals Management Service

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting Jeane Kalas at (303) 231-3046. Comments and suggestions on the requirement should be made directly to the bureau clearance officer at the telephone number listed below and to the Office of Management and Budget, Paperwork Reduction Project, (1010-0033), Washington, DC 20503, telephone (202) 395-7340.

Title: Payor Information Form (PIF) Oil and Gas.

OMB Approval Number: 1010-0033.

Abstract: Data collected on PIF's are used to establish payor accounts for all mineral leases on Federal and Indian lands using accounting identification numbers assigned by the Minerals Management Service (MMS). Changes in the paying responsibilities on the lease are also reported on PIF. The MMS is then able to maintain, reconcile, and audit lease accounts through the use of its computerized Auditing and Financial System. This information will enable MMS to determine payors responsible for paying rentals and royalties to MMS and the percentage of sales or production on which royalties are to be paid.

Bureau Form Number: MMS-4025.

Frequency: On occasion.

Description of Respondents: Oil and gas lessees, onshore and offshore.

Annual Responses: 37,000.

Annual Burden Hours: 20,700.

Bureau Clearance Officer: Dorothy Christopher (703) 787-1239.

Dated: March 20, 1991.

Donald T. Sant,

Acting Associate Director for Royalty Management.

[FR Doc. 91-11449 Filed 5-14-91; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-485 (Final)]

Certain Gene Amplification Thermal Cyclers and Subassemblies Thereof From the United Kingdom

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of a final antidumping investigation.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731-TA-485 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the United Kingdom of certain gene amplification thermal cyclers and subassemblies thereof,[1] provided for in subheadings 8419.89.50 and 8419.90.90, respectively, of the Harmonized Tariff Schedule of the United States.

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201, as amended by 56 FR 11918, Mar. 21, 1991), and part 207, subparts A and C (19 CFR part 207, as amended by 56 FR 11918, Mar. 21, 1991).

EFFECTIVE DATE: April 26, 1991.

FOR FURTHER INFORMATION CONTACT: Janine Wedel (202-252-1178), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-252-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-252-1000.

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of certain gene amplification thermal cyclers and subassemblies thereof from the United Kingdom are being sold in the United States at less than fair value within the meaning of section 733 of the act (19 U.S.C. 1673b). The investigation was requested in a petition filed on April 26, 1991, by MJ Research, Inc., Watertown, MA.

Participation in the investigation and public service list.—Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission,

[1] For purpsoes of this investigation, certain gene amplification thermal cyclers consist of Peltier-effect *in vitro* gene amplification thermal cyclers, whether assembled or unassembled, and the subassemblies thereof specified below. Gene amplification thermal cyclers are microprocessor-based reaction controllers that regulate temperatures of biologic reagents through a programmed and highly controlled thermal regime. They are used in biotechnology applications, including a biological protocol called *in vitro* gene amplification, as well as in several related sequencing and radionucleotide labeling reactions. Peltier-effect machines use one or more thermoelectric modules for cooling of the biological sample, and the thermoelectric modules and/or electric resistive heaters for heating the biologic samples.

Gene amplification thermal cyclers incorporate a metal sample block, one or more thermoelectric modules, one or more electronic thermal sensors, a heat exchanger, power supply circuitry, microprocessor-based logic circuitry, software, and a housing or enclosure. The following subassemblies are included in the scope of the investigation when they are manufactured according to specifications and operational requirements to dedicate them for use only in a gene amplification thermal cycler as defined in the preceding paragraph: (1) The sample block/thermoelectric/sensor/heat exchanger subassembly, which consists of the sample block, one or more thermoelectric modules, one or more electronic thermal sensors, and a heat exchanger, and which can include an electric resistive heater; (2) the housing or enclosure, whether finished or unfinished; (3) the membrane keypad used to program and control the machine; and (4) the software needed for operation.

as provided in § 201.11 of the Commission's rules, not later than twenty-one (21) days after publication of this notice in the Federal Register. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this final investigation available to authorized applicants under the APO issued in the investigation, provided that the application be made not later than twenty-one (21) days after the publication of this notice in the Federal Register. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in this investigation will be placed in the nonpublic record on June 18, 1991, and a public version will be issued thereafter, pursuant to § 207.21 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on July 3, 1991, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before June 24, 1991. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on June 27, 1991, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by § 201.6(b)(2), 201.13(f), and 207.23(b) of the Commission's rules.

Written submissions.—Each party is encouraged to submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.22 of the Commission's rules; the deadline for filing is June 28, 1991. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.23(b) of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.24 of the Commission's rules. The deadline for filing posthearing briefs is July 17, 1991; witness testimony must be field no later than three (3) days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before July 17, 1991. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of § 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with § 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules.

Issued: May 3, 1991.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 91-11512 Filed 5-14-91; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-303]

Certain Polymer Geogrid Products and Processes Therefor; Designation of Additional Commission Investigative Attorney

Notice is hereby given that, as of this date, John R. Kroeger, Esq., of the Office of Unfair Import Investigations is designated as the Commission investigative attorney in the above-cited investigation in addition to T. Spence Chubb, Esq.

The Secretary is requested to publish this Notice in the Federal Register.

Dated: May 8, 1991.

Lynn I. Levine,

Director, Office of Unfair Import Investigations, 500 E Street, SW., Washington, DC 20436.

Respectfully submitted,

[FR Doc. 91-11510 Filed 5-14-91; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 731-TA-512 and 513 (Preliminary)]

Tart Cherry Juice and Tart Cherry Juice Concentrate From Germany and Yugoslavia

Determinations

On the basis of the record [1] developed in the subject investigations, the Commission determines,[2] pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1637b(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 Germany and Yugoslavia of tart cherry juice and tart cherry juice concentrate, provided for in subheading 2009.80.60 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On March 19, 1991, a petition was filed with the Commission and the Department of Commerce by the Cherry Marketing Institute, Inc., Okemos, MI, alleging that an industry in the United States is materially injured by reason of LTFV imports of tart cherry juice and tart cherry juice concentrate from Germany and Yugoslavia. Accordingly, effective March 19, 1991, the Commission instituted preliminary antidumping investigations Nos. 731-TA-512 and 513 (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 March 27, 1991 (56 FR 12743). The conference was held in Washington, DC. on April 9, 1991, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in these investigations to the Secretary of Commerce on April 3, 1991. The views of the Commission are contained in USITC Publication 2378 (May 1991), entitled "Tart Cherry Juice and Tart Cherry Juice Concentrate from Germany and Yugoslavia:

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Acting Chairman Brunsdale dissenting with respect to Yugoslavia.

Determination of the Commission in Investigation No. 731–TA–512 and 513 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: May 3, 1991.

By order of the Commission:

Kenneth R. Mason,

Secretary.

[FR Doc. 91–11511 Filed 5–14–91; 8:45 am]

BILLING CODE 7020–02–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with departmental policy, 28 CFR 50.7, notice is hereby given that on April 16, 1991, a proposed consent degree in *United States of America* versus *City of Bangor,* Civ. No. 88–0048–B, was lodged with the United States District Court for the District of Maine. The proposed consent decree settles the United States' claims against Bangor under the Clean Water Act, set forth in a complaint that sought injunctive relief and civil penalities for: (1) Bangor's continuing failure to provide secondary sewage treatment in violation of conditions in three successive NPDES permits and an EPA administrative order issued in 1985; (2) violations of interim effluent limitations contained in two 1985 administrative orders; (3) violations of pretreatment program requirements contained in Bangor's last two NPDES permits and in another administrative order issued by EPA in 1984; and (4) discharges from combined sewer overflows in violation of a condition in Bangor's current NPDES permit.

The proposed consent decree requires Bangor to upgrade its sewage treatment plant to achieve secondary treatment by June 30, 1993, and to comply with interim effluent limits until that time. The decree also requires Bangor to implement a comprehensive combined sewer overflow abatement program to bring Bangor into compliance with the terms and conditions of Bangor's NPDES permit and the Act. Finally, the decree requires a payment of $20,000 to the United States in settlement of the civil penalty claims, which payment is in addition to a $40,000 civil penalty payment previously made by Bangor to the State of Maine for many of the same alleged violations.

The Department of Justice will receive comments relating to the proposed consent degree for a period of thirty (30) days from the date of this publication. 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* versus *City of Bangor,* D.J. Ref. 90–5–1–1–2883.

The proposed consent degree may be examined at the offices of the United States Attorney, 100 Middle Street Plaza, Portland, Maine; at the Region I office of the Environmental Protection Agency, 1 Congress Street, Boston, Massachusetts; 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 Building, NW., Box 1097, Washington, DC 20004. In requesting a copy, please enclose a check in the amount of $10.75 (25 cents per page reproduction cost) payable to Consent Decree Library.

Richard B. Stewart,

Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 91–11452 Filed 5–14–91; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

In accordance with Departmental policy as set forth in 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Barker, et al. (Liquid Waste Management Site),* Civil Action No. C–1–90–345, has been lodged with the United States District Court for the Southern District of Ohio on April 26, 1991. The proposed consent decree resolves a civil action brought by the United States alleging that the settling defendants are liable to the United States for reimbursement of response costs incurred by the United States performing an emergency removal action at the Liquid Waste Management Site.

The United States Department of Justice will receive comments relating to the proposed consent decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, United States Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC, 20044, and should refer to *United States* v. *Barker, et al. (Liquid Waste Management Site),* DOJ #90–11–3–625.

The proposed consent decree may be examined at the Office of the United States Attorney, Southern District of Ohio, U.S. Post Office and Courthouse, 100 E. Fifth Street, Cincinnati, Ohio, 45202, and at the Region V office of the Environmental Protection Agency, 230 S. Dearborn, Chicago, Illinois, 60604. A copy of the proposed consent decree and attachments can be obtained in person or by mail at 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 $6.50 (25 cents per page reproduction costs) payable to the Consent Decree Library.

Richard B. Stewart,

Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 91–11454 Filed 5–14–91; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental policy as set forth in 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States and the State of New York* versus *City of Dunkirk, New York* (Civil Action No. 89–1302(A)) has been lodged with the United States District Court for the Western District of New York on May 1, 1991. The proposed consent decree concerns alleged violations of the Clean Water Act, 33 U.S.C. 1251 *et seq.* by the City of Dunkirk in the operation of a publicly owned treatment works facility. The proposed consent decree would require the City of Dunkirk to pay a civil penalty in the amount of $100,000, and to make very substantial capital improvements in upgrading the facility to maintain compliance with the Clean Water Act and the terms and conditions of its National Pollutant Discharge Elimination System permit.

The United States Department of Justice will receive comments relating to the proposed consent decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States and the State of New York* versus *City of Dunkirk, New York* DJ 90–5–1–1–3347.

The proposed consent decree may be examined at the Office of the United States Attorney, Western District of New York, 68 Court Street, Buffalo, New

York 14202, and at the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278. A copy of the proposed consent decree and attachments can be obtained in person or by mail at the Environmental Enforcement Section Document Center, 1333 F Street, NW., suite 600, Washington, DC 20004. In requesting a copy, please enclose a check in the amount of $7.25 (25 cents per page reproduction costs) payable to the Consent Decree Library.

Richard B. Stewart,

Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 91-11453 Filed 5-14-91; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review

As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in. Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer. Paul E. Larson, telephone (202) 523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., room N-1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, room 3208, Washington, DC 20503 (Telephone (202) 395-6880).

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Revision

Employment and Training Administration.

Income and Eligibility Verification: Final Rule

1205-0238.

Form No.	Affected public	Respondents	Frequency	Average time per response
Claimant notification	SESAs	23.0 Million	On occasion	2 seconds.
Eligibility verifications	SESAs	269,000	On occasion	10 min.

57,444 total hours.

Final rules implementing the income and eligibility verification provisions in the Deficit Reduction Act. Rules apply to State Employment Security Agencies and require them to disclose and obtain certain information for verifying eligibility and benefit amounts.

Extension

Employment Standards Administration.

Request for Earnings Information.

1215-0112; LS-426.

On occasion.

Individuals or households.

1,900 respondents; 475 total hours; ¼ hr. per response; 1 form. Report gathers information regarding an employee's average weekly wages. This information is required for determination of compensation benefits in accordance with section 10 of the Longshore and Harbor Worker's Compensation Act.

Extension

Bureau of Labor Statistics.

Labor Force Questionnaire—CPS-1.

OMB No. *1220-0100*—CPS-I.

Monthly.

Individuals and households.

57,000 responses; 79,055 hours; 1155 hours (7 minutes) per response. Respondent burden is estimated at approximately 79,055 hours. The labor force questionnaire (CPS-1) contains all the questions used to obtain the monthly information on the labor force status of the population. The most important use of the information is to determine the month-to-month changes in total employment and in the jobless rate and to see how these affect the various components of the population. These data are widely used, both inside and outside the government, as indicators of the economic health of the nation.

OSHA

Ionizing Radiation.

1218-0103.

On Occasion.

Business or other for-profit; small business or organizations.

Respondents *81; 20* total hours; *.25* hrs. per response; *0* form

The purpose of this standard and its information collection requirements is to provide protection for employees from the adverse health effects associated with occupational exposure to Ionizing Radiation. The standard requires that employers notify OSHA of Ionizing Radiation overexposure.

Signed at Washington, DC this 9th day of May, 1991.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 91-11486 Filed 5-14-91; 8:45 am]

BILLING CODE 6510-24-M

Occupational Safety and Health Administration

Kentucky Standards; Approval

1. *Background.* Part 1953 of title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR part 1902. On July 31, 1973, notice was published in the **Federal Register** (38 FR 20322) of the approval of the Kentucky plan and the adoption of subpart O to part 1952 containing the decision.

The Kentucky plan provides for the adoption of Federal standards as State standards after public hearing. Section 1953.20 of 29 CFR provides that "When * * * any alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to a State plan shall be required."

By letters dated February 13, 1986 and October 8, 1986, from John C. Wells, Secretary, Commonwealth of Kentucky Labor Cabinet to Alan C. McMillan, Regional Administrator; by letters dated March 9, 1987, March 7, 1988 and May 16, 1988, from Carol M. Palmore, Secretary, Commonwealth of Kentucky Labor Cabinet, to Karen L. Mann, Acting Regional Administrator; and by letters dated November 4, 1988, May 15, 1989 and November 1, 1989, from Carol M. Palmore, Secretary, Commonwealth of Kentucky Labor Cabinet, to R. Davis Layne, Regional Administrator, and incorporated as part of the plan, the State submitted the following amended State standards comparable to Federal standards:

(1) Adoption of 29 CFR part 1910 and revised as of July 1, 1984.

(2) Adoption of 29 CFR 1910.1047, Ethylene Oxide (49 FR 25796, dated 3/22/84), and Amendments of Effective Date and Approval of Information Collection Requirements (50 FR 9800, dated 3/12/85).

(3) Amendments to 29 CFR 1910.243(e), Guarding of Portable Powered Tools; Power Lawnmowers (50 FR 4648, dated 2/1/85).

(4) Adoption of 29 CFR 1926.903(o) Underground Transportation of Explosives, and 1926.910(b) Inspection after Blasting (36 FR 7406, dated 4/17/71).

(5) Adoption of 29 CFR 1926.600, .601, and .602, Off-Highway Equipment, Motor Vehicles and Material Handling Equipment; then revoked in their entirety and adopted only specifically applicable language therefrom for general industry.

(6) Amendments to 29 CFR 1910.1043, Cotton Dust; 1910.119(f), Air Contaminants, and 1910.1000, Air Contaminants, table Z–1 (50 FR 51120, dated 12/13/85).

(7) Interim Final Rule and Corrections to 29 CFR 1910.1200, Hazard Communication and appendix D (50 FR 48750, dated 11/27/85).

(8) Adoption of 29 CFR 1910 revised as of July 1, 1986.

(9) Adoption of 29 CFR 1926 revised as of July 1, 1986.

(10) Amendments to 29 CFR 1910.68, .106, .157, .179, .180, .181, .217, .218, .252, and .440, and amendments to 19 CFR 1915.113 and 1915.172, Recordkeeping Requirements for Tests, Inspections and Maintenance Checks (51 FR 34560, dated 9/29/86).

(11) Amendments to 29 CFR 1910.145, Accident Prevention Tags (51 FR 33251, dated 9/18/86).

(12) Amendments to 29 CFR 1910.430, Commercial Diving (51 FR 34597, dated 9/18/86).

(13) Amendments to 29 CFR 1910.1001, 1926.58 and appendixes A through D, Asbestos, Tremolite, Anthophyllite, and Actinolite (51 FR 22612, dated 6/20/86).

(14) Corrections to 29 CFR 1910.1043, Cotton Dust (51 FR 24324, dated 7/3/86).

(15) Amendments to 29 CFR 1910.1047, Ethylene Oxide (51 FR 25053, dated 7/10/86).

(16) Amendments to 29 CFR 1910.1200, Hazard Communication, Definition of Trade Secret and Disclosure of Trade Secrets to Employees, Designated Representatives, and Nurses (51 FR 34590, dated 9/30/86).

(17) Amendments to 29 CFR 1915.113 and 1915.172, Recordkeeping Requirements for Tests, Inspections and Maintenance Checks (51 FR 34552, dated 9/29/86).

(18) Amendments to 29 CFR 1926, subpart K, Construction Electrical Standards (51 FR 25294, dated 7/11/86).

(19) New section to 29 CFR 1910.1028, Benzene; Amendment to 1910.19, Special Provisions for Air Contaminants; and Amendment to 1910.1000, Air Contaminants (52 FR 34460, dated 9/11/87).

(20) New sections to 29 CFR 1910.1200, 1915.19, 1917.28, 1918.90, 1926.59, and 1928.21, including appendices A through D, Hazard Communication (52 FR 31857, dated 8/24/87).

(21) Amendments to 29 CFR 1910.16, 1910.177(a)(2), 1917.1, and 1917.44, Servicing of Single Piece and Multi-Piece Rim Wheels at Marine Terminals (52 FR 36023, dated 9/25/87).

(22) Amendment to 29 CFR 1910.268(c), Telecommunications Training Records (52 FR 36384, dated 9/28/87).

(23) Amendments and new sections to three construction industry recordkeeping requirements: 29 CFR 1926.550(b)(2), Cranes and Derricks; 1926.552(c)(15), Material Hoist, Personnel Hoist and Elevators; and 1926.903(e), Underground Transportation of Explosives (52 FR 36378, dated 9/28/87).

(24) New section and amendments to 29 CFR 1910.272, including appendices A, B, and C, Grain Handling Facilities; 1917.1(a)(2)(x), Grain Handling Facilities; and 1917.72, Grain Elevator Terminals (52 FR 49592, dated 12/31/87).

(25) New paragraphs and amendments to Occupational Exposure to Formaldehyde in 29 CFR 1910.19(j), Special Provisions for Air Contaminants; 1926.55(d), Gases, Vapors, Fumes, Dusts, and Mists; 1910.1000, table Z–2; 1910.1048(p)(1)(i) and (ii), Formaldehyde, effective dates; and new section 1910.1048 (p)(2)(vi), Formaldehyde, training (52 FR 46168, dated 12/4/87).

(26) New section to 29 CFR 1928.110, Field Sanitation (52 FR 16050, dated 5/1/87).

(27) Amendments to 29 CFR 1910 regarding Safety Testing or Certification of Certain Workplace Equipment and Materials (53 FR 12102, dated 4/12/88).

(28) Amendments to 29 CFR 1910.217, subpart 0, Mechanical Power Presses: Presence Sensing Device Initiation, with new appendices A through D; and 1910.211, Definitions (53 FR 8322, dated 3/14/88).

(29) Amendments to 29 CFR 1910.272, Grain Handling Facilities and appendices A and C (53 FR 17695, dated 5/18/88).

(30) Amendments to 29 CFR 1910.1047, Occupational Exposure to Ethylene Oxide (53 FR 11414, dated 4/6/88).

(31) Adoption of 29 CFR 1910 revised as of July 1, 1987.

(32) Adoption of 29 CFR 1926 revised as of July 1, 1987.

(33) Amendment to 29 CFR 1910.20, Access to Employee Exposure and Medical Records (53 FR 38162, dated 9/8/88).

(34) Interim Final Rule and Corrections to 29 CFR 1910.120, Hazardous Waste Operations and

Emergency Response (52 FR 16241, dated May 4, 1987).

(35) Amendment to 29 CFR 1910.177, Servicing of Multi-Piece and Single-Piece Rim Wheels (53 FR 34736, dated 9/8/88).

(36) Amendments to 29 CFR 1910.1001 and 1926.58, Asbestos, Tremolite, Anthophyllite, and Actinolite (53 FR 35625, dated 9/14/88).

(37) Addition to new paragraph (g) to 29 CFR 1926.550, Cranes and Derricks, suspended personnel platforms (53 FR 29116, dated 8/2/88).

(38) Addition to 29 CFR 1926, Concrete and Masonry Construction Safety Standards, subpart Q with appendix A, (53 FR 22612, dated 6/16/88).

(39) Amendment to 29 CFR 1910.120 with appendices A through D, Hazardous Waste Operations and Emergency Response (54 FR 9254, dated 3/6/89).

(40) Amendment to 29 CFR 1910.1000 with Tables Z-1, Z-2, and Z-3, Air Contaminants (54 FR 2332, 1/19/89).

These standards were promulgated after public hearings held on December 18, 1984, June 12, 1985, June 4, 1986, December 4, 1986, December 1, 1987, March 8, 1988, June 1, 1988, March 1, 1989, and May 31, 1989.

2. *Decision.* Having reviewed the State submissions in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards. The State standards are hereby approved.

3. *Location of Supplement for Inspection and Copying.* A copy of the standards supplement along with the approved plan may be inspected and copied during normal business hours at the following locations: Office of the Secretary of Labor, Kentucky Labor Cabinet 1049 U.S. Highway, 127 South, Frankfort, Kentucky 40601; Office of the Regional Administrator, suite 587, 1375 Peachtree Street, NE., Atlanta, Georgia 30367; and Director of Federal State Operations, room N3700, 200 Constitution Avenue, NW., Washington, DC 20210.

4. *Public participation.* Under 29 CFR part 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds good cause exists for not publishing the supplement to the Kentucky State Plan as a proposed change and in making the Regional Administrator's approval effective upon publication for the following reasons:

1. The Standard are essentially identical to the Federal Standards and are deemed to be at least as effective.

2. The Standards were adopted in accordance with procedural requirements of State Law and further participation would be unnecessary.

The decison is effective May 15, 1991. (Sec. 18, Pub. L. 91-596: 84 Stat. 1608 (29 U.S.C. 667)) signed at Atlanta, Georgia this 24th day of December 1990.

R. Davis Layne,

Regional Administrator.

[FR Doc. 91-11487 Filed 5-14-91; 8:45 am]

BILLING CODE 4510-26-M

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 91-27; Exemption Application No. D-8372, et al.]

Grant of Individual Exemptions; Citicorp Real Estate, Inc. (Citicorp) and Bankers Trust Co. (BT), et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, 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 proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Citicorp Real Estate, Inc. (Citicorp) and Bankers Trust Company (BT), Located in New York, New York

[Prohibited Transaction Exemption 91-27; Exemption Application No. D-8372]

Exemption

The restrictions of section 406(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 (D) of the Code, shall not apply to (1) the granting to Citicorp and BT, as representatives of lenders participating in a credit facility (the Lenders), of security interests in limited partnership interests in Trammel Crow Equity Partners II, Ltd. (the Partnership) owned by certain employee benefit plans (the Plans) with respect to which some of the Lenders are parties in interest, and (2) the agreements by the Plans to honor capital calls made by Citicorp in lieu of the Partnership's general partner; provided that (a) the grants and agreements are on terms no less favorable to the Plans than those which the Plans could obtain in arm's-length transactions with unrelated parties; and (b) the decisions on behalf of each Plan to invest in the Partnership and to execute such grants and agreements in favor of Citicorp are made by a fiduciary which is not included among and is independent of the Lenders, BT and Citicorp.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on March 15, 1991 at 56 FR 11290.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald Willett of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Boilermakers' and Blacksmiths' Lodge No. 169 Joint Training Fund (the Plan), Located in Dearborn, Michigan

[Prohibited Transaction Exemption 91-28; Exemption Application No. D-8439]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act shall not apply to the cash sale by the Plan of certain improved real property located in Dearborn, Michigan (the Property) to the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, Lodge No. 169, a party in interest with respect to the Plan; provided that the purchase price paid for the Property is no less than the greater of $70,000 or the Property's fair market value as of the date of such sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on March 26, 1991 at 56 FR 12559.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald Willett of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

LaBranche & Company Retirement Plan (the Plan), Located in New York, New York

[Prohibited Transaction Exemption 91-29; Exemption Application No. D-8440]

Exemption

The restrictions of section 406(a), 406(b)(1) and (b)(2) 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 loans by the Plan (the Loans) to LaBranche & Company, the sponsor of the Plan; provided that all terms and conditions of the Loans are no less favorable to the Plan that those which the Plan could obtain in arm's-length transactions with unrelated parties.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on March 26, 1991 at 56 FR 12560.

EFFECTIVE DATE: This exemption is effective for a ten-year period commencing with the date on which the first Loan is executed.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald Willett of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Manufacturers Hanover Company (MHC), Located in New York, New York

[Prohibited Transaction Exemption 91-30; Application No. D-8536]

Exemption

I. Transactions

A. The restrictions of sections 406(a) and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to the following transactions involving trusts and certificates evidencing interests therein:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and an employee benefit plan when the sponsor, servicer, trustee or insurer of a trust, the underwriter of the certificates representing an interest in the trust, or an obligor is a party in interest with respect to such plan;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates; and

(3) The continued holding of certificates acquired by a plan pursuant to subsection I.A. (1) or (2).

Notwithstanding the foregoing, section I.A. does not provide an exemption from the restrictions of sections 406(a)(1)(E), 406(a)(2) and 407 for the acquisition or holding of a cerfificate authority or renders investment advice with respect to the assets of that Excluded Plan.[1]

B. The restrictions of sections 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1)(E) of the Code shall not apply to:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issurance of certificates between the sponsor or underwriter and a plan when the person who has discretionary authority or renders investment advice with respect to the investment of plan assets in the certificates is (a) an obligor with respect to 5 percent or less of the fair market value of obligations or receivables contained in the trust, or (b) an affiliate of a person described in (a); if:

(i) The plan is not an Excluded Plan;

(ii) Solely in the case of an acquisition of certificates in connnection with the initial issuance of the certificates, at least 50 percent of each class of certificates in which plans have invested is acquired by persons independent of the numbers of the Restricted Group and at least 50 percent of the aggregate interest in the trust is acquired by persons independent of the Restricted Group;

(iii) A plan's investment in each class of certificates does not exceed 25 percent of all of the certificates of that class outstanding at the time of the acquisition; and

(iv) Immediately after the acquisition of the certificates, no more than 25 percent of the assets of a plan with respect to which the person has discretionary authority of renders investments advice are invested in certificates representing an interest in a trust containing assets sold or serviced by the same entity.[2] For purposes of this paragraph B.(1)(iv) only, an entity will not be considered to service assets contained in a trust if it is merely a subservicer of that trust;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates, provided that the conditions set forth in paragraph B.(1)(i), (iii) and (iv) are met; and

(3) The continued holding of certificates acquired by a plan pursuant to subsection I.B.(1) or (2).

C. The restrictions of sections 406(a), 406(b) and 407(a) of the Act, and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c) of the Code, shall not apply to transactions in connection with the servicing, management and operation of a trust, provided:

(1) Such transactions are carried out in accordance with the terms of a binding pooling and servicing arrangement; and

(2) The pooling and servicing agreement is provided to, or described in all material respects in the prospectus or private placement memorandum provided, to, investing plans before they purchase certificates issued by the trust.[3]

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[1] Section I.A. provides no relief from sections 406(a)(1)(E), 406(a)(2) and 407 for any person rendering investment advice to and Excluded Plan within the meaning of section 3(21)(A)(ii) and regulation 29 CFR 2510.3-21(c).

[2] For purposes of this exemption, each plan participating in a commingled fund (such as a bank collective trust fund or insurance company pooled separate account) shall be considered to own the same proportionate undivided interest in each asset of the commingled fund as its proportionate interest in the total assets of the commingled fund as calculated on the most recent preceding valuation date of the fund.

[3] In the case of a private placement memorndum, such memorandum must contain substantially the same information that would be disclosed in a prospectus if the offering of the certificates were made in a registered public offering under the

Continued

Notwithstanding the foregoing, section I.C. does not provide an exemption from the restrictions of section 406(b) of the Act or from the taxes imposed by reason of section 4975(c) of the Code for the receipt of a fee by a servicer of the trust from a person other than the trustee or sponsor, unless such fee constitutes a "qualified administrative fee" as defined in section III.S.

D. The restrictions of sections 406(a) and 407(a) of the Act, and the taxes imposed by sections 4975(a) and (b) of the Code by reason of sections 4975(c)(1)(A) through (D) of the Code, shall not apply to any transactions to which those restrictions or taxes would otherwise apply merely because a person is deemed to be a party in interest or disqualified person (including a fiduciary) with respect to a plan by virtue of providing services to the plan (or by virtue of having a relationship to such service provider described in section 3(14)(F), (G), (H) or (I) of the Act or section 4975(e)(2)(F), (G), (H), or (I) of the Code), solely because of the plan's ownership of certificates.

II. General Conditions

A. The relief provided under Part I is available only if the following conditions are met:

(1) The acquisition of certificates by a plan is on terms (including the certificate price) that are at least as favorable to the plan as they would be in an arm's-length transaction with an unrelated party;

(2) The rights and interests evidenced by the certificates are not subordinated to the rights and interests evidenced by other certificates of the same trust;

(3) The certificates acquired by the plan have received a rating at the time of such acquisition that is in one of the three highest generic rating categories from either Standard & Poor's Corporation (S&P's), Moody's Investors Service, Inc. (Moody's) Duff & Phelps Inc. (D & P) or Fitch Investors Service, Inc. (Fitch);

(4) The trustee is not an affiliate of any member of the Restricted Group. However, the trustee shall not be considered to be an affiliate of a servicer solely because the trustee has succeeded to the rights and responsibilities of the servicer pursuant to the terms of a pooling and servicing agreement providing for such succession upon the occurrence of one or more events of default by the servicer;

(5) The sum of all payments made to and retained by the underwriters in connection with the distribution or placement of certificates represents not more than reasonable compensation for underwriting or placing the certificates; the sum of all payments made to and retained by the sponsor pursuant to the assignment of obligations (or interests therein) to the trust represents not more than the fair market value of such obligations (or interests); and the sum of all payments made to and retained by the servicer represents not more than reasonable compensation for the servicer's services under the pooling and servicing agreement and reimbursement of the servicer's reasonable expenses in connection therewith; and

(6) The plan investing in such certificates is an "accredited investor" as defined in rule 501(a)(1) of Regulation D of the Securities and Exchange Commission under the Securities Act of 1933.

B. Neither any underwriter, sponsor, trustee, servicer, insurer, or any obligor, unless it or any of its affiliates has discretionary authority or renders investment advice with respect to the plan assets used by a plan to acquire certificates, shall be denied the relief provided under Part I, if the provision of subsection II.A.(6) above is not satisfied with respect to acquisition or holding by a plan of such certificates, provided that (1) such condition is disclosed in the prospectus or private placement memorandum; and (2) in the case of a private placement of certificates, the trustee obtains a representation from each initial purchaser which is a plan that it is in compliance with such condition, and obtains a covenant from each initial purchaser to the effect that, so long as such initial purchaser (or any transferee of such initial purchaser's certificates) is required to obtain from its transferee a representation regarding compliance with the Securities Act of 1933, any such transferees will be required to make a written representation regarding compliance with the condition set forth in subsection II.A.(6) above.

III. Definitions

For purposes of this exemption:

A. "Certificate" means:

(1) A certificate—

(a) That represents a beneficial ownership interest in the assets of a trust; and

(b) That entitles the holder to pass-through payments of principal, interest, and/or other payments made with respect to the assets of such trust; or

(2) A certificate denominated as a debt instrument—

(a) That represents an interest in a Real Estate Mortgage Investment Conduit (REMIC) within the meaning of section 860D(a) of the Internal Revenue Code of 1986; and

(b) That is issued by and is an obligation of a trust:

with respect to certificates defined in (1) and (2) above for which MHC or any of its affiliates is either (i) the sole underwriter or the manager or co-manager of the underwriting syndicate, or (ii) a selling or placement agent.

For purposes of this exemption, references to "certificates representing an interest in a trust" include certificates denominated as debt which are issued by a trust.

B. "Trust" means an investment pool, the corpus of which is held in trust and consists solely of:

(1) Either

(a) Secured consumer receivables that bear interest or are purchased at a discount (including, but not limited to, home equity loans and obligations secured by shares issued by a cooperative housing association);

(b) Secured credit instruments that bear interest or are purchased at a discount in transactions by or between business entities (including, but not limited to, qualified equipment notes secured by leases, as defined in section III.T);

(c) Obligations that bear interest or are purchased at a discount and which are secured by single-family residential, multi-family residential and commercial real property (including obligations secured by leasehold interests on commercial real property);

(d) Obligations that bear interest or are purchased at a discount and which are secured by motor vehicles or equipment, or qualified motor vehicle leases (as defined in section III.U);

(e) "Guaranteed governmental mortgage pool certificates," as defined in 29 CFR 2510.3–101(i)(2);

(f) fractional undivided interests in any of the obligations described in clauses (a)–(e) of this section B.(1);

(2) Property which had secured any of the obligations described in subsection B.(1);

(3) Undistributed cash or temporary investments made therewith maturing no later than the next date on which distributions are to be made to certificateholders; and

(4) Rights of the trustee under the pooling and servicing agreement, and rights under any insurance policies, third-party guarantees, contracts of suretyship and other credit support arrangements with respect to any

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Securities Act of 1933. In the Department's view, the private placement memorandum must contain sufficient information to permit plan fiduciaries to make informed investment decisions.

obligations described in subsection B.(1).

Notwithstanding the foregoing, the term "trust" does not include any investment pool unless: (i) The investment pool consists only of assets of the type which have been included in other investment pools, (ii) certificates evidencing interest in such other investment pools have been rated in one of the three highest generic rating categories by S&P's, Moody's, D&P, or Fitch for at least one year prior to the plan's acquisition of certificates pursuant to this exemption, and (iii) certificates evidencing interests in such other investment pools have been purchased by investors other than plans for at least one year prior to the plan's acquisition of certificates pursuant to this exemption.

C. "Underwriter" means:

(1) MHC;

(2) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with MHC; or

(3) Any member of an underwriting syndicate or selling group of which MHC or a person described in (2) is a manager or co-manager with respect to the certificates.

D. "Sponsor" means the entity that organizes a trust by depositing obligations therein in exchange for certificates.

E. "Master Servicer" means the entity that is a party to the pooling and servicing agreement relating to trust assets and is fully responsible for servicing, directly or through subservicers, the assets of the trust.

F. "Subservicer" means an entity which, under the supervision of and on behalf of the master servicer, services loans contained in the trust, but is not a party to the pooling and servicing agreement.

G. "Servicer" means any entity which services loans contained in the trust, including the master servicer and any subservicer.

H. "Trustee" means the trustee of the trust, and in the case of certificates which are denominated as debt instruments, also means the trustee of the indenture trust.

I. "Insurer" means the insurer or guarantor of, or provider of other credit support for, a trust. Notwithstanding the foregoing, a person is not an insurer solely because it holds securities representing an interest in a trust which are of a class subordinated to certificates representing an interest in the same trust.

J. "Obligor" means any person, other than the insurer, that is obligated to make payments with respect to any obligation or receivable included in the trust. Where a trust contains qualified motor vehicle leases or qualified equipment notes secured by leases, "obligor" shall also include any owner of property subject to any lease included in the trust, or subject to any lease securing an obligation included in the trust.

K. "Excluded Plan" means any plan with respect to which any member of the Restricted Group is a "plan sponsor" within the meaning of section 3(16)(B) of the Act.

L. "Restricted Group" with respect to a class of certificates means:

(1) Each underwriter;

(2) Each insurer;

(3) The sponsor;

(4) The Trustee;

(5) Each servicer;

(6) Any obligor with respect to obligations or receivables included in the trust constituting more than 5 percent of the aggregate unamortized principal balance of the assets in the trust, determined on the date of the initial insurance of certificates by the trust; or

(7) Any affiliate of a person described in (1)–(6) above.

M. "Affiliate" of another person includes:

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person;

(2) Any officer, director, partner, employee, relative (as defined in section 3(15) of the Act), a brother, a sister, or a spouse of a brother or sister of such other person; and

(3) Any corporation or partnership of which such other person is an officer, director or partner.

N. "Control" means the power to exercise a controlling influence over the management of policies of a person other than an individual.

O. A person will be "independent" of another person only if:

(1) such person is not an affiliate of that other person; and

(2) the other person, or an affiliate thereof, is not a fiduciary who has investment management authority or renders investment advice with respect to any assets of such person.

P. "Sale" includes the entrance into a forward delivery commitment (as defined in section Q below), provided:

(1) The terms of the forward delivery commitment (including any fee paid to the investing plan) are no less favorable to the plan than they would be in an arm's length transaction with an unrelated party;

(2) The prospectus or private placement memorandum is provided to an investing plan prior to the time the plan enters into the forward delivery commitment; and

(3) At the time of the delivery, all conditions of this exemption applicable to sales are met.

Q. "Forward delivery commitment" means a contract for the purchase or sale of one or more certificates to be delivered at an agreed future settlement date. The term includes both mandatory contracts (which contemplate obligatory delivery and acceptance of the certificates) and optional contracts (which give one party the right but not the obligation to deliver certificates to, or demand delivery of certificates from, the other party).

R. "Reasonable compensation" has the same meaning as that term is defined in 29 CFR 2550.408c–2.

S. "Qualified Administrative Fee" means a fee which means the following critiera:

(1) the fee is triggered by an act or failure to act by the obligator other than the normal timely payments of amounts owing in repsect to the obligations;

(2) the servicer may not charge the fee absent the act or failure to act referred to in (1);

(3) the ability to charge the fee, the circumstances in which the fee may be charged, an an explanation of how the fee is calculated are set forth in the pooling and servicing agreement; and

(4) The amount paid to investors in the trust will not be reducted by the amount of any such fee waived by the servicer.

T. "Qualified Equipment Note Secured By A Lease" means an equipment note:

(a) Which is secured by equipment which is leased;

(b) Which is secured by the obligation of the lessee to pay rent under the equipment lease; and

(c) With respect to which the trust's security interest in the equipment is at least as protective of the rights of the trust as the trust would have if the equipment note were secured only by the equipment and not the lease.

U. "Qualified Motor Vehicle Lease" means a lease of a motor vehicle where:

(a) The trust holds a security interest in the lease;

(b) The trust hold a security interest in the leased motor vehicle; and

(c) The trust security interest in the leased motor vehicle is at least as protective of the trust's rights as the

trust would receive under a motor vehicle installment loan contract.

V. "Pooling and Servicing Agreement" means the agreement or agreements among a sponsor, a servicer and the trustee establishing a trust. In the case of certificates which are denominated as debt instruments, "Pooling and Servicing Agreement" also includes the indenture entered into by the trustee of the trust issuing such certificates and the indenture trustee.

For a more complete statement of facts and representatives supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on March 15, 1991, at FR 11282.

FOR FURTHER INFORMATION CONTACT: Kay Madsen of the Department, telephone (202) 523–8971. (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 or disqualified persons from certain other provisions to which the exemptions 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) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional 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; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington DC, this 9th day of May, 1991.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 91–11465 Filed 5–14–91; 8:45 am]

BILLING CODE 4510–29–M

[Application No. D–8535, et al.]

Proposed Exemptions; Equitable Life Assurance Society of the United States (Equitable), 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.

Equitable Life Assurance Society of the United States (Equitable) Located in New York, NY

[Application No. D–8535]

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 section 406(a), (b)(1) and (b)(2) 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 the sale of 50% equity interests (the Interests) in twelve regional shopping centers (the Properties) from Equitable's general account (the General Account) to Equitable's Separate Account No. 141 (the Separate Account), a single customer separate account maintained by Equitable under a group annuity

contract on behalf of the International Business Machines Corporation (IBM) Retirement Plan (the Plan), which held the other 50% equity interests in the Properties, provided that the terms and conditions of the transaction were at least as favorable to the Separate Account as those between unrelated parties would have been.

EFFECTIVE DATE: The effective date of the exemption, if granted, will be April 30, 1989.

Summary of Facts and Representations

(1) Equitable is a mutual life insurance company organized under the laws of the State of New York and subject to supervision and examination by the Superintendent of Insurance of the State of New York. It is the third largest life insurance company in the United States. Among the wide variety of insurance products and services it offers, Equitable provides funding, asset management and other services for several thousand employee benefit plans subject to the provisions of title I of the Act.

Equitable maintains several pooled separate accounts in which pension, profit-sharing, and thrift plans participate. Equitable also has several single customer separate accounts and investment management accounts pursuant to which Equitable manages all or a portion of the assets of a number of large plans. Equitable's real estate investment management subsidiary, Equitable Real Estate Investment Management, Inc. (EREIM), provides real estate investment advisory services to Equitable and property management services with respect to certain properties held by Equitable accounts. EREIM provides real estate investment advisory services with respect to the real property assets of the Separate Account.

Equitable has substantial experience in managing real estate investments. Of the more than $58 billion in total assets held by Equitable at year-end 1988, Equitable's general account held $11.7 billion in real estate mortgage loans and approximately $4.5 billion in equity investments in real property and interests in real estate joint ventures. Additionally, more than $5.4 billion of real property investments were held in Equitable's real estate separate accounts.

(2) IBM and its subsidiaries and affiliates are the largest manufacturers of data processing equipment machines and systems in the world. As of December 31, 1988, the company had total assets of $73 billion.

The named fiduciary of the Plan is the IBM Retirement Plan Committee. The Retirement Plan Committee is comprised of three to five directors of IBM, a majority of whom are outside directors. As named fiduciary of the Plan, the Retirement Plan Committee, pursuant to the terms of the Plan, delegated to the Treasurer of IBM, Mr. David Finley, authority to authorize the reallocation of the Interests to the Separate Account.

The total assets of the Plan were approximately $19.5 billion as of December 31, 1988. Of this amount, $194 million (10 percent of total assets) were held in real estate investments, with the interest in the Separate Account representing 2 percent of total Plan assets.

(3) The Separate Account is a single-customer real estate separate account maintained by Equitable on behalf of the Plan. As of December 31, 1988, the total assets of the Separate Account equalled $547,295,361. The assets of the Separate Account included 50% interests in the Properties.

Equitable also maintains three other single customer real estate separate accounts on behalf of the Plan, Separate Account Nos. 136, 143, and 149, amounting to 3.6 percent of the assets of the Plan. As of December 31, 1988, the value of the assets of Separate Account No. 136, which invests in industrial research and development properties, was $212,986,000 (including mortgages). As of December 31, 1988, the value (including mortgages) of the assets of Separate Account Nos. 143 and 149, which invest in commercial office buildings, equalled $418,470,874 and $76,409,636, respectively.

(4) IBM appointed the Jackson-Cross Company (Jackson-Cross) as the independent acquisition advisor to act on behalf of the Plan in the reallocation transaction.

The process of selecting an independent acquisition advisor included a review of the potential candidates for the assignment by Mr. James Peterson, the Plan's Director of Real Estate Investment and Mr. R.D. Borgeson, Counsel to the Plan. The candidates specifically considered were Landauer Associates, Dreyfus Management, Inc., Goldman Sachs & Co., and Jackson-Cross.

Messrs. Peterson and Borgeson determined that Jackson-Cross was the appropriate choice to serve as independent acquisition advisor. The applicant represents that the two main reasons for their decision were Jackson-Cross' experience with the specific Properties potentially involved in the reallocation transactions and IBM's experience with Jackson-Cross.

Since 1984, Jackson-Cross has acted as independent fiduciary with respect to the Separate Account, which holds the Plan's interests in the Properties. Thus, Jackson-Cross had become familiar with the Properties by virtue of its actions as independent fiduciary regarding the initial review of properties and approval of any joint allocations, as well as its semi-annual review of the performance of the Separate Account's investments. IBM concluded that no other firm could match the knowledge and sophistication regarding the Properties that was possessed by the Jackson-Cross committee members for the Separate Account: Messrs. Charles F. Seymour, Arnold S. Tesh, and Dwight E. Wagner.

With respect to IBM's experience with Jackson-Cross, Messrs. Peterson and Borgeson had frequent contact with Jackson-Cross during this period and concluded that in its role as independent fiduciary, Jackson-Cross had performed its duties in a consistently thorough and business-like manner, had shown excellent judgement in its decisions and the utmost scrupulousness in the review of each matter presented to it, and had at all times worked solely in the interest of the participants and beneficiaries of the Plan and with the highest degree of integrity.

The applicant further represents that Jackson-Cross is independent of Equitable. Specifically, Jackson-Cross receives less than 5 percent of its total yearly fees from Equitable and Equitable separate accounts. In addition, neither Equitable nor its subsidiaries or affiliates have any ownership interest in Jackson-Cross. Similarly, Jackson-Cross nor any of its principals have any ownership interest in Equitable or any of its subsidiaries or affiliates. Although Jackson-Cross does from time to time provide leasing services in buildings owned in part by Equitable, and has occasionally provided appraisal services to Equitable, Jackson-Cross provides no property management services to Equitable. Rather, Jackson-Cross' primary contact with Equitable is through the provision of independent fiduciary services.

(5) Jackson-Cross is a Pennsylvania corporation engaged, directly and through its affiliates, in the business of commercial real estate consulting, brokerage, management, appraisal and related activities. Jackson-Cross' principal offices are located in Philadelphia, Pennsylvania. It also has offices in Wilmington, Delaware, and Princeton, New Jersey. It has been involved in the commercial real estate business since 1876. The company has

substantial experience in commercial real estate matters including consulting, real estate brokerage, property management, property appraising and the review and approval of construction budgets. The company currently manages approximately 10 million square feet of diverse industrial and commercial properties and office building space.

(6) The applicant further represents that Equitable was not responsible for the choice of Jackson-Cross. Rather, IBM made its decision independently of Equitable. There is no business relationship between any of the officials of IMB who had any authority with respect to making the decison to invest Plan funds in the Properties and Equitable or any of its affiliates. There are no common directors of IMB and Equitable. The only relationship of any kind which exists between anyone at IBM who is a part of the pension plan investment process and a person at Equitable is the following: William Hoyt, who formerly directed the pension plans' investments in real estate and who is currently a member of the informational committee which meets with the IBM Treasurer to make real estate and other investment decisions for the plans, has a brother, David Hoyt, who is a Vice President of Equitable in New York in the Treasurer's Department. Both William Hoyt and Equitable have provided assurances that David Hoyt has no responsiblity or influence whatsoever in the real estate investment management business of Equitable or its subsidiaries, and has not duties regarding investment management of IBM pension plan assets. William Hoyt provides assurances that he has never discussed with his brother any business matter concerning Equitable and the IBM plans.

(7) The Properties were acquired by the General Account and the Separate Account on November 30, 1984 from General Growth Properties, an Iowa-based real estate invesment trust unrelated to Equitable. Each Account acquired a 50 percent equity interest in each Property.[1] Early in 1988, Equitable and IMB began discussing the possible reallocation of the General Account's interests in the Properties to the Separate Account. Jackson-Cross was retained to act as the independent acquisition advisor to the Plan.

(8) Pursuant to the terms of its retention by IBM, Jackson-Cross was assigned primary responsibility for the development, analysis and negotiation of the reallocation. Specifically, Jackson-Cross was authorized to: (1) Reveiw Equitable's initial offer; (2) collect, analyze and verify pertinent information regarding each of the shopping centers contained in Equitable's offer; (3) recommend maximum prices (and related terms) for each property; (4) develop with IBM negotiating objectives and instructions designed to assure that any acquisition was consistent with the investment objectives of the Plan; (5) exercise sole authority on behalf of the Plan to determine which (if any) of the offered properties were suitable for reallocation, and to negotiate the terms of such reallocation with Equitable; and (6) provide IBM with a recommended agreement for reallocation.

In conducting its analysis, Jackson-Cross engaged in four different phases of activity: (1) Document review; (2) property inspections; (3) market analysis; and (4) negotiation.

Jackson-Cross reviewed all of the materials supplied by Equitable and in most cases requested additional information. During visits to each property, Jackson-Cross verified the physical descriptions and tax assessments of each property, and reviewed title, environmental, occupancy and other legal requirements. Jackson-Cross also reviewed the actual leases of shopping center tenants, compared these leases to the rent rolls provided by Equitable and verified rental amounts, lease terms, etc. Jackson-Cross also reviewed existing maintenance and management contracts. Jackson-Cross indicated that it was "generally pleased" with the conditions of documentation for the properties.

Using this and other information, Jackson-Cross also performed various financial analyses of each of the Properties. These analyses took into account and expense histories, maintenance and management contracts, leases and leasing plans, etc. From these analyses, Jackson-Cross developed financial and economic projections regarding the Properties.

Jackson-Cross made at least two on-site inspections of each of the Properties and its principal competition. Separate reports were prepared for each Property, and then summarized for presentation to IBM. The report analyzed location, physical condition, distance from competitors, and access, and suggested possible changes, e.g., improving maintenance, upgrading facilities, remerchandising, (attracting new tenants), addition of new anchor stores, expansion possibilities, etc. The report concluded that, as a whole, the Properties are in a generally favorable position, with considerable opportunity for good returns.

The purpose of the market analysis was to identify and analyze local, regional and national factors influencing the individual markets of each individual Property, and thereby to predict the future revenue prospects and marketing strategies for each mall. In order to accomplish this, Jackson-Cross relied on information obtained from Equitable, data obtained directly from management of each Property, and materials generated and collected by Jackson-Cross itself. This information concerned matters such as current maintenace and tax costs, sales figures and projections, anticipated cost of capital improvements, expansion plans, etc.

Jackson-Cross concluded that the Properties, which are dispersed in various geographic and economic regions, are subject to both positive and negative economic trends. However, the

[1] The Department has previously stated that the mere investment of the assets of a plan on identical terms with a fiduciary's investment for his or her own account in the equity interests of a shared real estate investment would not, in itself, cause the fiduciary to have an interest in the transaction that may affect his or her best judgment as a fiduciary. Therefore, such an investment would not, in itself, violate section 406(b)(1) which prohibits a fiduciary from dealing with the assets of a plan in his or her own interest or for his or her account. In addition, such shared investment, pursuant to reasonable procedures established by the fiduciary, would not cause the fiduciary to act on behalf of (or represent) a party whose interests are adverse to those of the plan. Therefore, such an investment would not, in itself, violate section 406(b)(2) which states that a fiduciary may not act in any capacity in a transaction involving the plan on behalf of a party whose interests are adverse to the interests of the plan.

With respect to section 406(a)(1)(D) of the Act, which prohibits the transfer to, or use or for the benefit or, a party in interest (including a fiduciary) or the assets of a plan, the Department opined that a party in interest does not violate that section merely because he or she derived some incidental benefit from a transaction involving plan assets. The Department assumed, for this analysis, that the fiduciary does not rely upon, and is not otherwise dependent upon, the participation of the plan in order to undertake its share of the investment.

Thus, with respect to the investment of plan assets in shared equity investments which are made simultaneously with investments by a fiduciary for its own account on identical terms, the Department was of the view that any benefit that the fiduciary might derive from such investment under these circumstances was incidental and would not violate section 406(a)(1)(D) of the Act. (See Proposed Exemption for Equitable Life Assurance Society of the United States, 55 FR 38874, 38877, September 21, 1990.)

Thus, with respect to the investment of plan assets in shared equity investments which are made simultaneously with investments by a fiduciary for its own account on identical terms, the Department was of the view that any benefit that the fiduciary might derive from such investment under these circumstances was incidental and would not violate section 406(a)(1)(D) of the Act. (See Proposed Exemption for Equitable Life Assurance Society of the United States, 55 FR 38874, 38877, September 21, 1990.)

report noted that most of the Properties dominate their respective markets and provide the best retail centers in their areas. This superiority, in Jackson-Cross' view, would enable the portfolio to continue to perform well.

Jackson-Cross had full negotiating authority on behalf of the Plan subject to certain negotiating objectives and strategies developed in concert with IBM to assure that the investment objectives of the Plan were met.

Equitable and Jackson-Cross agreed to an aggregate adjusted price for the Properties of $684 million. The Properties and the individual adjusted prices are:

(1) Chapel Hills, Colorado Springs, CO.....$66,000,000
(2) Lake Square, Leesburg, FL.....37,000,000
(3) Southpark, Moline, IL.....66,000,000
(4) Northpark, Davenport, IA.....72,000,000
(5) Eastland, Evansville, IN.....83,000,000
(6) Southridge, Des Moines, IA.....62,500,000
(7) Southern Hills, Sioux City, IA.....60,000,000
(8) Greenwood, Bowling Green, KY 47,200,000
(9) Rushmore, Rapid City, SD.....50,500,000
(10) Empire, Sioux Falls, SD.....95,000,000
(11) Newtown, Sioux Falls, SD.....8,300,000
(12) Valley, Harrisonburg, VA.....36,500,000

When adjusted for existing mortgage balances, capital improvements, and the interests already held by the Separate Account, the amount of cash that the Plan was required to pay at closing for the reallocation of the Interests was $249,213,320. According to Jackson-Cross, this investment will provide an overall capitalization rate of 8.01% and an internal rate of return of 12.6%.

(9) Upon Jackson-Cross' completion of the negotiations, IBM's role was to review the negotiated terms to assure that they met the investment objectives and cash-flow restraints of the Plan. This review authority was the responsibility of the Retirement Plan Committee, which pursuant to the terms of the Plan, delegated to the Treasurer of IBM and his staff the authority to make specific investment decisions. The Treasurer, David Finley, made the decisions regarding the terms of the negotiating instructions to Jackson-Cross and made the final decision regarding approval of the negotiated agreement on the Interests. In making these decisions, the Treasurer consulted with an informal IBM pension investment committee, which is composed of high-level IBM staff in the investment area. Based on the advice and recommendations of Jackson-Cross as well as IBM's in-house advisors, Mr. Finley approved the reallocation of the Interests on behalf of the Plan based upon the terms and conditions negotiated by Jackson-Cross.

(10) The applicant represents that Equitable exercised no discretionary authority, reponsibility or control on behalf of the Separate Account with respect to the reallocation of the Interests to the Separate Account, nor did it have any role in selecting Jackson-Cross as the independent acquisition advisor. Equitable also did not provide any investment advice to the Plan concerning the transaction.

(11) In summary, the applicant represents that the proposed exemption satisfies the statutory criteria of section 408(a) of the Act because: (a) Jackson-Cross performed an extensive review and analysis of the Properties and relevant documentary information concerning the Properties, performed an economic market analysis for each of the Properties, prepared a financial analysis of each of the Properties, and prepared a financial projection for each Property; (b) Jackson-Cross, as the independent acquisition advisor for the Plan, negotiated the terms and conditions of the transfer of the Interests from the General Account to the Separate Account on an arms-length basis on behalf of the Plan; and (c) IBM approved the transfer of the Interests to the Separate Account.

FOR FURTHER INFORMATION CONTACT: David Lurie of the Department, telephone (202) 523–7901. (This is not a toll-free number.)

NCNB Real Estate Fund (the Fund) Located in Charlotte, North Carolina

[Application Nos. D–8496 and D–8503]

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) and 406(b) (1) and (2) 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 the sale for cash of a certain parcel of real property (the Parcel) from the Fund to NCNB National Bank of North Carolina (the Bank), a party in interest with respect to employee benefit plans participating in the Fund, provided the Fund receives no less than the greater of $16,200 or the fair market value for the Parcel at the time of sale.

Summary of Facts and Representations

1. The Bank is the seventh largest commercial bank in the United States. The Fund is a common trust fund established by the Bank for the collective investment of funds contributed thereto on behalf of employee benefit pension plans for which the Bank or an affiliate is a trustee. The Bank is the trustee of the Fund and has sole investment discretion with respect to the assets of the Fund. The number of pension plans with assets invested in the Fund currently equals around 606. The assets of the Fund totaled $597,159,648 as of June 30, 1990. Of that amount, approximately 11.5 percent consisted of cash equivalents and the remaining 88.5 percent consisted of real estate and real estate related investments.

2. As trustee of the Fund, the Bank is developing a tract of land of approximately 120 acres known as Ridgefield Business Center (the Business Center) as a commercial, office and light industrial real estate development in Asheville, North Carolina. The Business Center is partially completed and at present contains two single-story office/flex space facilities totaling 120,000 square feet. The Fund acquired the Parcel in December 1986 as part of a purchase of about 116 acres from parties unrelated to the Bank and the Fund. In connection with the Fund's development of the Business Center, the Fund constructed Ridgefield Boulevard. The Parcel was created when Ridgefield Boulevard was built and since that time has not been utilized by any person or entity. The Parcel is a small piece of land of approximately .09 acre which is a portion of the Business Center.

3. The Bank acquired by purchase and long-term lease in June 1990 a tract of land consisting of approximately 1.1 acres which is contiguous to the Business Center. The Bank desires to construct a branch bank facility on this site. However, in order for the bank site to be suitable for a branch bank location, driveway access is necessary to Ridgefield Boulevard, which is the entry road into the Business Center. The Bank desires to obtain the Parcel to achieve such driveway access.

4. The Fund obtained an appraisal on the Parcel from Richard J. Jacobs, MAI and J. Douglas Thrash of the real estate appraisal firm of Duckworth, Jacobs, Naeger, Swicegood and Thrash (the Appraisers) located in Asheville. The applicant represents that the Appraisers are independent of the Bank and its affiliates. The Appraisers estimated that the fair market value of the Parcel was $16,200 as of March 21, 1991. According to the Appraisers, this value takes into account the fact that the purchaser is enhancing his property with both additional area and an additional point

of ingress and egress, which can be of great value to a property. The seller is, in turn, being appropriately compensated for property located in a growing commercial area while providing adequate incentive for the sale of the property to the only available market.

5. The Fund proposes to sell the Parcel to the Bank in order to provide driveway access to Ridgefield Boulevard and the Business Center from the bank site. Under the terms of the proposed sale, the Fund will reserve easements across the Parcel for utilities and right of way expansion of Ridgefield Boulevard so as to provide the Business Center with the capacity to meet future development. The Bank will pay no less than fair market value for the Parcel at the time of sale, based on an updated independent appraisal. The sale will be entirely for cash, and the Bank will pay all fees and expenses, including the cost of the appraisal, in regard to the transaction.

6. In summary, the applicant represents that the proposed transaction will satisfy the statutory criteria of section 408(a) of the Act because: (1) The fair market value of the Parcel will be established by real estate appraisers who are independent of the Bank and its affiliates; (2) the Bank will pay no less than fair market value for the Parcel at the time of sale; (3) the transaction will be entirely for cash; and (4) the Fund will pay no fees or expenses in connection with the sale.

FOR FURTHER INFORMATION CONTACT: Paul Kelty of the Department, telephone (202) 523–8883. (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 of 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 9th day of May, 1991.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 91–11466 Filed 5–14–91; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 91–41]

NASA Advisory Council; 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 (NASA) announces a forthcoming meeting of the NASA Advisory Council (NAC).

DATES: June 6, 1991, 8:30 a.m. to 5 p.m.; and June 7, 1991, 8:30 a.m. to Noon.

ADDRESSES: National Aeronautics and Space Administration, George C. Marshall Space Flight Center, Building 4200, room P–110, Marshall Space Flight Center, AL 35812.

FOR FURTHER INFORMATION CONTACT: Dr. Sylvia D. Fries, Code ADA–2, National Aeronautics and Space Administration, Washington, DC 20546, 202/453–8766.

SUPPLEMENTARY INFORMATION: The NAC was established as an interdisciplinary group to advise senior management on the full range of NASA's programs, policies, and plans. The Council is chaired by Mr. Caleb B. Hurtt and is composed of 26 members. Standing committees containing additional members report to the Council and provide advice in the substantive areas of aeronautics, aerospace medicine, space science and applications, space systems and technology, space station, commercial programs, and history, as they relate to NASA's activities.

The meeting will be open to the public up to the seating capacity of the room, which is approximately 110 persons including Council members and other participants. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the participants. Visitors will be requested to sign a visitor's register.

Type of Meeting: Open.

Agenda:

June 6, 1991

8:30 a.m.—Opening Remarks.
9 a.m.—Background: Marshall Space Flight Center (MSFC) Technology Research.
9:45 a.m.—Tour of MSFC Research Facilities.
1 p.m.—Council Discussion: NASA Technology.
3 p.m.—Status of NASA Response to Recommendations of the Advisory Committee on the Future of the United States Space Program.
5 p.m.—Adjourn.

June 7, 1991

8:30 a.m.—Briefing: Report of the Exploration Outreach Synthesis Group.
10:30 a.m.—Council Summation and Recommendations.
Noon—Adjourn.

Dated: May 9, 1991.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 91–11538 Filed 5–14–91; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL COMMISSION ON ACQUIRED IMMUNE DEFICIENCY SYNDROME

National Commission on Acquired Immune Deficiency Syndrome; Meeting

AGENCY: National Commission on Acquired Immune Deficiency Syndrome.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Commission on Acquired Immune Deficiency Syndrome announces a forthcoming meeting of the Commission.

DATE AND TIME:

June 5, 1991—8:00 a.m. to 5:00 p.m.
June 6, 1991—8:00 a.m. to 5:00 p.m.
June 7, 1991—8:00 a.m. to 5:00 p.m.

PLACE: Stapleton Plaza Hotel and Fitness Center, 3333 Quebec Street, Denver, CO 80207.

TYPE OF MEETING: Open.

FOR FURTHER INFORMATION CONTACT: Maureen Byrnes, Executive Director, The National Commission on Acquired Immune Deficiency Syndrome, 1730 K Street, NW., suite 815, Washington, DC 20006 (202) 254–5125. Records shall be kept of all Commission proceedings and shall be available for public inspection at this address.

AGENDA: The June 5th meeting will focus on HIV disease in women, June 6th will be Commission business and June 7th will focus on issues surrounding the civil rights of People Living with AIDS.

Interpreting services are available for deaf people. Please call our TDD number (202) 254–3816 to request services no later than May 30, 1991.

Maureen Byrnes,

Executive Director.

[FR Doc. 91–11485 Filed 5–14–91; 8:45 am]

BILLING CODE 6820–CN–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget Review

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the Office of Management and Budget (OMB) review of information collection.

SUMMARY: The NRC has recently submitted to the OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

1. Type of submission, new, revision or extension: Revision.

2. The title of the information collection: 10 CFR part 50, "Domestic Licensing of Production and Utilization Facilities".

3. The form number if applicable: Not applicable.

4. How often the collection is required: As necessary in order for NRC to meet its responsibilities to conduct a detailed review of applications for licenses and amendments thereto to construct and operate nuclear power plants, preliminary or final design approvals, design certifications, research and test facilities, reprocessing plants and other utilization and production facilities, licensed pursuant to the Atomic Energy Act of 1954, as amended (the Act).

5. Who will required or asked to report: Licensees (111) and appliants (8) for nuclear power plants, and research and test reactors (48).

6. An estimate of the number of annual responses: 4.5 K.

7. An estimate of the average burden hours per response: 41 K (This is based primarily on 119 licensees because most of the requirements affect only nuclear power plants).

8. An estimate of the total number of hours needed annually to complete the requirements: 5.0 M.

9. An indication of whether section 3504(h), Public Law 96–511 applies: Not applicable.

10. Abstract: Section 10 CFR part 50 of the NRC's regulations, "Domestic licensing of Production and Utilization Facilities," specifies technical information and data to be provided by applicants and licensees so that the NRC may make determinations necessary to promote the health and safety of the public, in accordance with the Act.

Copies of the submittal may be inspected or obtained for a free from the NRC Public Document Room, 2120 L Street, NW., (lower level), Washington, DC 20555.

Comments and questions can be directed by mail to the OMB reviewer: Ronald Minsk, Office of Information and Regulatory Affairs (3150–0011), NEOB–3019, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda J. Shelton, (301) 492–8132.

Dated at Bethesda, Maryland, this 6th day of May, 1991.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Designated Senior Official for Information Resources Management.

[FR Doc. 91–11537 Filed 5–14–91; 8:45 am]

BILLING CODE 7590–01–M

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from April 22, 1991 through May 3, 1991. The last biweekly notice was published on May 1, 1991 (56 FR 20025). /

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination And Opportunity For Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not

normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, D.C. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By June 14, 1991, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C. 20555 and at the Local Public Document Room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to **(Project Director):** petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing

Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C., and at the local public document room for the particular facility involved.

Commonwealth Edison Company, Docket Nos. STN 50-454 and STN 50-455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois; Docket Nos. STN 50-456 and STN 50-457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of application for amendments: November 30, 1988 as supplemented on May 30, 1990 and on April 19, 1991.

Description of amendments request: The proposed amendment would revise Technical Specification (TS) 3.0.4, 4.0.3 and 4.0.4 and those TSs that are affected by these sections. The amendments are based on the recommendations provided by the staff in Generic Letter (GL) 87-09, issued May 4, 1987, to solve three problems that have been encountered with the general requirements on the applicability of Limiting Conditions for Operation and Surveillance Requirements in Sections 3.0 and 4.0 of the TSs. The April 19 supplement was provided to reformat the original amendment application to clarify the request and to provide additional information to more adequately justify each change.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed changes involve Technical Specifications 3.0.4, 4.0.3 and 4.0.4, plus those technical specifications that are affected by these sections. These changes are being made and requested in accordance with NRC Generic Letter 87-09, issued on May 4, 1987.

The first change involves Specification 3.0.4, its bases, and associated Technical Specifications that reference it. Inconsistent application of exceptions to Specification 3.0.4 impacts the operation of the facility in two ways. First, it delays startup under conditions in which conformance to the Action Requirements establishes an acceptable level of safety for unlimited continued operation of the facility. Second, it delays a return to power operation when the facility is required to be in a lower mode of operation as a consequence of other Action Requirements. In this case, the Limiting Condition for Operation must be met without reliance on the Action Requirements, before returning the facility to that operational mode or other specified condition for which unlimited continued operation was previously permitted, in accordance with the Action Requirements. As a consequence of the change to Specification 3.0.4, Specifications with Action Requirements that permit continued operations no longer need to reference "3.0.4 is not applicable".

The second and third changes involved Specifications 4.0.3 and 4.0.4. Some Action Requirements have allowable outage time limits that do not allow sufficient time for the completion of a missed surveillance, before the Action Requirements would necessitate a plant shutdown. If a plant shutdown is required before a missed surveillance is completed, it is likely that the surveillance would be conducted during the shutdown in an effort to terminate the shutdown requirement. This circumstance is undesirable for two reasons:

(a) Increased pressures on plant staff to complete the surveillance could lead to errors that may result in plant upset, and

(b) the plant would be in a transient state involving potential upsets to the plant that could require a demand for the system when the system is removed from service for testing.

The proposed changes will also help clarify the potential conflicts between Specifications 4.0.3 and 4.0.4. The first conflict could arise when a plant shutdown is required as a consequence of an Action Requirement. This will require surveillances to become due prior to entry into a lower mode. This could result in delays reaching lower modes as a result of a Technical Specification Action Requirement.

The second conflict could arise when Surveillance Requirements can only be completed after entry into a mode or specified condition for which the Surveillance Requirements apply, and an exception to the requirements of Specification 4.0.4 is allowed. However, upon entry into this mode or condition, the requirements of Specification 4.0.3 may not be met because the Surveillance Requirements may not have been performed within the allowed surveillance interval. Allowing for a delay in the applicability of Action Requirements for Specification 4.0.3 will provide an appropriate time limit for the completion of Surveillance Requirements that are allowed an exception to Specification 4.0.4. It has been noted that some surveillances that state "4.0.4 not applicable", do involve performance times in excess of the 24 hours allowed by this change and Generic Letter 87-09. These specific surveillances have been identified, and changes are proposed to bound the conditions required to perform the surveillance, as well as limits for completion of the surveillance. This should provide an acceptable means to establish required conditions, as well as set a reasonable completion requirement.

The fourth change involves a revision to the incore-excore surveillance frequency. Currently, the single point comparison of incore to excore axial flux difference and the incore excore calibrations are being performed every 31 and 92 days respectively. These checks and calibrations are core exposure related parameters. In the case of an extended period of low power operations or outages, re-performance of these surveillances would not be warranted. The proposed revision will change the frequency of these surveillances from a fixed frequency to an exposure related frequency. This change has been previously reviewed and approved for Vogtle Unit 1.

The proposed changes do not increase the probability or consequences of a accident previously evaluated. In regards to the first change, systems and equipment that have indefinite allowable outage times have been shown not to have a direct impact on accidents. In regards to the second and third change, surveillance requirements are defined in 10 CFR 50.36 as those requirements that assure the necessary quality of systems and components are maintained such that safety limits are maintained and limiting conditions for operation are met under these changes. The appropriate surveillances will still be performed. The proposed changes will only allow flexibility in performing these surveillance requirements prior to a plant shutdown being necessitated in the case of a surveillance being inadvertently missed.

The conditions and bounding limits proposed on several surveillances are necessary due to the fact that these surveillances cannot be completed within 24 hours of entry into the required mode. These surveillances in some cases require specific power levels and stability to perform. The limitations chosen do not differ from the present method in which these surveillances are performed. Limitations are specified to ensure surveillance completion.

In regards to the fourth change, the required surveillances will still be performed. The bases for these surveillances is to calibrate and check the calibration of the excore instruments using the incore instruments. These checks and calibration are required due to shifting flux profiles due to flux redistribution. Flux redistribution is primarily a function of core depletion and not time. The proposed change will tie the performance of these surveillances to a direct measurement of core depletion.

The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated. No new equipment is being introduced as a result of the changes. These changes do not result in equipment being operated in a manner different from present requirements. No change is being made which alters the function of any plant equipment.

The proposed changes do not involve a significant reduction in a margin of safety. In regards to the first change, conformance to Action Requirements that permit continued operation of the facility have been shown to provide an acceptable level of safety for indefinite operation. In regards to the second and third changes, allowing an appropriate time period for performance of a missed surveillance, a surveillance required by entry into an action statement or performance of one precluded by plant conditions, would in effect reduce the possibility for a potential plant upset. In regards to the fourth change,

the surveillance frequencies involved are changes due to the parameters being core depletion dependent. The best measure for this is in effective full power days. Hence, the proposed change will not reduce the margin of safety, based on its performance being tied to a depletion based frequency.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: For Byron, the Byron Public Library, 109 N. Franklin, P. O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690.

NRC Project Director: Richard J. Barrett

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: March 8, 1991

Description of amendment request: The proposed TS amendment increases the minimum volume of fuel oil for the emergency diesel generators from 28,000 gallons to 39,500 gallons for Modes 1 through 4.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed amendment would increase the minimum required volume of fuel oil in the diesel generator fuel oil storage tanks from 28,000 gallons to 39,500 gallons for Modes 1 through 4. This change does not involve a significant increase in the probability or consequences of any accident previously evaluated. The diesel generators serve to mitigate accidents involving or coincident with a loss of offsite power. Increasing the required fuel oil volume in the fuel oil storage tanks will not increase the probability or consequences of any accident and may reduce the consequences of an extended loss of offsite power event, since it will allow the diesels to operate for a longer period of time before fuel oil must be added to the tanks. The amount of fuel oil in storage is not considered to be an initiator or contribute to the initiation of any design basis accident; therefore, the probability of a design basis accident occurring is not affected.

The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated. Increasing the required fuel oil volume is conservative from the standpoint of mitigating a loss of offsite power event and does not create any new accident scenarios that have not been previously evaluated.

The proposed change does not involve a significant reduction in a margin of safety. The proposed change will enhance both the design margin and the overall safety margin by ensuring that the station can better respond to an extended loss of offsite power event.

Finally, the proposed amendment is a change that constitutes an additional limitation not presently included in the Technical Specifications, and as such, increases the overall plant margin of safety. The NRC has previously determined that an amendment constituting such an additional limitation is not likely to involve a Significant Hazards Consideration.

Based upon the preceding analysis, Duke Power Company concludes that the proposed amendment does not involve a Significant Hazards Consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

NRC Project Director: David B. Matthews

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: April 11, 1991

Description of amendment request: The amendments revise the carbon adsorber test method and methyl iodide penetration criteria along with other administrative changes to the Annulus Ventilation and Control Area Ventilation Systems.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

This proposed TS amendment will not increase the probability or consequences of an accident which has been previously evaluated. No physical changes will be made to the plant, therefore, there is no increased probability of an accident. As discussed in the Technical Justification, the decontamination efficiencies of the filters remain unchanged. Because of this, the offsite dose and Control Room dose calculation results are unaffected. The dose calculations remain conservative due to the conservative assumptions in the source term dose conversion factors and release times. In addition to requiring the carbon adsorber to meet Design Basis decontamination efficiencies at 95% relative humidity, additional margin, for which no credit is taken, will be provided by the heaters. For the reasons stated above, there will be no increase in the consequences of an accident previously evaluated.

This proposed amendment to the TS does not create the possibility of a new or different kind of accident from any accident previously evaluated. This proposed TS change will not cause any physical changes to the plant or changes to operating procedures. Because the plant will continue to operate the same way it does now, this proposed amendment does not create the possibility of any new or different accident from any previously evaluated.

This proposed TS change will not cause a significant reduction in the margin of safety. The new test method is more restrictive than the previous test methods, and based on limited testing, Duke Power expects to have to change out carbon more frequently. The change in the allowed methyl iodide penetration was made to support the change in test method, does not represent a significant decrease in the margin of safety. It represents the requirement of the test standard to pre-saturate the carbon adsorber. This pre-saturation causes a higher penetration during testing, and is conservative with respect to Design Basis Events. The test method D3803-89 is expected to provide a penetration value during testing which is higher than what would be expected during a Design Basis Event. These conservative results reflect the fact that the new test conditions are more harsh than expected plant conditions. An added conservatism is that even though no credit is taken for the heaters, they will be tested and maintained, so the expected relative humidity of air entering the carbon adsorber would never be expected to reach 95%.

The addition of "at a nominal voltage of 600 VAC" to the heater SR is administrative, and clarifies that the purpose of the requirement is to detect heater degradation. This change involves no significant hazards consideration.

Footnotes and statements related to the footnotes which expire on July 16, 1991, have been removed. This change is administrative, and involves no significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

NRC Project Director: David B. Matthews

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: April 16, 1991

Description of amendment request: The amendments are a one-time only change to enable replacement of the existing 125 volt DC battery cells with new cells.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The 125 Volt DC Vital Instrumentation and Control Power System is not an accident initiator; however, it serves as an accident mitigation system. The replacement batteries are being purchased to meet QA Condition 1 requirements with 10CFR 21 dedication provided by the manufacturer. The new batteries and racks will be seismically mounted. There is no change in cabling required for the new batteries. A fire protection review was performed and no concerns identified. There is no change in the physical and electrical separation provisions for the batteries. The performance of plant safety functions will not be degraded by the new batteries.

Implementation of each battery bank replacement will require three weeks. During the replacement period, a safety-grade battery bank will be connected in place as a temporary replacement. The temporary battery will be installed in the Service Building, because no space is available to locate it in the Battery Room in the Auxiliary Building. The Service Building is not a Seismic Category I structure; nevertheless, Duke Power Company feels that the temporary battery would likely continue to function following a seismic event. The 125 Volt DC Vital Instrumentation and Control Power System will be restored to the fully qualified configuration following each three-week battery replacement period.

During each battery replacement period, the other three batteries and associated distribution equipment will remain in their normal configuration. The performance of their safety functions will not be degraded.

The ability to cross-tie the electrical buses for the batteries by manual action remains available as backup in the event that the temporary battery is rendered unavailable during the replacement periods. Each battery is sized to carry the continuous emergency loads and anticipated momentary loads of its own vital buses, and assume the loads of another battery in a backup capacity for one hour. Technical Specification Limiting Condition for Operation 3.8.2.1 discusses the limitations for this configuration during normal operation.

The ambient temperature surrounding the temporary battery will be periodically monitored to ensure it remains within battery specifications. Available ventilation is sufficient to prevent accumulation of excess hydrogen.

For the above reasons, neither the new replacement batteries nor the temporary battery installation involves a significant increase in the probability or consequences of an accident previously evaluated.

The amendment would not create the possibility of a new or different kind of accident from any kind of accident previously evaluated.

There are no new or common failure modes created by the new batteries. The new batteries perform the same function as the existing batteries. The existing batteries are approaching the end of their useful life; therefore, the new batteries are expected to be more reliable than the existing ones.

The temporary backup battery will be a new battery for the first replacement operation, and for each subsequent replacement, it will be a replaced battery. In either case, the temporary battery and rack will be the same qualified equipment as normally used. There are no new failure modes created for the batteries and associated distribution equipment not involved in the particular changeout operation. With the temporary battery connected, there are no new failure modes for the distribution equipment associated with the battery being replaced. The new failure mode for the temporary battery installation as a result of it not being fully seismically qualified is considered insignificant, due to the short duration for which the temporary configuration will be used. Duke Power Company has evaluated the temporary battery configuration from a probabilistic risk standpoint and has found that the temporary battery has no significant impact on the overall core melt frequency at McGuire.

For these reasons, the possibility of a new or different kind of accident from any kind of accident previously evaluated is not created.

The amendment would not involve a significant reduction in a margin of safety.

The vital batteries are required to power the emergency diesel generator load sequencers during certain accident conditions. Ultimately, safety-related equipment required to maintain the integrity of fission product barriers can depend upon proper performance of the sequencers, and therefore, the batteries. For the replacement batteries, no fission product barriers are affected by the battery changeout. Also, the temporary battery installation does not affect any fission product barriers. All required procedures and training governing operation with the temporary battery in place will be developed and implemented prior to conducting battery replacement. During the periods of battery replacement, if the temporary battery should become unavailable, then the affected 125 volt channel will be declared inoperable and the normal limiting conditions for operation will apply.

For these reasons, the amendment does not involve a significant reduction in any safety margin.

Based on the above and the supporting technical justification, Duke Power Company has concluded that there is no significant hazard consideration in this amendment request.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

NRC Project Director: David B. Matthews

Entergy Operations, Inc., Docket No. 50-313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: April 18, 1991

Description of amendment request: The proposed change revises the list of radioactive material sources in Surveillance Section 4.14 subject to the 18 month periodic leak test by deleting the four area radiation monitor sources located inside the reactor building from paragraph 4 of the Specification.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1 - Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The change provides Surveillance Requirements consistent with the Limiting Condition for Operation Specification for leak testing of the sealed sources based on activity level, thus allowing reduced testing and reduction in radiation exposure to personnel. The reduction in activity level of the reactor building area monitors is due to the replacement of the installed test sources. As such, this change is effectively administrative in nature and therefore does not involve an increase in the probability or

consequences of an accident previously evaluated.

Criterion 2 - Does Not Create the Possibility of a New or Different Kind of Accident from any Previous Evaluated.

This change is administrative in nature in that the Surveillance Requirements are being changed for consistency with the requirements for the Limiting Condition for Operation and, therefore, does not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3 - Does not Involve a Significant Reduction in the Margin of Safety.

As this proposed change is administrative in nature to provide for consistency in the Surveillance requirements with the Limiting Condition for Operation, the margin of safety will not be reduced from this change to the Technical Specifications.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: Theodore R. Quay

Entergy Operations, Inc., Docket Nos. 50-313 and 50-368, Arkansas Nuclear One, Unit Nos. 1 and 2 (ANO-1&2), Pope County, Arkansas

Date of amendment request: April 18, 1991

Description of amendment request: The proposed amendments would revise the Technical Specifications (TS) to replace the title "Director, Operations" in each unit's Section 6.0, "Administrative Controls" with the title "General Manager, Plant Operations". The proposed amendments would also revise TS Sections 6.8.2 and 6.8.3 to replace "General Manager" with "Major Department Head".

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes do not involve an increase in the probability or consequences of an accident previously evaluated because the change is administrative in nature. The technical qualifications of the organization remains the same.

These changes do not alter the configuration or operation of the facility. All Limiting Conditions of Operations, Limiting Safety Systems Settings and Safety Limits specified in the current Technical Specifications remain unchanged.

(2) Create the possibility of a new or different kind of accident from any previously evaluated.

The safety analysis of the facility remains complete and accurate. There are no physical changes to the facility associated with these title changes and as such the plant conditions for which the design basis accidents have been performed are still valid. The plant operating and emergency procedures are unaffected with the possible exception of administrative changes to reflect the title changes. Therefore, the possibility of a new or different kind of accident from any previously evaluated is not created.

(3) Involve a significant reduction in the margin of safety.

The margins of safety are established through the Limiting Conditions of Operations, Limiting Safety System Settings, and Safety Limits specified in the Technical Specifications. Since there are no changes to the physical design or operation of the facility, these margins will not be changed.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: Theordore R. Quay

Entergy Operations, Inc., et al., Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: May 19, 1987 as revised August 22, 1990

Description of amendment request: The amendment would replace Operating License Condition (OLC) 2.C.(23) "Fire Protection Program" with proposed OLC 2.C.(41) and relocate Technical Specifications (TS) 3/4.3.7.9 "Fire Detection Instrumentation", 3/4.7.6 "Fire Suppression Systems", 3/4.7.7 "Fire Rated Assemblies", and 6.2.2.e "Site Fire Brigade" from the TS to the Updated Final Safety Analysis Report (UFSAR) in accordance with NRC Generic Letter 88-12. Proposed OLC 2.C.(41) would reference the NRC approved fire protection program in the UFSAR and allow changes to this program provided the changes would not adversely affect fire protection effectiveness. A new requirement would be added to TS 6.0 "Administrative Controls" requiring the Plant Safety Review Committee (PSRC) to review changes to the approved fire protection program.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. No significant increase in the probability or consequences of an accident previously evaluated results from this change.

a. The proposed relocation of the TS requirements to the UFSAR is considered to be administrative in nature because no changes to existing requirements will be made. The Fire Protection Program as approved by the Commission will continue to be enforced through commitments contained in the UFSAR.

b. The proposed addition of a new requirement to the Administrative Controls section of the GGNS TS will require that the PSRC review changes to the approved Fire Protection Program allowed by OLC 2.C.(41). This review will be in lieu of formal NRC Staff review of those changes to the Fire Protection Program.

c. The proposed OLC 2.C.(41) will assure that the Commission approved Fire Protection Program is maintained and that proposed changes are evaluated in accordance with the Code of Federal Regulations 10 CFR 50.59.

d. Therefore, the probability and consequences of previously analyzed accidents are not increased.

2. This change would not create the possibility of a new or different kind of accident from any previously analyzed.

a. The proposed changes to the TS and OL do not affect the operation or function of any safety related equipment. The Fire Protection Program will continue to be maintained. No new modes of operation are being introduced. The Fire Protection Program will still have adequate control under the proposed operating license condition.

b. Therefore this change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. This change would not involve a significant reduction in the margin of safety.

a. The Fire Protection Program as described in the UFSAR will not be reduced as a result of the relocation of TS requirements or the proposed OL condition. For any future changes to the program, the requirements of the operating license condition and 10 CFR 50.59 will assure that the margin of safety is maintained.

b. Therefore, this change will not involve a significant reduction in the margin of safety.

Entergy Operations - GGNS has concluded that the proposed amendment meets the three standards in 10 CFR 50.92 and therefore, involves no significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three

standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: Judge George W. Armstrong Library, Post Office Box 1406, S. Commerce at Washington, Natchez, Mississippi 39120

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., 12th Floor, Washington, DC 20005-3502

NRC Project Director: Theodore R. Quay

Entergy Operations, Inc., et al., Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: April 10, 1991

Description of amendment request: The amendment would alter Technical Specification 4.7.4 Surveillance Requirements to incorporate snubber population size as a factor in determining the time interval between visual inspections of snubbers. In addition, references to snubbers connected to a common hydraulic fluid reservoir would be deleted.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. No significant increase in the probability or the consequences of an accident previously evaluated results from this proposed change because:

The changes incorporate the guidance and recommendations of Generic Letter 90-09 into the GGNS snubber inspection program. Entergy Operations concurs with the NRC Staff evaluation in the Generic Letter that changes consistent with the Generic Letter recommendations maintain the same confidence level in the operability of snubbers. Therefore, since this confidence level is unchanged, there is no significant increase in the probability or the consequences of an accident previously evaluated.

Deleting reference to a snubber feature (common hydraulic reservoirs) which is not present on any GGNS snubber, is an administrative change which will result in no significant increase in the probability or consequences of an accident previously evaluated.

2. This proposed change will not create the possibility of a new or different kind of accident than any previously evaluated because:

No physical changes or new modes of operation in any plant equipment are to be made by this proposed change; only the snubber inspection program will be changed and reference to a snubber feature not used at GGNS (common hydraulic reservoirs) is deleted. Therefore, the possibility of a new or different kind of accident than any previously evaluated is not created.

3. This proposed change does not involve a significant reduction in the margin of safety because:

The level of confidence in the operability (i.e., reliability) of GGNS snubbers is not affected by this proposed change, as evaluated by the NRC Staff in Generic Letter 90-09. No other impact on the margin of safety is possible due to the nature of this change. Therefore, there is no significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: Judge George W. Armstrong Library, Post Office Box 1406, S. Commerce at Washington, Natchez, Mississippi 39120

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., 12th Floor, Washington, DC 20005-3502

NRC Project Director: Theodore R. Quay

Florida Power and Light Company, Docket No. 50-335, St. Lucie Plant, Unit No. 1, St. Lucie County, Florida

Date of amendment request: April 17, 1991

Description of amendment request: This request would delete the St. Lucie Unit 1 Technical Specification 3/4.2.2, "Total Planar Radial Peaking Factor - F^T_{xy}" and all of its references. Advanced Nuclear Fuels Corporation (ANF) has performed the setpoint analysis for St. Lucie Unit 1 reloads ANF-1 through 4 using Axial Power Distributions (APDs) generated by using a one-dimensional (1-D) core model which required the presence of an F^T_{xy} limit. For the ANF-5 reload (current cycle) and future reloads, the ADPs were and will be generated using a three-dimensional (3-D) core model. The use of the APDs from the 3-D core model obviates the need for the F^T_{xy} parameter because a synthesis of the 1-D axial power distribution is no longer performed. The Nuclear Regulatory Commission (NRC) has determined that the use of the 3-D core model does not constitute a methodology change. Thus, the deletion of the F^T_{xy} Technical Specification limit is possible because ANF's 3-D power distribution methodology does not require it.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The [local power density (LPD) limiting safety systems settings (LSSS)] and LPD [limiting condition for operation] setpoints ensure that the core thermal limits are not exceeded. The setpoint analysis utilizes the total core peaking factor, F_Q, and radial peaking factor, F_r, to established the operational limitations. The planar power peaking factor, F_{xy}, limitation was utilized in the synthesis of the total core peaking factor F_Q. Improved physics methodology for core modeling to generate three-dimensional axial power distributions (APDs) obviates the need for the F_{xy} factor since it permits the direct calculations of F_Q using the peak assembly Axial Power Distribution (APD).

The dependence of the LPD setpoint methodology on the Technical Specification F_{xy} limit is replaced with an equivalent dependence on the F_r Technical Specification limit.

Therefore, adherence to the FTechnical Specification effectively limits core F_Q, and assures that the LPD setpoint methodology results will bound reactor operation.

With the exception of the replacement of F_r for F^T_{xy} there has been no change to the input or acceptance criteria used in the safety analysis. No [Final Safety Analysis Report (FSAR)] safety limits have been exceeded based on the proposed Technical Specification change. The FSAR conclusion that the design basis acceptance criteria are met for the Condition II events remain valid. Therefore, it can be concluded that the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not affect any active hardware involving plant operation nor does it alter the mode of operation of the plant. The limitation of the Planar Radial Peaking Factor - F^T_{xy}, is replaced with the equivalent limitation of the Total Integrated Radial Peaking Factor - F_r, as a result of the improved core modeling in the setpoint methodology. The proposed change creates no new accident initiators. Therefore, it can be concluded that the proposed changes will not create the possibility of a new or different kind of accident from any previously evaluated.

(3) Operation of the facility in accordance with the proposed amendment would not involve significant reduction in a margin of safety.

The deletion of the F^T_{xy} limit has been reviewed for the impact upon the current licensed safety analyses. Assumptions in the

accident consequences remain valid. The changes caused by the proposed Technical Specification change are bounded by the assumptions in the accident analyses. Therefore, it can be concluded that the proposed changes do not involve a significant reduction in a margin of safety.

Based on the above, it has been determined that the proposed amendment does not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34954-9003

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzinger, 1615 L Street, N.W., Washington, D.C. 20036

NRC Project Director: Herbert N. Berkow

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of amendment request: April 3, 1991

Description of amendment request: The proposed amendments would provide additional operational margin associated with the DNB parameters by changing the indicated values of the operating parameters as follows: (1) Reactor Coolant System (RCS) flow from greater than or equal to 277,900 gpm to greater than or equal to 275,000 gpm, (2) RCS average temperature from less than or equal to 576.6° F to less than or equal to 577.5° F, and (3) pressurizer pressure from greater than or equal to 2209 psig to greater than or equal to 2205 psig.

The proposed amendments would also revise the Bases Section 3/4.2.5, Power Distribution Limits, DNB Parameters, to reflect the changes listed above.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

RCS Flow

1. Operation of the facility in accordance with the proposed amendment[s] would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The current indication limit for RCS flow measurement uncertainty is based on the NRC mandated value of 3.5% based on Turkey Point Units 3 and 4 not providing a justification for a smaller value. This is the standard approach used by the [s]taff for such circumstances and has been determined to be acceptable by the [s]taff. With the removal of the RTD bypass manifolds, Westinghouse has performed an uncertainty calculation to determine the RCS flow measurement uncertainty based on revised plant procedures, techniques and the modified plant configuration. This calculation is specific to Turkey Point Units 3 and 4 and reflects the instrumentation and techniques utilized at these plants. The RCS flow measurement uncertainty calculated is 2.6% flow (without venturi fouling). Use of this calculated measurement uncertainty maintains the assumption of the safety analyses with regards to RCS flow, i.e., verification that RCS flow is greater than or equal to the thermal design flow. Since the RCS flow analysis assumption is not changed, the conclusions of the various affected safety analyses remain valid. Therefore, revision of the indication limit to reflect the modified procedures, techniques and plant configuration does not increase the probability or consequences of the affected accidents previously analyzed.

In summary, the revised indication limit continues to preserve the initial conditions of the plant safety analyses. Therefore, the results and conclusions of the analyses are consistent with those performed previously. Therefore, the proposed change does not affect the probability or consequences of accidents previously analyzed.

2. Operation of the facility in accordance with the proposed amendment[s] would not create the possibility of a new or different kind of accident previously evaluated.

The revised RCS flow value (275,000 gpm) reflects the removal of the RTD bypass manifolds.....and measurement of [h]ot [l]eg and [c]old [l]eg temperatures in a precise manner. Since the value noted preserves the verification of the measured RCS flow greater than or equal to thermal design flow, no new or different kind of accidents from that previously evaluated are created.

In summary, the revision reflects changes in plant design....and previously approved calculational methods. No new or different accidents from those previously evaluated have been created as a result of these revisions.

3. Use of the modified specification would not involve a significant reduction in the margin of safety.

The indication limit for measured RCS flow (275,000 gpm) maintains the initial condition for flow assumed in the safety analyses, i.e., RCS flow in the plant is verified to be greater than or equal to thermal design flow (268,500 gpm). The measurement uncertainty is calculated consistent with other plants using Westinghouse Setpoint Methodology. Therefore, the margin [of] safety is not reduced for this parameter.

In summary, the proposed revision to the Turkey Point Units 3 and 4 Technical Specifications explicitly reflects plant modifications...(e.g., RTD Bypass Elimination...license amendment) and previously approved Westinghouse uncertainty calculational methodology. The revision maintains the margin of safety previously defined in the current Technical Specifications by use of the same calculational approach and by maintaining the safety analyses assumptions and conclusions. The revised value provides increased operational margin through improved accuracy in instrumentation and measurement techniques without reduction in the previously defined margin [of] safety.

Tavg

1. Operation of the facility in accordance with the proposed amendment[s] would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The current indication limit for Tavg (576.6° F) is based on the accuracy of the Rod Control System utilizing analog process equipment throughout the control channel instrumentation. With the removal of the RTD bypass manifolds, digital process equipment has been installed for temperature[-]related protection functions. This digital equipment converts the RTD output to a digital signal which is processed for protection functions. The digital signal is then converted back to an analog signal for processing by the analog control system. The utilization of both analog and digital process equipment, along with increasing the number of [h]ot [l]eg RTDs utilized, results in a change in the uncertainty (+/- 1.0° F) of the Tavg Rod Control System. The increase in the control system uncertainty has been previously factored into the safety analyses as a revised initial condition. The Median Signal Selector has been utilized for the determination of the appropriate loop indicated Tavg for control system use. The Median Signal Selector satisfies the requirements of IEEE 279 with regards to control/protection system interaction. Thus, the conclusions of the various affected safety analyses are maintained. Therefore, revision of the indication limit to reflect the modified plant configuration and process instrumentation does not increase the probability or consequences of the affected accidents previously analyzed.

In summary, the revised indication limit (577.5° F) continues to preserve the initial conditions of the plant safety analyses. Thus, the results and conclusions of the analyses are consistent with those performed previously. Therefore, the proposed change does not affect the probability or consequences of accidents previously analyzed.

2. Operation of the facility in accordance with the proposed amendment[s] would not create the possibility of a new or different kind of accident previously evaluated.

The proposed revision maintains the assumptions made in the safety analyses performed to reflect the installation of the upgraded equipment and thus does not create the possibility of a new or different kind of accident.

The revised indicated Tavg value (577.5° F) reflects the inclusion of a digital[-]to[-]analog process instrumentation interface. The additional instrument uncertainties present as a result of this interface have been determined and incorporated into the safety analyses assumptions. The conclusions of these analyses remain unchanged. Control/protection interaction has been addressed by the utilization of the Median Signal Selector for selection of the appropriate Tavg channel for control. Use of the Median Signal Selector assures selection of the appropriate Tavg channel even after a single Tavg channel failure and precludes the need for action by the protection system. This satisfies the requirements of IEEE 279. Based on this design feature and the continued validation of the safety analyses conclusions, no new or different kind of accidents from those previously evaluated are created.

In summary, the revision reflects changes in plant design currently under NRC review and previously approved calculational methodology. No new or different kind of accidents from those previously evaluated have been created as a result of these revisions.

3. Use of the modified specification would not involve a significant reduction in the margin of safety.

The indication limit for Tavg is based on the accuracy of the Rod Control System and the indication uncertainty in the control room. This limit maintains the initial condition for Tavg assumed in the safety analyses (579.2° F). The revised Rod Control System accuracy and the revised indication uncertainty have been evaluated and the conclusions of the affected safety analyses remain unchanged. Therefore, the margin [of] safety is not reduced for this parameter.

In summary, the proposed revision to the Turkey Point Units 3 and 4 Technical Specifications explicitly reflects plant modifications..... (i.e., RTD Bypass Elimination.....license amendment), and previously approved uncertainty calculational methodology. The revision maintains the margin to safety previously defined in the current Technical Specifications by use of the same calculational approach and by maintaining the safety [a]nalyses assumptions and conclusions. The revised value provides increased operational margin through improved accuracy in instrumentation and measurement techniques without reduction in the previously defined margin [of] safety.

Pressurizer Pressure

1. Operation of the facility in accordance with the proposed amendment[s] would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The current indication limit for pressurizer pressure (2209 psig) is based on the accuracy of the Pressurizer Pressure Control System and use of protection channel transmitters for indication in the control room. The input signal is currently generated by a Rosemount 1153GD9 transmitter with an instrument span of 800 psig. Turkey Point Units 3 and 4 are upgrading the protection channel transmitters to Rosemount 1154SH transmitters with an instrument span of 1000 psig. The control channel transmitters will remain as Rosemount 1153GD9 transmitters with a respanning of the instrument channel to 1000 psig. Both of these modifications result in a change to the indication limit. Uncertainty calculations have been performed for the modifications; the increased instrument span for the control channel results in an increased control system uncertainty. This increased uncertainty has been previously factored into the safety analyses as a revised initial condition. The conclusions of the various affected safety analyses are maintained. Utilization of the revised indication uncertainty, reflecting the use of the Rosemount 1154SH transmitters, preserves this initial condition assumption. The Rosemount 1154SH transmitters are similar in design to the 1153GD9, thus no significant increase in the probability of an accident previcusly evaluated has been determined. Since the conclusions of the safety analyses are maintained, no increase in the consequences of an accident previously evaluated has been determined.

In summary, the revised indication limit (2205 psig) continues to preserve the initial conditions of the plant safety analyses. Therefore, the results and conclusions of the analyses are consistent with those performed previously. Thus, the proposed change does not affect the probability or consequences of accidents previously analyzed.

2. Operation of the facility in accordance with the proposed amendment[s] would not create the possibility of a new or different kind of accident previously evaluated.

The proposed revision maintains the assumptions made in the safety and transient analyses performed to reflect the installation of the upgraded equipment and thus does not create the possibility of a new or different kind of accident. The revised indicated pressurizer [p]ressure value (2205 psig) reflects the transmitter replacement and respanning of the protection channels, used for control room indication, and the respanning of the control channel. The additional instrument uncertainties presented as a result of the channel respanning have been determined and previously incorporated into the initial condition assumptions of the safety analyses. The conclusions for these analyses remain unchanged. Control/protection interaction has been addressed by separation of the control and protection channels, i.e., no shared components, which addresses the requirements of IEEE 279. The design of the protection system replacement transmitters is similar to the present transmitters, thus no new or different kind of accidents from that previously evaluated are created.

In summary, the revision reflects changes in plant design currently under NRC review and previously approved calculational methods. No new or different accidents from those previously evaluated have been created as a result of these revisions.

3. Use of the modified specification would not involve a significant reduction in the margin of safety.

The proposed changes maintain a margin of safety consistent with that used to determine the original indicated values for the parameters noted, i.e., the same calculational methodology was used for both limits.

The indication limit for pressurizer pressure (2205 psig) is based on the accuracy of the Pressurizer Pressure Control System and the indication uncertainty in the control room. This limit maintains the initial condition for pressure assumed in the safety analyses (2185 psig). The revised control system accuracy and the revised indication uncertainty have been previously evaluated and the conclusions of the affected safety analyses remain unchanged. Therefore, the margin to safety is not reduced for this parameter.

In summary, the proposed revision to the Turkey Point Units 3 and 4 Technical Specifications explicitly reflects previously approved uncertainty calculational methodology. The revision maintains the margin of safety previously defined in the current Technical Specifications by using the same calculational approach and maintaining the safety analyses assumptions and conclusions. The revised value provides increased operational margin through improved accuracy in instrumentation and measurement techniques without reduction in the previously defined margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzer, P.C., 1615 L Street, N.W., Washington, D.C. 20036

NRC Project Director: Herbert N. Berkow

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: April 22, 1991

Description of amendment request: The proposed amendments would change Technical Specification (TS) Table 4.8-1, "Diesel Generator Test Schedule," by deleting criteria for changing frequency of diesel generato (DG) tests based upon the number of failures in the last 100 valid tests. The amendments would not change corresponding criteria based upon the number of failures in the last 20 valid tests.

Basis for proposed no significant hazards consideration determination: TS Table 4.8-1 provides criteria for determining whether a DG should be

tested at the normal frequency of every 31 days or at an accelerated frequency of every 7 days. The criteria for accelerated testing are either two or more failures in the last 20 tests or five or more failures in the last 100 tests. The table contains a footnote stating "The associated test frequency shall be maintained until seven consecutive failure free demands have been performed and the number of failures in the last 20 valid demands has been reduced to one." The footnote is invoked by the condition of two or more failures in the last 20 valid DG tests. By eliminating the five of 100 criterion from the table, the proposed change would leave this footnote as the only criterion for returning to the normal test frequency.

The existing TS Table 4.8-1 can result in excessive testing beyond that needed to demonstrate continued DG reliability. If the frequency of testing has increased to once per seven days as a result of exceeding the five of 100 criterion, there is no provision for returning to the normal test schedule until the number of failures is less than five out of the last 100 tests. On July 2, 1984, the NRC staff issued Generic Letter (GL) 84-15, "Proposed Staff Actions to Improve and Maintain Diesel Generator Reliability," to address reliability goals for DGs and to provide typical TSs for testing DGs. The GL noted that excessive testing can result in degradation of diesel engines. The typical TS provided by the GL omitted the five of 100 criterion. The proposed change to Vogtle TS Table 4.8-1 is, therefore, consistent with GL 84-15.

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

This change will not increase the probability or consequences of an accident previously evaluated because it only affects the criteria for entering and leaving the accelerated testing schedule. The operability requirements and limiting conditions for operation remain unchanged. The return to a normal testing frequency following a series of diesel failures that exceeded 2 out of the last 20 tests would be made only after 7 successful tests without a failure and at least 20 tests without more than 1 failure. Continued testing on a weekly rather than a monthly schedule will not significantly improve the ability to determine whether the most recent failure indicated a sudden change in diesel reliability. Therefore, such additional testing is considered unnecessary.

This change will not create the possibility of a new or different kind of accident from those previously evaluated in the FSAR because it does not involve any change in plant design or in the manner of any other plant operation. The criteria for initiating and suspending accelerated diesel testing are being slightly changed. This change does not result in a significant difference in the monitoring of diesel generator reliability.

The diesel generators will continue to provide a redundant source of acceptably reliable onsite power. The revised criteria for initiating and suspending accelerated diesel testing have an insignificant effect on diesel generator reliability and are acceptable according to GL 84-15. Therefore, the revision to the test frequency requirements does not involve a significant reduction in the margin of safety because it does not result in a reduction in diesel generator reliability or redundancy.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830.

Attorney for licensee: Mr. Arthur H. Domby, Troutman, Sanders, Lockerman and Ashmore, Candler Building, Suite 1400, 127 Peachtree Street, NE., Atlanta, Georgia 30043.

NRC Project Director: David B. Matthews

Indiana Michigan Power Company, Docket No. 50-316, Donald C. Cook Nuclear Plant, Unit No. 2, Berrien County, Michigan

Date of amendments request: February 15, 1991.

Description of amendments request: The proposed amendment would change the minimum boration volume required by Technical Specification (TS) 3.1.2.8 from 7715 gallon to 5650 gallons and would reduce the maximum expected boration capability usable volume requirement for the RWST from 160,122 gallons to 69,215 gallons in the bases on TS page B 3/4 1-3; however, no change to the limiting condition for operation for the RWST is being requested here.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

(1) Does the change involve a significant increase in the probability or consequences of an accident previously evaluated? The minimum boration volume required to cooldown from Mode 1 to Mode 4 was recalculated using revised final boron concentration assumptions. These calculations were performed using boron concentration data which resulted from more detailed core models and which were more accurate than those employed in the original calculation of the boric acid storage tank (BAST) minimum volume requirement for Unit 2 Cycle 8 operation. The results of this calculation justified a minimum boration volume of 4905 gallons. Therefore, the above changes represent the application of a refinement to a previously used calculation model or design method, and do not result in a significant increase in the probability or consequences of an accident previously analyzed.

(2) Does the change create the possibility of a new or different kind of accident from any accident previously evaluated? It is expected that the boron concentration ranges assumed for the determination of the minimum boration volume requirements for Modes 1 through 4 can bound future cycles of operation of the D. C. Cook Nuclear Plant Unit 2. Other than the reduction in the minimum BAST boration volume alarm setpoint, no physical modifications to the plant are involved with this TS change request. Therefore, the changes do not create the possibility of a new or different kind of accident from any previously analyzed or evaluated.

(3) Does the change involve a significant reduction in the margin of safety? The computer code used in this analysis performs calculations to determine whether or not boron requirements dictated by fuel reload design are within existing limits specified in the Technical Specifications and the FSAR. This calculation was performed using boron concentration data that is more accurate than that employed in the previous Unit 2 Cycle 8 calculation and, therefore, does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: L. B. Marsh.

Indiana Michigan Power Company, Dockets Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Units Nos. 1 and 2, Berrien County, Michigan

Date of amendments request: February 25, 1991

Description of amendments request: The proposed amendment would modify Technical Specification (TS) 4.0.3 such that the action requirements of the TS may be delayed for up to 24 hours to permit the completion of a missed surveillance when the allowable outage time limits of the action requirements are less than 24 hours. Guidance on this proposed change to the Technical Specifications was provided to all reactor licensees and applicants by Generic Letter 87-09, dated June 4, 1987.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

It is overly conservative to assume that systems or components are inoperable when a surveillance requirement has not been performed. A 24-hour time limit balances the risks associated with an allowance for completing the surveillance within this period against the risks associated with the potential for a plant upset and challenge to safety systems when the alternative is a shutdown to comply with action requirements before the surveillance can be completed. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously analyzed.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change involves no physical modifications to the plant, introduces no new operating configurations, nor results in changes to the design basis. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously analyzed or evaluated.

3. Does the change involve a significant reduction in the margin of safety?

The 24-hour time limit balances the risks associated with an allowance for completing the surveillance within this period against the risks associated with the potential for plant upset and challenge to safety systems when the alternative is a shutdown to comply with action requirements before the surveillance can be completed. Therefore, the change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: L. B. Marsh.

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendments request: February 27, 1991

Description of amendments request: The proposed amendment would change the Donald C. Cook Nuclear Plant Technical Specifications (TS) Section 3.6.3.1, "Containment Isolation Valves," to provide an exemption to the requirements of TS Section 3.0.4 to allow mode change with inoperable containment isolation valves provided the action requirements of the TS are met.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Involve a significant increase in the probability or consequences of an accident previously analyzed,

(2) Create the possibility of a new or different kind of accident from any accident previously analyzed or evaluated, or

(3) Involve a significant reduction in a margin of safety.

Criterion 1

Adequate isolation of affected containment penetrations is ensured by following the requirements of the action statement in TS 3.6.3.1. This requires the penetration be isolated by at least one deactivated automatic valve secured in the isolation position or by use of at least one closed manual valve or blind flange. Continued power operation is permitted in Mode 1 with an inoperable containment isolation valve provided the requirements of the action statement are followed. The TS requirements are inconsistent, however, in that mode change is prohibited even though continuous power operation is permitted. Since the TS action requirements specify an adequate level of protection, we believe the change does not involve a significant increase in the probability or consequences of an accident previously analyzed.

Criterion 2

The change involves no physical modifications to Cook Nuclear Plant, nor any changes in the design basis. The change should not, therefore, create the possibility of a new or different kind of accident from any previously analyzed or evaluated.

Criterion 3

Adequate isolation of affected containment penetrations is ensured by following the requirements of the TS 3.6.3.1 action statement. This requires the penetration to be isolated by at least one deactivated automatic valve secured in the isolation position or by use of at least one closed manual valve or blind flange. Continued power operation is permitted in Mode 1 with an inoperable containment isolation valve, provided the requirements of the action statement are followed. The TS requirements are inconsistent, however, in that mode change is prohibited even though continuous power operation is permitted. Since the TS action requirements specify an adequate level of protection, we believe the change will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: L. B. Marsh.

Northeast Nuclear Energy Company, Docket No. 50-245, Millstone Nuclear Power Station, Unit 1, New London County, Connecticut

Date of amendment request: February 28, 1991

Description of amendment request: The proposed amendment would change Millstone Unit 1 Technical Specification

3/4.14, "Plant Systems," to add limiting conditions for operation and surveillance requirements for the Reactor High Water Level Feedwater Trip Instrumentation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below. The proposed changes do not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The additions to the technical specifications are being proposed in response to Generic Letter 89-19. Specifications for the operation and surveillance of reactor high water level feedwater pump trip instrumentation are being added. The additional requirements for operability and surveillance of this instrumentation are presently contained in plant procedures, and thus adding the requirements to the technical specifications will not increase the probability or consequences of any transients or accidents.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

No new failure modes are introduced by the addition of the reactor pressure vessel (RPV) operation and surveillance specifications to the technical specifications. Modifying technical specifications to formally add surveillance requirements already in place with plant procedures and adding a note concerning test frequency will not modify plant response to any operational or transient event. Neither will this addition create a new nor cause a different kind of accident from any previously analyzed.

3. Involve a significant reduction in a margin of safety.

The formal surveillance requirements being added in this change are consistent with what is currently performed for similar instrumentation with requirements already in technical specifications, and the added requirements are consistent with what is currently done for this instrumentation via plant procedures. Application of the note concerning test frequency is consistent with its application to instruments performing similar safety functions. Therefore, there is no impact on the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment requests: March 18, 1991 (Reference LAR 91-02)

Description of amendment requests: The proposed amendments would revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant (DCPP) Unit Nos. 1 and 2 to implement snubber visual inspection intervals and corrective actions in accordance with NRC Generic Letter 90-09. The specific change to the TS involves revision of TS 4.7.7.1 and associated Bases by replacing the current requirements for snubber visual inspection intervals with the alternative requirements provided in NRC Generic Letter 90-09. Minor administrative modifications were made to the Generic Letter line item improvements to provide clarity and consistency upon incorporation into DCPP TS.

Implementing the proposed change will reduce future occupational radiation exposure by providing an alternative inspection schedule based on snubber category size. The alternate inspection schedule is based on the number of unacceptable snubbers found during the previous inspection, the total snubber category size, and the previous inspection interval.

In addition, the implementation of the alternative inspection schedule per Generic Letter 90-09 will allow for less frequent snubber inspections provided the results of ongoing inspections are favorable. The alternate schedule for visual inspections maintains the same confidence level for identifying defective snubbers as the existing schedule and is consistent with the NRC policy statement on TS improvements.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

a. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The alternative visual inspection schedule was determined in Generic Letter 90-09 to have the same confidence level as the existing visual inspection schedule. In addition, the Actions required by current TS as a result of finding snubbers inoperable remain the same.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

b. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

Replacing the current visual inspection schedule with the alternative visual inspection schedule provided in Generic Letter 90-09 will not affect the capability of DCPP snubbers to perform their intended function during normal or accident conditions.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

c. Does the change involve a significant reduction in a margin of safety?

As stated in Generic Letter 90-09, the alternative schedule for visual inspections maintains the same confidence level as the existing schedule. In addition, the proposed changes do not affect any of the Actions specified in TS which result from identification of inoperable snubbers.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407

Attorney for licensee: Richard F. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120

Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: April 18, 1991

Description of amendment request: These amendments propose changes to the technical specifications to revise the isolation setpoint for the leak detection temperature function in the Turbine Building main steam tunnel. The technical specifications involved are Item 3i of Table 3.3.2-2, which specifies the temperature requirements, and Section 3/4.3.2 of the bases.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

I. The proposed change does not involve a significant increase in the probability or

consequence of an accident previously evaluated.

The FSAR does not analyze small leaks on which the temperature setpoints are based. This type of leak falls into the "Decrease in Reactor Coolant Inventory" (FSAR Section 15.6) accident category. Similar type accidents which result in coolant leakage outside containment are analyzed in FSAR Sections 15.6.2 (Instrument Line Break) and 15.6.4 (Steam System Piping Break Outside Containment). Both of these are postulated accidents with no causes identified and are categorized as limiting faults.

According to FSAR Subsection 7.3.1.1a.2.4.1.3, the leak detection high temperature trips "provide early indication of a steam line break." The system detects a precursor condition, i.e. through-wall pipe crack, which can potentially result in a steam line break accident. The impact of the proposed change is, therefore, evaluated compared to the steam piping break accident.

The radiological consequences of a 65 gpm leak fall well below the SRP acceptance criteria and below the dose for the steam line break accident analysis in the FSAR and SER (Table 15.6-9). A 65 gpm leak does not, therefore, increase the consequences of an accident as previously evaluated.

Increasing the temperature switch setpoints allow for higher leakage without automatically isolating the main steam line. The setpoints are low enough to isolate the leak prior to development of a catastrophic pipe break. The temperature switches thereby continue to form their safety function by preventing a main steam line break accident. The higher setpoints also reduce the risk of an inadvertent MSIV isolation accident (FSAR Section 15.2.4). The setpoint change, therefore, produces a net improvement in the safety performance of the system.

II. The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

Although small leaks of up to 65 gpm are not specifically analyzed in the FSAR, they are not a new type of accident. Leakage is a symptom of a precursor condition (through-wall crack) for a steam line break accident, analyzed in Section 15.6.4. The proposed change does not, therefore, create the possibility of an accident or malfunction of a different type than any evaluated previously in the FSAR.

III. The proposed change does not involve a significant reduction in a margin of safety.

The temperature switches and setpoints are listed in Technical Specification Section 3.3.2, "Isolation Actuation Instrumentation." The existing system does not satisfy the Technical Specification basis statement that "the setpoints ... are established at a level away from the normal operating range to prevent inadvertent actuation of the system involved." The proposed change reduces the risk of inadvertent isolation and, therefore, supports the Technical Specification basis.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, D.C. 20037

NRC Project Director: Walter R. Butler

Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: April 18, 1991

Description of amendment request: These amendments would make changes to the Susquehanna Steam Electric Station (SSES), Unit 1 and Unit 2 Technical Specifications to revise the pressure-temperature curves for compliance with 10 CFR Part 50, Appendix G, as requested in Generic Letter 88-11, and to delete the specimen withdrawal schedule as allowed by Generic Letter 91-01. The proposed changes affect Technical Specification Section 3.4.4.6, "Pressure/Temperature Limits" and Bases Section 3/4.4.6, "Pressure/ Temperature Limits."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

I. The proposed change does not involve a significant increase in the probability or consequence of an accident previously evaluated.

The proposed changes are administrative in nature. The analysis and revisions to the pressure-temperature curves were reviewed and accepted previously. This change incorporates into the Technical Specifications the previously approved curves.

The removal of the specimen withdrawal schedule from the Technical Specifications is administrative in nature since changes to this schedule are controlled by the requirements of 10CFR50, Appendix H and the specimen withdrawal schedule table in the Technical Specifications is a duplicate of the Appendix H requirements.

II. The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

See Item I above.

III. The proposed change does not involve a significant reduction in a margin of safety.

See Item I above.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, D.C. 20037

NRC Project Director: Walter R. Butler

Philadelphia Electric Company, Docket Nos. 50-352 and 50-353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of amendment request: April 30, 1991

Description of amendment request: The amendments would revise Section 4.7.4 and the associated Bases in the Technical Specifications (TS) regarding visual inspection of snubbers as suggested in NRC Generic Letter 90-09.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1) The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Implementing the recommendations as specified in GL 90-09 will not introduce any new failure mode and will not alter any assumptions previously made in evaluating the consequences of an accident since the same confidence level exists for ensuring snubber operability. The proposed changes do not affect limiting safety system setting or operating parameters, and do not modify or add any accident initiating events or parameters. Therefore, the proposed change does not cause an increase in the probability or consequences of an accident previously evaluated.

2) The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed changes to the LGS Unit 1 and 2 TS for implementing the recommendations specified in GL 90-09 do not involve any physical alterations to plant equipment, changes to setpoints or operating parameters, nor does it involve any potential accident initiating event. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3) The proposed change does not involve a significant reduction in the margin of safety.

The proposed changes maintain[s] the same confidence level as that currently provided by the TS for determining snubber operability. Accordingly, the existing margin of safety will be maintained. Therefore, the proposed change does not involve a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Attorney for licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101

NRC Project Director: Walter R. Butler

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: November 22, 1989

Description of amendment request: The amendments would revise the Technical Specifications (TS) to incorporate a surveillance requirement for the safety-grade pneumatic supply to the containment purge/vent valve inflatable seals. In a letter to Philadelphia Electric Company dated May 8, 1989, the NRC staff had requested the licensee to submit a TS which addresses the proposed surveillance requirement.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed changes to the Peach Bottom operating licenses do not constitute a significant hazards consideration in that they do not:

i) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed Technical Specification changes provide additional means of ensuring operability of the new safety grade pneumatic supply system and correct an administrative error. These changes serve to enhance plant safety and would not involve a significant increase in the probability or consequences of an accident as previously evaluated in Chapter 14 of the PBAPS Updated Final Safety Analysis Report.

ii) Create the possibility of a new or different kind of accident from any accident previously evaluated.

The implementation of the new safety grade pneumatic supply system was reviewed and accepted by the NRC. Implementation of a surveillance requirement to demonstrate an adequate supply of liquid nitrogen and operability of the system will not create the possibility of a new or different kind of accident from any previously evaluated. The correction of an administrative error will not create the possibility of a new or different kind of accident from any previously evaluated.

iii) Involve a significant reduction in a margin of safety.

The proposed surveillance provides additional assurance that the new safety grade pneumatic supply system will function as designed; thus, there is no reduction in a margin of safety. The correction of an administrative error does not reduce a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Attorney for Licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101

NRC Project Director: Walter R. Butler

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: February 26, 1990

Description of amendment request: The amendments would revise the Administrative Controls Section (Sections 6.3.1 and 6.3.2) of the Technical Specifications (TS) to require that members of the facility staff shall meet or exceed the minimum qualifications of ANSI/ANS-3.1-1981 standard "Selection, Qualification and Training of Personnel for Nuclear Power Plants".

In 1989, the Philadelphia Electric Company (PECo) and the Commonwealth of Pennsylvania (Commonwealth) negotiated a settlement for "resolving several Peach Bottom-related restart issues raised by the Commonwealth as well as Peach Bottom-related litigation which has been initiated by the Commonwealth". By letter dated June 27, 1989, the NRC advised PECo that we did not object to the said agreement. As part of the agreement, PECo agreed to submit an application to the NRC requesting an amendment to the Peach Bottom Atomic Power Station (PBAPS) Units 2 and 3 TS such that PECo would commit to standards set forth in ANSI/ANS-3.1-1981 entitled, "Selection, Qualification and Training of Personnel for Nuclear Power Plants" for PBAPS. Additionally, the agreements stated that the TS Amendment may specify, however, that to the extent that the standards set forth in ANSI/ANS-3.1-1981 apply to individual job positions at Peach Bottom, those standards shall not apply to PECo employees holding those positions as of February 27, 1989, so long as those individuals continue to hold those positions. The subject application satisfies this commitment.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed changes to the Peach Bottom operating licenses do not constitute a significant hazards consideration in that they do not:

i) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The upgrade in personnel selection, qualification and training standards to ANSI/ANS-3.1-1981 will ensure equivalent or higher levels of education, experience and training of plant personnel. These equivalent or higher standards in personnel selection, qualification and training will serve to reduce the probability of an accident as previously evaluated from occurring, and reduce the consequences of an accident as previously evaluated.

Wording has been included in the Technical Specifications change which ensures that all qualification and training requirements for the INPO accreditation programs are included as part of the facility staff qualifications and the PBAPS training program. At Peach Bottom, 11 training programs are INPO accredited. This is an administrative change to the Technical Specifications which will not involve a significant increase in the probability or consequences of an accident as previously evaluated.

ii) Create the possibility of a new or different kind of accident from any accident previously evaluated.

The change of the Technical Specifications from the current requirements of ANSI N18.1-1971 to ANSI/ANS-3.1-1981 and the INPO accreditation requirements are administrative changes which will increase the level of standards for selection, training and qualifications of plant personnel and will not create a new or different kind of accident than previously evaluated.

iii) Involve a significant reduction in a margin of safety.

The change of the Technical Specifications from the current requirements of ANSI N18.1-1971 to ANSI/ANS-3.1-1981 and the INPO accreditation requirements are administrative changes which will result in an increase in personnel selection, qualification and training standards and serve to increase margins of safety as defined in the PBAPS Technical Specifications.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Attorney for Licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101

NRC Project Director: Walter R. Butler

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: July 13, 1990

Description of amendment request: The amendments would revise the Administrative Controls Section (Section 6.0) of the Technical Specifications (TS) to establish provisions for a Station Qualified Reviewer (SQR) Program. In a nuclear power facility almost everything is covered by a procedure, from operations and maintenance to emergency operations, security and document control. There are in the order of 10,000 procedures. At present, all new procedures and procedure changes have to be reviewed by the Plant Operations Review Committee (PORC), which represents senior management in most disciplines. The proposed amendments will permit some procedures and changes thereto to be reviewed by a qualified reviewer and approved by a senior manager who is knowledgeable in the functional area involved. There will be controls to ensure there are multilevels of review, that the reviewers are trained and qualified, that procedure changes are subjected to cross-disciplinary review when appropriate and that some procedures (or changes thereto) are still reviewed by PORC and approved by the Plant Manager.

The SQR Program has been approved for Limerick, Units 1 and 2 which are also owned and operated by Philadelphia Electric Company. The Program has also been approved for Salem, Units 1 and 2, and Hope Creek, which are operated by Public Service Electric and Gas Company, a co-owner of Peach Bottom, Units 2 and 3. The NRC staff has inspected the functioning of the SQR Program at these facilities and will factor this into our evaluation.

The licensee is also proposing some reformatting of Sections 6.8.1 and 6.8.4 without changing the meaning and adding some additional records to the list in Section 6.10 that must be retained. These are minor administrative changes with no safety significance.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

i) The proposed revisions do not involve a significant increase in the probability or consequences of an accident previously evaluated because (1) PORC will still review procedures and procedure changes that require a 10 CFR 50.59 Safety Evaluation, (2) the review/approval process will be controlled by Administrative procedures, which will continue to be reviewed by PORC and approved by the Plant Manager, (3) qualified personnel knowledgeable in the affected functional area will review each procedure and procedure change, and (4) the SQRs will be required to consider and document whether cross disciplinary review is necessary, and such reviews, if necessary, shall be performed prior to approval. This Technical Specification change will add more detailed requirements regarding procedure review and approval to the Technical Specifications which will strengthen the controls over the process. The SQR program will provide a safety review process for procedures commensurate to that of the existing process.

The miscellaneous administrative changes cannot affect the probability or consequences of an accident because they do not affect operations, equipment, or any safety-related activity.

ii) The proposed revisions do not create the possibility of a new or different kind of accident from any accident previously evaluated. No physical changes to the plant or changes in operating procedures are being proposed. The changes are purely administrative and will not have any direct affect on equipment important to safety. Changing the process by which procedures are reviewed and approved cannot in itself create the possibility of a new or different kind of accident. Furthermore, since the controls for review and approval of procedures and procedure changes will be commensurate with the existing process, the likelihood of implementing a procedure that could create the possibility of an accident is not affected. A 10 CFR 50.59 review of each new procedure and permanent procedure change will be performed.

The miscellaneous administrative changes cannot create the possibility of an accident because they do not affect operations, equipment or any safety-related activity.

iii) The proposed revisions do not involve a significant reduction in a margin of safety because a process controlled by Administrative Procedures using qualified personnel approved by the PORC Chairman will be in place to review new procedures and procedure changes. A 10 CFR 50.59 review of each new procedure and permanent procedure change will be performed and PORC will continue to review those that require a 10 CFR 50.59 Safety Evaluation. Cross disciplinary reviews will be conducted as appropriate, and the independent Quality Assurance organization will monitor the effectiveness of implementation of the 10 CFR 50.59 review process through audits, surveillances and/or assessments. Thus, margins of safety will be maintained once the SQR program is implemented.

The miscellaneous administrative changes cannot reduce any margin of safety because they do not affect any safety related activity or equipment. These changes increase the probability that the Technical Specifications are correctly interpreted by clarifying information, and will require that additional records be retained.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Attorney for Licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101

NRC Project Director: Walter R. Butler

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: December 31, 1990

Description of amendment request: The amendments would revise the Surveillance Requirements (SR) (4.6.G) and the associated Bases for the Structural Integrity portion of the Technical Specifications (TS). The principal change is to add a sentence as requested in NRC Generic Letter (GL) 88-01, "NRC Position on IGSCC in BWR Austenitic Stainless Steel Piping" to read:

The Augmented Inservice Inspection (ISI) Program for piping shall be performed in accordance with the staff positions on schedule, methods, personnel and sample expansion as provided by NRC Generic Letter 88-01 or in accordance with alternate measures approved by the NRC staff.

There are some other minor changes being made to SR 4.6.G to delete obsolete provisions or to enhance clarity and consistency. These changes are:

(1) Delete existing Surveillance Requirement 4.6.G on page 149b.

(2) Delete existing Table 4.6.1 entitled "In-service Inspection Program for Peach Bottom Units 2 and 3" on page 150.

(3) Insert proposed Surveillance Requirement 4.6.G.1 on page 149b which states:

Inservice inspection of ASME Code Class 1, 2 and 3 components shall be performed in accordance with Section XI of the ASME Boiler and Pressure Vessel Code and applicable Addenda as required by 10 CFR Part 50, Section 50.55a(g), except where relief has been granted by the Commission pursuant to 10 CFR Part 50, Section 50.55a(g)(6)(i) and (a)(3).

(4) Insert proposed Surveillance Requirement 4.6.G.3 on page 149b which states:

Nothing in the ASME Boiler and Pressure Vessel Code shall be construed to supercede the requirements of any Technical Specification.

(5) Delete the existing Bases for 3.6.G and 4.6.G on pages 161, 162 and 163 and replace them with a discussion which reflects the proposed specifications.

(6) Revise Table of Contents page vi to reflect deletion of Table 4.6.1.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

i) The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

These proposed changes delete obsolete provisions in the Technical Specifications and replace them with provisions of the Standard Technical Specifications (STS) for General Electric Boiling Water Reactors, NUREG-0123, Revision 3. This will enhance safety by eliminating any potential confusion associated with the obsolete provisions.

These proposed changes also incorporate requirements to adhere to the NRC staff positions on schedule, methods, personnel, and sample expansion as provided by NRC Generic Letter 88-01, "NRC Position on IGSCC in BWR Austenitic Stainless Steel Piping." Implementation of this requirement will increase the inspection frequency of various welds susceptible to intergranular stress corrosion cracking (IGSCC). This increased inspection frequency will allow early identification of any potential structural integrity hazards, thereby reducing the probability of any accidents previously evaluated, specifically, accidents associated with pipe breaks.

These proposed changes do not affect the initial conditions or precursors assumed in any Updated Final Safety Analysis Report Section 14 accident analyses. Further, these proposed changes do not decrease the effectiveness of equipment relied upon to mitigate the previously evaluated accidents.

ii) The proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

These proposed changes will enhance the reliability of components contributing to the structural integrity of the plant. Implementation of these proposed changes will not affect the design function or configuration of any component or introduce any new operating scenarios or failure modes. Therefore, these proposed changes do not create the possibility of a new or different kind of accident.

iii) The proposed changes do not involve a significant reduction in a margin of safety.

These proposed changes impose additional restrictions which have already been approved by the NRC through issuance of the Standard Technical Specifications and Generic Letter 88-01. These proposed changes do not adversely affect the assumptions or sequence of events used in any accident analysis and consequently do not reduce any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Attorney for Licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101

NRC Project Director: Walter R. Butler

Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: February 20, 1991

Description of amendment request: The proposed changes described in this request are in accordance with the guidance provided in NRC Generic Letter 87-09. The proposed changes revise the general requirements on the applicability of limiting conditions for operation and surveillance requirements in Sections 3.0.4, 4.0.3 and 4.0.4 and update the corresponding Bases sections to reflect these modifications. The proposed changes also incorporate NRC proposed improvements to the Bases for unchanged portions of Sections 3.0 and 4.0. The proposed changes are described in further detail below.

1. Changes to Specification 3.0.4 Specification 3.0.4 would be modified in accordance with the guidance in Generic Letter 87-09 by allowing mode changes in accordance with the action requirements when conformance to them permits continued operation for an unlimited period of time. In addition, because the present Technical Specifications (TS) omit the phrase "or to" from the sentence stating that this provision shall not prevent passage through or to operational modes as required to comply with action requirements, Public Service Electric and Gas Company (PSE&G) has proposed an appropriate correction. Finally, the section of this specification would be labeled to avoid confusion and provide additional clarification.

2. Changes to Specification 4.0.3 Specification 4.0.3 would be modified in accordance with the guidance of Generic Letter 87-09 by incorporating the 24 hour allowance and making the suggested editorial changes.

3. Changes to Specification 4.0.4 Specification 4.0.4 would be modified in accordance with the guidance of Generic Letter 87-09 by incorporating the sentence which clarifies that this specification shall not prevent passage through or to operational modes to comply with action requirements.

4. Bases Changes The Bases for Specifications 3.0.4, 4.0.3, and 4.0.4 would be updated to reflect the changes incorporated into the specifications. The Bases for unchanged portions of Sections 3.0 and 4.0 would also be modified in accordance with the

guidance in Generic Letter 87-09. Included would be additional clarification (1) in the Bases for Specification 3.0.4 regarding the word "shutdown" and regarding exemptions to the specification, and (2) in the Bases for Specification 4.0.3 regarding the NRC position on when the time interval begins for surveillances which cannot be performed until certain conditions are attained.

An editorial change to the Bases for Specification 3.0.5 is also proposed. The present Bases, which is based on a Standard plant design with two Emergency Diesel Generators (EDGs), is being revised to reflect the fact that Salem Nuclear Generating Station uses three EDGs. The change does not affect any Technical Specification requirements.

5. Changes to Individual Specifications The 3.0.4 exemptions would be removed from those specifications which meet the modified removal criteria agreed to by the NRC.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed changes to the SGS Technical Specifications:

1. Do not involve a significant increase in the probability or consequences of an accident previously evaluated.

A. Changes to Specification 3.0.4 The existing requirements of Specification 3.0.4 prohibit entry into an operational mode or other specified condition unless the LCO is met without reliance on the action requirements. In general, specifications that have action requirements that allow unlimited continued operation contain exemptions to Specification 3.0.4; however, the 3.0.4 exemptions have not been consistently applied and some specifications which have action statements which provide an acceptable level of safety to permit continued operation for an unlimited amount of time do not contain exemptions to the requirements of Specification 3.0.4. Entry into an operational mode or other specified condition in accordance with the action requirements is consistent with the NRC's regulatory requirements for an LCO that has an action requirement permitting unlimited continued operation. The NRC staff has stated in Generic Letter 87-09 that Specification 3.0.4, as it currently exists, unduly restricts facility operation when conformance to the action requirements provides an acceptable level of safety for continued operation. The changes being proposed to Specification 3.0.4 therefore allow entry into an operational mode or other specified condition in accordance with the action requirements for all LCOs having action requirements which permit continued operation for an unlimited amount of time, and thereby provide for consistent application of the provisions of this specification. Each LCO affected by the proposed changes to Specification 3.0.4 has been evaluated. The evaluation has verified that the remedial measures contained in the action requirements for each affected LCO provide an acceptable level of safety to permit the use of the proposed Specification 3.0.4. Since conformance to the action requirements for the affected specifications establishes an acceptable level of safety for unlimited continued operation, the proposed changes to Specification 3.0.4 will not significantly increase the probability or consequences of a previously analyzed accident or malfunction of equipment important to safety.

B. Changes to Specification 4.0.3 Since the vast majority of surveillance tests demonstrate that systems or components are operable, it is overly conservative to assume that a system or component is inoperable solely because a surveillance test has not been performed. When a surveillance is missed, the question is primarily one of unverified operability which can be demonstrated by performing the specified surveillance test. Specification 4.0.3, as it currently exists, assumes immediate equipment inoperability. Since the allowable outage time limits of some action requirements do not provide an appropriate time period for performing a missed surveillance before shutdown requirements apply, a time limit of 24 hours is being proposed as an acceptable period in which to complete a missed surveillance test. As stated in the generic letter, the proposed 24 hour period balances the risks associated with allowing continued operation during completion of the missed surveillance against the risks associated with the potential for a plant upset or challenge to safety systems when the alternative is a plant shutdown to comply with the action requirements before the surveillance can be completed. The proposed changes to Specification 3.0.4 will therefore not significantly increase the probability or consequences of any previously analyzed accident or malfunction of equipment important to safety.

C. Changes to Specification 4.0.4 As stated in the Generic Letter, it is not the intent of Specification 4.0.4 to prevent passage to or through operational modes to comply with action requirements and it should not apply when mode changes are imposed by action requirements. The potential for a plant upset and challenge to safety systems is heightened if surveillances are performed during shutdown to comply with action requirements.

Therefore, the proposed change will not significantly increase the probability or consequences of a previously analyzed accident or malfunction of equipment important to safety.

2. Do not create the possibility of a new or different kind of accident from any accident previously evaluated.

A. Changes to Specification 3.0.4 Implementation of the proposed change to TS 3.0.4 has been evaluated and determined to be consistent with the present accident analyses. The proposed relaxation in mode change restrictions for those TS which presently allow unlimited continued operation upon successful completion of remedial measures will not introduce any new accident scenarios for the Salem Generating Station. The proposed changes will therefore not create the possibility of a new or different kind of accident from any accident previously evaluated.

B. Changes to Specifications 4.0.3 and 4.0.4 The proposed changes to Specifications 4.0.3 and 4.0.4 do not involve any modifications to existing plant equipment, do not alter the function of any plant systems, and do not introduce any new operating configurations or new modes of plant operation. The proposed changes will therefore not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Do not involve a significant reduction in a margin of safety.

The proposed changes do not involve a significant reduction in any margin of safety. Conversely, the proposed changes provide numerous benefits as described below.

A. Changes to Specification 3.0.4 The changes to Specification 3.0.4 provide for consistent application of 3.0.4 exceptions. Each TS affected by the proposed changes to Specifications 3.0.4 have been evaluated. The evaluation has verified that the remedial measures contained in the action requirements for each affected LCO provide an acceptable level of safety to permit the use of the proposed Specification 3.0.4.

B. Changes to Specification 4.0.3 The changes to Specification 4.0.3 provide a time limit for performing missed surveillances which balances the risks associated with allowing continued operation during completion of the missed surveillance against the risks associated with the potential for a plant upset and challenge to safety systems when the alternative is a plant shutdown to comply with the action requirements before the surveillance can be completed.

C. Changes to Specification 4.0.4 The proposed changes to Specification 4.0.4 eliminate potential conflict between individual TSs, Specification 4.0.3, and Specification 4.0.4.

As a result, the potential for unnecessary shutdowns, delayed start-ups, plant upsets, and challenges to safety systems will be reduced by implementing the proposed changes, and the proposed changes will not result in a reduction of any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Salem Free Public library, 112 West Broadway, Salem, New Jersey 08079

Attorney for licensee: Mark J. Wetterhan, Esquire, Winston and Strawn, 1400 L Street, NW., Washington, D.C., 20005-3502

NRC Project Director: Walter R. Butler

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of amendment request: December 7, 1990

Description of amendment request: The proposed change would revise Technical Specification Section 6.4, Training, by replacing references to Sections 5.1 and 5.2 of the 1981 American National Standard Institute (ANSI) Standard 3.1 with references to 10 CFR 55.13(a)(4) and 10 CFR 55.19(c). The referenced ANSI Standard was superseded by the issuance of 10 CFR Part 55.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

The Commission has provided certain examples (51 FR 7744) of actions likely to involve no significant hazards considerations. The proposed amendment to Section 6.4 is consistent with example (i) which states, "A purely administrative change to TS: for example, a change to achieve consistency throughout the TS, correction of an error, or a change in nomenclature." SCE&G has determined that a no significant hazards evaluation is justified and that should this request be implemented it will not:

1. Involve a significant increase in the probability or consequences of any accident previously evaluated because no plant equipment has been changed. This amendment is an administrative change involving the deletion of superseded requirements and incorporation of the revised regulation in 10 CFR 55.

2. Create the possibility of a new or different kind of accident from any previously evaluated because the proposed amendment is an administrative change involving the deletion of superseded documents and incorporation of revised regulation. No physical plant configuration, setpoint or operation changes are proposed.

3. Involve a significant reduction in a margin of safety because this amendment is an administrative change involving the deletion of superseded requirements and the incorporation of revised regulation in 10CFR55.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The licensee has concluded that the proposed amendment meets the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards consideration.

The NRC staff has made a preliminary review of the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180

Attorney for licensee: Randolph R. Mahan, South Carolina Electric & Gas Company, P.O. Box 764, Columbia, South Carolina 29218

NRC Project Director: Elinor G. Adensam

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of amendment requests: May 2, 1991

Description of amendment requests: The licensee proposes to revise Technical Specifications (TS) 3/4.7.6 and associated Bases, "Snubbers," in accordance with Generic Letter 90-09, "Alternative Requirements For Snubber Visual Inspection Intervals and Corrective Actions," dated December 11, 1990. Specifically, TS 4.7.6.b, "Visual Inspections," and TS 4.7.6.c, "Visual Inspection Acceptance Criteria," would be revised to remove the existing snubber visual examination schedule and replace it with a refueling outage based visual examination schedule as delineated in Generic Letter 90-09 (TS line item improvement).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensees have provided their analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No

Snubbers are installed to maintain the structural integrity of systems and components which either mitigate the consequences or failure of which may initiate a previously analyzed accident. The proposed change revises the visual inspection schedule based on the number of INOPERABLE snubbers for various snubber populations found during the previous inspection interval and the length of the previous inspection interval and generally increases the length of the surveillance interval. Considering the large population of snubbers at San Onofre Units 2 and 3, consistent with Generic Letter 90-09, use of the proposed visual examination schedule will not significantly reduce the confidence level for snubber operability provided by the existing visual examination schedule. Visual inspections and functional testing will continue to provide a 95 percent confidence level that 90 to 100 percent of the snubbers operate within the specified acceptance limits. Changes to the visual inspection acceptance criteria are clarifications only and do not change the intended meaning of the criteria. Therefore, the proposed change will not significantly increase the probability or consequences of previously evaluated accidents.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No

The proposed Technical Specification change does not change the number, type, design, function, or remaining service life of snubbers in either Unit 2 or 3. The proposed change does not alter the configuration of the facility, plant operation, or accident analysis assumptions. The increase in the length of snubber visual inspection intervals and clarifications of existing visual inspection acceptance criteria have no effect on accidents. Changes to the visual inspection criteria are clarifications only and do not change the intended meaning of the criteria. The proposed TS change will maintain the snubber operability confidence level within Generic Letter 90-09 specified limits. Therefore, the proposed change does not create the possibility of a new or different kind of accident.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No

The proposed change does not alter the configuration of the facility, plant operation, or accident analysis assumptions. Taking credit for the large number of snubbers at San Onofre Units 2 and 3, the proposed change will generally increase the snubber visual inspection intervals. However, the margin of safety will not be significantly reduced because the confidence level for snubber operability provided by the existing visual examination schedule will not be reduced significantly, and the confidence level will remain within Generic Letter 90-09 specified limits for snubber operability. Even though the intended meaning of the visual inspection criteria is not changed, the clarifications may decrease the likelihood of a misinterpretation of the criteria which would increase margins of safety. Therefore, operation of the facility in accordance with this proposed change will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensees' analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests

involve no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713

Attorney for licensee: James A. Beoletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770

NRC Project Director: James E. Dyer

TU Electric Company, Docket No. 50-445, Comanche Peak Steam Electric Station, Unit 1, Somervell County, Texas

Date of amendment request: March 27, 1991

Description of amendment request: The current Comanche Peak Steam Electric Station (CPSES) Technical Specifications do not address the safety-related Safety Chilled Water System. This system is relied on to provide both normal and post-accident engineered safety feature room cooling. The proposed amendment introduces Technical Specification (TS) 3/4.7.12 to the Technical Specifications for the Safety Chilled Water System.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed [limiting condition for operation] LCO does not alter any of the assumptions used in the safety analyses for CPSES Unit 1 because the capability of the Safety Chilled Water System to transfer heat from its supported safety systems to the [Component Cooling Water] CCW system under normal and accident conditions is maintained. The LCO ensures suitable redundancy to assure that for onsite electric power system operation (assuming offsite power is not available) the system safety function can be accomplished assuming a single failure.

The proposed surveillance requirements will enhance the reliability of the chillers because they will enforce a periodic inspection of the chiller that is in a standby mode. This surveillance will assure all valves, pumps and components will perform as required and the chiller will perform its safety function.

These surveillance requirements are commensurate with the CCW and [Station Service Water] SSW system surveillance requirements.

Therefore, the proposed Technical Specification change has no effect on the probability or consequences of any accident previously evaluated for CPSES Unit 1.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed LCO, surveillance requirements and BASES do not involve any hardware changes or any revisions in how the system functions. Therefore, no new failure modes are created and no possibility for new or different kinds of accidents is created.

3. Involve a significant reduction in the margin of safety.

The margin of safety for the Safety Chilled Water System relative to Technical Specifications is preservation of the single failure criterion. The proposed LCO with respect to Safety Chilled Water System satisfies the single failure criteria provided [in] General Design Criterion 44, Cooling Water.

Standard Technical Specifications issued for use on CPSES Unit 1 provide the bases for the limitations placed on cooling water systems with redundant cooling capacity and which, assuming a single failure, are consistent with the assumptions used in the safety analyses. The standard time allowed to restore an inoperable train of such cooling water systems is 72 hours. Because the proposed Technical Specification invokes this time limit, there is no reduction in the margin of safety which forms the basis for CPSES Technical Specifications.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Texas at Arlington Library, Government Publications/Maps, 701 South Cooper, P. O. Box 19497, Arlington, Texas 76019

Attorney for licensee: George L. Edgar, Esq., Newman and Holtzinger, 1615 L Street, N.W., Suite 1000, Washington, D.C. 20036

NRC Project Director: George F. Dick, Jr., Acting Director

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: April 12, 1991

Description of amendment request: The proposed amendment would incorporate the balance of Regulatory Guide (RG) 1.97, Revision 2, Category 1 parameters into the Technical Specifications for the Sequoyah Nuclear Plant, Units 1 and 2. This issue was addressed previously by NRC letter dated December 7, 1990, which also forwarded Amendment No. 149 for Unit 1 and Amendment Number 135 for Unit 2. This letter also requested that certain other specified changes be submitted.

In response, the licensee has proposed the following changes to the Technical Specifications (TSs): (1) add the Essential Raw Cooling Water (ERCW) to Auxiliary Feedwater (AFW) valve position instrumentation and Containment Isolation Valve (CIV) position instrumentation to TS Table 3.3-10, "Accident Monitoring Instrumentation;" (2) specify the minimum number of channels required for reactor coolant T-hot and T-cold indication instrumentation in Table 3.3-10; (3) specify the total number of channels and the minimum number of channels required for the steam generator wide range level indication, the reactor vessel level indication, and the incore thermocouple instruments in Table 3.3-10; (4) modify the action statement for the reactor coolant system subcooled margin monitor in Table 3.3-10; (5) modify incore thermocouple Action Statement 1 in Table 3.3-10; (6) delete Action Statement 6 in Table 3.3-10; (7) revise the reference in the Notes for Action Statements 1 and 5 from Table 3.3-9 to Limiting Condition for Operation (LCO) 3.3.3.5 in Table 3.3-10; (8) modify the allowable outage times (AOTs) and add the requirement that the plant be in HOT STANDBY (Mode 3) within 6 hours and then in HOT SHUTDOWN (Mode 4) within 12 hours in Action Statements 1, 2, and 5 for Table 3.3-10; (9) change the AOT in Action Statement 4 for Table 3.3-10 from 7 to 30 days and clarify the required timeframe for completion of the special report; (10) delete four of the steam generator blowdown valves from CIV Table 3.6-2; (11) update the corresponding Basis Sections and correct a typographical error; and (12) delete Administrative Section 6.8.5, Item d.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

TVA has evaluated the proposed technical specification (TS) change and has determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of Sequoyah Nuclear Plant (SQN) in accordance with the proposed amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The changes proposed do not involve a significant increase in the probability or consequences of an accident previously evaluated. The changes proposed cannot increase the probability of an accident since the proposed changes cannot affect components that can cause an accident. The addition of the ERCW to AFW valve and CIV position indication can decrease the consequences of an accident previously evaluated in that the TSs provide for a limited out-of-service time and their

availability can help in mitigating the consequences of an accident. The change for the action requirements for the loss of subcooling margin monitoring does not increase the consequences of any event since plant shutdown will be required in lieu of adding an additional crew member. The consequences of an event are not significantly increased by the change to the AOT for Action Statements 1, 2, or 5 since channel redundancy and/or the relatively short AOT ensures that sufficient information exists to mitigate the consequences of an accident and that there is a relatively low probability of an event requiring PAM instrumentation during the AOT.

The deletion of the four inboard steam generator blowdown valves does not increase the consequences of an accident since adequate isolation capability remains with the outboard isolation valves and the closed inboard system.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

The changes proposed cannot increase the possibility of a new or different kind of accident from any previously analyzed. The PAM indicators and CIVs themselves cannot create an accident. In a postaccident condition, the PAM indicators serve to help the operator mitigate the event. The CIVs that were deleted are redundant and not required by 10 CFR 50. Loss of function of these valves would not increase the possibility of a new or different kind of accident.

(3) Involve a significant reduction in a margin of safety.

The proposed changes do not involve a significant reduction in any margin of safety. The proposed changes to the PAM instrumentation do not affect the design of the safety-related components relied upon to automatically mitigate the consequences of any design basis event occurring while in Modes 1, 2, or 3. Since there is not a significant increase in the consequences of any accident previously evaluated, a significant reduction in any margin of safety cannot exist.

The margin of safety is not significantly reduced for the proposed change to delete the four inboard steam generator blowdown valves since adequate containment isolation exists with the presence of the outboard isolation valves and the inboard closed system.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902

NRC Project Director: Frederick J. Hebdon

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of amendment request: September 19, 1990

Description of amendment request: The proposed changes would revise the ACTION statement to Technical Specification (TS) 3/4.6.1.3, to specify actions to be taken in the event of an inoperable interlock mechanism in one or both primary containment airlocks. The current TSs address inoperable airlocks or airlock doors, but do not explicitly address the specific case of an inoperable interlock mechanism. The proposed changes would further revise TS 3/4.6.1.3 to allow use of an operable airlock door for a cumulative time not to exceed 1 hour per year, when the second door in that airlock is inoperable. Current TSs allow such use only for repair of an inoperable inner airlock door.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

This change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The probability of occurrence of a previously evaluated accident is not increased because the containment airlocks do not affect the initiation of any accident. Therefore, this change to add action requirements for an inoperable airlock interlock mechanism and to revise the wording of the footnote addressing use of the operable airlock door can not increase the probability of an accident previously evaluated.

The consequences of an accident remain bounded by conditions which exist prior to this change, since operation under the provisions of the proposed changes to the airlock Actions does not produce potential containment leakage paths beyond the currently approved Technical Specifications. For the inoperable airlock interlock mechanism, at least one OPERABLE airlock door will be maintained closed at all times thus meeting the requirements for the airlock doors. In the case of having one airlock door inoperable, the OPERABLE door on that airlock cannot be used for more than 1 hour per year which is the same restriction in place under the existing Technical Specification. In approving the current restriction, the NRC previously evaluated the potential for an event requiring primary containment integrity occurring during the limited time when an airlock door is inoperable and its associated operable door is open, and determined that it is sufficiently remote to justify limited access when required. This change maintains the same cumulative time limit for these entries but revises the restrictions on the circumstances required to exist to allow entry. Therefore, the changes addressing the interlock mechanism and the current footnote cannot increase the consequences of any accident previously evaluated by the NRC.

This proposed changes does not create the possibility of a new or different kind of accident from any previously evaluated.

Containment airlocks are designed and assumed to be used for entry and exit. Their operation does not interface with the reactor coolant pressure boundary or any other mechanical or electrical controls which could impact the operations of the reactor or its direct support systems. Therefore, a new or different accident cannot be created. As discussed above, the integrity of the containment is maintained as long as at least one OPERABLE airlock door is closed. The proposed change to the airlock door interlock mechanism does not change the requirement to have at least one OPERABLE door closed at all times. Instead, it assures that this is, in fact, still occurring by locking one door closed, or by stationing an individual dedicated to assuring that one OPERABLE door is always closed. As such this proposed change does not create the possibility of a new of different type of accident. Likewise, the proposed change to the * footnote does not create the possibility of a new of different kind of accident, since the conditions of the containment and its airlocks remains unchanged and the actual operating mode and procedures for the airlock are unaffected by these Technical Specification changes.

The proposed change does not involve a significant reduction in the margin of safety.

The applicable margin of safety consists of maintaining the primary containment leak rates within the assumptions of the design basis accident analysis. With regard to the containment airlocks, these leak rates are maintained provided at least one operable airlock door remains closed during the event. The period of time that an airlock could have no operable door closed was previously limited to "a cumulative time not to exceed 1 hour per year." This time remains unchanged, therefore, the margin of safety is not reduced.

With an inoperable interlock, the proposed action will still maintain at least one operable airlock door closed at all times. Therefore, the assumed margin of safety is not reduced.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John N. Hannon.

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of amendment request: March 19, 1991

Description of amendment request: The proposed amendment would make three changes to Technical Specification Table 3.3.3-1, "Emergency Core Cooling System Actuation Instrumentation." The first change would revise ACTION 33 of the Table by changing the word "valve" to "trip system," to address the situation in the event that a manual initiation switch for the Automatic Depressurization System (ADS) becomes inoperable. The second change would revise the action statement that applies to the ADS inhibit switches. The third change is an editorial clarification to provide consistency with the other proposed changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

This changed does not involve a significant increase in the probability of [sic] consequences of an accident previously evaluated.

All three of the proposed changes either create a more conservative and/or more appropriate ACTION to be taken in the event one or more of the instrument channels involved become inoperable. The Technical Specifications have always permitted these instrument channels to be inoperable for periods of time provided the remedial steps are taken as required by the ACTION statements.

In the first proposed change the existing required ACTION was not appropriate for inoperable ADS Manual Initiation channels, since all ADS valves are uniformly affected, and declaring all the ADS valves inoperable after eight hours is not consistent with the required actions for channels in the more important automatic ADS logic. The existing ACTION forces an almost immediate, unnecessary plant shutdown, with all the attendant cycling of plant systems, despite the fact that the manual initiation function is capable of being completed by the other Divisions logic, and the automatic initiation logic, for which credit is taken in the safety analyses, is completely unaffected. The proposed change instead requires that the associated ADS Trip System be declared inoperable, which is consistent with the other ADS instrument channels, and it places a time limit on how long this condition can exist.

The second proposed change not only makes the required action for the ADS Inhibit function consistent with the other instrument channels in the automatic initiation portion of the ADS logic, but requires that the action be taken immediately when the ADS Inhibit channel is found inoperable, further limiting the time permitted for the channel to be inoperable as compared to the manual initiation logic. Again, the other Divisions logic can complete the automatic safety function during this period of inoperability, and the manual initiation logic is completely unaffected. The Technical Specifications are approved by the NRC to permit inoperable equipment to exist for limited amounts of time, so that licensees can have some time frame to restore the equipment to an operable status, and not put the plant through unnecessary plant shutdown cycles for inoperable equipment that can normally be restored within a short time. These proposed changes do not create any new or different approach to dealing with these instrument channels. As described above, both changes are to make the required ACTIONS more conservative and/or consistent with other instrument channels within the ADS system logic, and make them consistent with the purpose and logic of the instruments involved. As such the proposed change does not increase the probability or consequences of any previously evaluated accident.

The final change to the wording of ACTION 30 is merely a clarification of the existing requirements, to make the wording of ACTION 30 consistent with ACTION 31 and 33. Since this is merely an editorial clarification of existing requirements, the revision involves no change or increase in the probability or consequences of an accident previously evaluated.

This proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

As discussed above no new or different types of ACTIONS are being proposed by this change request. This change request is attempting to remove some inconsistencies in the required ACTIONS for inoperable ECCS Actuation Instrumentation. No changes are proposed to the design or operation of any plant systems or components. The proposed change has not created the possibility of a new or different type of accident from those previously evaluated in the USAR. Therefore, no new type of accident has been created by this change request.

This proposed changes do not involve a significant reduction in the margin of safety.

The proposed changes do not reduce the margin of safety as defined in the bases for the Technical Specifications. These changes do not modify any of the instrument setpoints or functions. All ECCS systems will still be capable of performing their intended safety functions. These proposed changes will either maintain the present margin of safety or increase it, by reducing the need for unnecessary plant shutdowns, while still maintaining the capability to complete the safety function. Therefore, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John N. Hannon.

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of amendment request: March 28, 1991

Description of amendment request: The proposed amendment would make several changes to the Technical Specifications (TSs) related to neutron monitoring: TS 3/4.3.1, "Reactor Protection System Instrumentation"; TS 3/4.3.6, "Control Rod Block Instrumentation"; and 3/4.3.7.6, "Source Range Monitors." The changes would incorporate statements of exception to TS 4.0.4, clarify startup surveillance requirements for neutron monitoring instrumentation and revise the control rod block channel calibration frequency for the Source Range Monitors.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

The proposed changes do not involve a significant increase in the probability or consequences of a [sic] accident previously evaluated. The proposed changes do not involve a physical change or addition to any plant component or system which could cause the probability of an accident to increase. The proposed changes do not result in any change to the plant design or its operating modes. Therefore, these proposed changes cannot increase the probability of any accident previously evaluated.

The proposed addition of Surveillance Requirements 4.3.1.4. and 4.3.6.2, together with the incorporation of the proposed additional text for Surveillance Requirements 4.3.7.6.a and 4.3.7.6.b, provide for performance of the associated IRM and SRM surveillances during plant shutdowns following extended operation in Operational Condition 1. These surveillances cannot be performed with the unit in Operational Condition 1. The proposed changes merely provide the formal means to avoid violation of Technical Specification 4.0.4 and provide adequate time to perform these surveillances without causing the possibility of

unnecessary plant scrams, challenges to safety systems, and unnecessary procedural complications/stress on plant personnel while completing these surveillances under the provisions of Action Statements. The 12-hour time allowance for performance of the IRM Channel Functional Test and Channel Calibration Surveillances after entering lower modes of operation from Operational Condition 1 will help avoid unnecessary scrams during controlled plant shutdowns and/or mode changes by significantly reducing (and in most cases eliminating) the time that the half scram signal is inserted into the RPS logic after entry into lower modes of operation and would eliminate unnecessary manipulations of plant equipment in order to perform the IRM Surveillances at the same time that a portion of the RPS system is in the tripped position. Adequate scram protection and neutron monitoring capability are provided by the APRMs during the short time period needed to perform these surveillances. Upon entry into Operational Conditions 3 or 4, the control rod block provided by the mode switch provides adequate protection pending surveillance completion.

The proposed change to provide a formal Specification 4.0.4 exception to allow entry into Operational Condition 1 before the APRM gain surveillance has been performed provides adequate time for plant conditions to be achieved that will result in an accurate heat balance calculation. The APRM Flow-Biased Simulated Thermal Power-High function still provides adequate scram protection during the short time period needed to achieve 25% of RATED THERMAL POWER and perform these APRM gain adjustments after entering Operational Condition 1.

The proposed deletion of the 24-hour clause and the "S/U" notation from the Channel Functional Test requirement for the neutron monitors eliminates the possible confusion caused by the current wording without reducing the effectiveness of these surveillances. The Technical Specifications, when revised as proposed, will continue to require, as they currently do, that these Channel Functional Tests be performed within seven days prior to entering the conditions for which these instruments are required.

The proposed change to the Channel Calibration frequency for the SRM control rod block functions will not result in any significant change in the availability of this rod block function, and it is consistent with the current channel calibration frequency requirement for ensuring that source range neutron monitoring capability is available to the operators during control rod movements at low power conditions, and/or post-accident conditions. No credit is taken for the SRM control rod block function in PNPP's USAR Chapter 15 safety analyses, and since the setpoint is checked during each shutdown in which an applicable Operational Condition for SRMs is entered, they will be fully functional for any subsequent startup.

Based upon the above, these proposed changes cannot increase the probability or the consequences of any accident previously evaluated.

The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed change does not involve a change in the design of any plant system or component nor does it involve a change in the operation of any plant system or component. As a result, no new failure modes are introduced.

The proposed changes do not result in a significant reduction in the margin of safety, because as discussed above, the proposed changes still provide adequate assurance that each of the applicable safety functions are capable of being effected when required, including reactor scram protection, control rod block, and neutron monitoring.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John N. Hannon.

Virginia Electric and Power Company, Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: April 16, 1991

Description of amendment request: The proposed changes would revise the NA-1&2 Technical Specifications (TS) regarding electric power systems during shutdown. The applicability sections of these TS would be expanded to include handling spent fuel when the reactor is defueled. In addition, the TS would be clarified and made consistent with Standard TS. The changes would also delete the requirement to establish containment integrity if a required bus is lost. This requirement is not necessary and can divert operator attention.

The existing TS are applicable during cold shutdown and refueling. However, the definition of the refueling mode excludes the case when the reactor is defueled. The revised TS would apply when moving irradiated fuel or any loads over irradiated fuel even if there is no fuel in the reactor. The licensee would therefore be better equipped to cope with a fuel handling accident.

The existing TS also allow busses from different trains to be used to satisfy the requirements. The revised TS would list the equipment on each train and would require one complete train. This would reduce the probability and consequences of an accident.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change[s] [do] not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed changes have no adverse impact upon potential accident probability or consequence. No new or unique accident precursors are introduced by these changes to the [TS] requirements. The need for containment closure is adequately addressed by other specifications. ...[The] change[s] will enhance the ability to cope with an accident during shutdown.

2. The proposed change[s] [do] not create the possibility of a new or different kind of accident from any previously evaluated. The change[s] only [affect] electrical systems during shutdown and all credible accidents have been evaluated.

3. The proposed changes do not involve a significant reduction in a margin of safety. The margin of safety for shutdown or fuel handling accidents is not affected by [these changes].

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903-2498.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, P.O. Box 1535, Richmond, Virginia 23212.

NRC Project Director: Herbert N. Berkow

Notice of Issuance of Amendment To Facility Operating License

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination

and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C., and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Projects.

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application of amendment: February 6, 1991

Brief description of amendment: This amendment will change the Technical Specifications (TS) to (1) delete the reference to a specific date for 10 CFR Part 50, Appendix J, Section 4.7.A.2.a, (2) delete Table 3.7-1, "Primary Containment and Reactor Vessel Isolation Valves" and the references thereto, and (3) clarify sections 4.7.A.2.b.1.a and 4.7.A.2.b.1.b by adding the words "primary containment."

Date of issuance: April 22, 1991

Effective date: April 22, 1991

Amendment No.: 136

Facility Operating License No. DPR-35: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 6, 1991 (56 FR 9374) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 21, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Entergy Operations, Inc., Docket Nos. 50-313 and 50-368, Arkansas Nuclear One, Unit Nos. 1 and 2 (ANO-1&2), Pope County, Arkansas

Date of amendment request: February 20, 1991

Brief description of amendments: The amendment revised Table 6.2-1 of the Administrative Sections of ANO-1&2 Technical Specifications to increase the number of licensed and non-licensed operators required when either unit is in a mode above cold shutdown.

Date of issuance: April 26, 1991

Effective date: April 26, 1991

Amendment Nos.: 146 and 118

Facility Operating License Nos. DPR-51 and NPF-6. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 20, 1991 (56 FR 11779) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 26, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Florida Power and Light Company, et al., Docket No. 50-389, St. Lucie Plant, Unit No. 2, St. Lucie County, Florida

Date of application for amendment: August 16, 1990

Brief description of amendment: This amendment revises the Independent Safety Engineering Group (ISEG) reporting and administrative requirements needed as a result of organizational changes within the Nuclear Energy Department.

Date of Issuance: May 2, 1991

Effective Date: May 2, 1991

Amendment No.: 49

Facility Operating License No. NPF-16: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 3, 1990 (55 FR 40466) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 2, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34954-9003

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of application for amendments: September 13, 1990, as supplemented November 15, 1990, December 13, 1990, January 4, 1991 and January 28, 1991.

Brief description of amendments: These amendments provide for replacement of the resistance thermal detector (RTD) bypass manifold system with fast-response thermowell-mounted RTDs. The amendments also provide for use of EAGLE-21 digital electronics in the reactor protection and control systems, and change the surveillance interval and allowed testing "Bypass" time for the new electronic system. Finally, the amendments include modifications to the axial power imbalance term in the overtemperature/delta-temperature andoverpower/delta-temperature reactor trip functions.

Date of issuance: April 23, 1991

Effective date: April 23, 1991

Amendment Nos. 140, 135

Facility Operating Licenses Nos. DPR-31 and DPR-41: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 9, 1991 (56 FR 891) The January 4 and 28, 1991 letters provided additional information which did not alter the staff's initial determination of no significant hazards consideration.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 23, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of application for amendments: January 25, 1991

Brief description of amendments: These amendments modify TS Table 4.4-5, "Reactor Vessel Material Surveillance Program - Withdrawal Schedule," to place surveillance capsule X in a higher flux position.

Date of issuance: April 30, 1991

Effective date: April 30, 1991

Amendment Nos. 141, 136

Facility Operating Licenses Nos. DPR-31 and DPR-41: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 20, 1991 (56 FR 6875) The Commission's related evaluation of

the amendments is contained in a Safety Evaluation dated April 30, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of application for amendment: October 4, 1990

Brief description of amendment: The amendment revises the Technical Specifications to delete radiation monitor RM-G8 and adds a reporting requirement when the iodine sampling system is inoperative.

Date of Issuance: April 22, 1991

Effective date: April 22, 1991

Amendment No.: 161

Facility Operating License No. DPR-50. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 20, 1991 (56 FR 11780) The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated April 22, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Maine Yankee Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of application for amendment: November 22, 1988

Brief description of amendment: First, the amendment modifies Technical Specification 4.6, "Periodic Testing" by extending the specified surveillance testing interval for main steam excess flow check valves from once every six weeks to once every three months. Second, the amendment modifies Technical Specification 4.2, "Equipment and Sampling Tests," by extending the surveillance requirements for turbine stop, governor, reheater and intercept valves, from once every month to once every three months, consistent with the proposed interval for the EFCVs.

Date of issuance: April 22, 1991

Effective date: April 22, 1991

Amendment No.: 120

Facility Operating License No. DPR-36: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 1, 1989 (54 FR 5164). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 22, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Wiscasset Public Library, High Street, P. O. Box 367, Wiscasset, Maine 04578.

Northeast Nuclear Energy Company, Docket No. 50-245, Millstone Nuclear Power Station, Unit 1, New London County, Connecticut

Date of application for amendment: February 28, 1991, as supplemented by letter dated March 27, 1991.

Brief description of amendment: The amendment changes the Technical Specifications (TS) to: (1) delete the shutdown margin demonstration requirement of TS 3/4.3.A.1 from several Limiting Conditions for Operations, (2) limit the number of control rods that can be withdrawn/decoupled in TS 3.3, to one control rod, (3) change the system description "liquid poison system" in TS 3.4, to "standby liquid control system," (4) allow testing of safety/relief valves (SRVs) and automatic pressure relief (APR) valves at higher pressures in TS 4.6.E.3 and 4.5.D.1.b, respectively, and (5) delete the "valve position indication" option from the SRV operability test of TS 4.6.E.3.

Date of issuance: April 24, 1991

Effective date: April 24, 1991

Amendment No.: 52

Facility Operating License No. DPR-21. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 20, 1991 (56 FR 11782) The March 27, 1991 letter provided additional clarifying information that did not change the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 24, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Northeast Nuclear Energy Company, Docket No. 50-245, Millstone Nuclear Power Station, Unit 1, New London County, Connecticut

Date of application for amendment: January 11, 1991

Brief description of amendment: The amendment changes Technical Specifications (TS) Table 4.2.1, "Minimum Test and Calibration Frequency for Core Cooling Instrumentation, Rod Blocks and Isolations" as follows: (1) several previously omitted instruments are added and (2) the previously omitted "instrument functional test" frequency for the Reactor High Pressure instrumentation is provided.

Date of issuance: April 29, 1991

Effective date: April 29, 1991, to be implemented within 60 days.

Amendment No.: 53

Facility Operating License No. DPR-21. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 20, 1991 (56 FR 6877) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 29, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: January 31, 1991

Brief description of amendment: The amendment revises the Technical Specifications (TS) to reflect the effect of SAFER/GESTR-LOCA reanalysis on the minimum emergency core cooling system (ECCS) injection flow requirements. The amendment also reformats the ECCS TS to more closely conform to the format of the Standard Technical Specifications.

Date of issuance: April 9, 1991

Effective date: April 9, 1991

Amendment No.: 79

Facility Operating License No. DPR-22. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 20, 1991 (56 FR 6878) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 9, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Northern States Power Company, Dockets Nos. 50-282 and 50-306, Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2, Goodhue County, Minnesota

Date of application for amendments: December 26, 1990

Brief description of amendments: Specifications Tables TS.3.5-4 and TS.4.1-1 to incorporate the feedwater isolation specifications requested by Generic Letter 89-19 and correct Table TS.4.1-1 to remove surveillances related to the low steam generator water level coincident with steam/feedwater mismatch reactor trip which was removed from the Technical Specifications by License Amendment Nos. 87 and 80, respectively.

Date of issuance: April 30, 1991

Effective date: April 30, 1991

Amendment Nos.: 95 and 88

Facility Operating License Nos. DPR-42 and DPR-60. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 6, 1991 (56 FR 4868) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 30, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Pennsylvania Power and Light Company, Docket No. 50-388 Susquehanna Steam Electric Station, Unit 2, Luzerne County, Pennsylvania

Date of Application for Amendment: March 7, 1991

Brief description of amendment: The amendment changed the Technical Specifications in support of the ensuing Cycle 5 reload with ANF fuel and replacement of control rod blades.

Date of issuance: April 22, 1991

Effective date: Effective upon startup after Unit 2 Cycle 5 Refueling Outage

Amendment No.: 76

Facility Operating License No. NPF-22. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 22, 1991 (56 FR 12285) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 22, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Philadelphia Electric Company, Docket Nos. 50-352 and 50-353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendments: January 31, 1991

Brief description of amendments: The amendments changed the Technical Specifications to expand the testing tolerance of the 480 volt molded case circuit breakers.

Date of issuance: April 23, 1991

Effective date: April 23, 1991

Amendment Nos. 50 and 13

Facility Operating License Nos. NPF-39 and NPF-85. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 20, 1991 (56 FR 6879) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 23, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: April 4, 1990; superseded January 22, 1991.

Brief description of amendment: The amendment revises Table 4.2-2, Minimum Test and Calibration Frequency for Core and Containment Cooling Systems, to eliminate the requirement for functional testing of the time delay relays and timers associated with the High Pressure Coolant Injection (HPCI) System and the Reactor Core Isolation Cooling (RCIC) System high steamline temperature isolation signals.

Date of issuance: April 18, 1991

Effective date: April 18, 1991

Amendment No.: 169

Facility Operating License No. DPR-59: Amendment revised the Technical Specification.

Date of initial notice in **Federal Register:** July 25, 1990 (55 FR 30308) and renoticed March 6, 1991 (56 FR 9383). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 18, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: December 28, 1990

Brief description of amendment: This amendment revised Administrative Controls, UNIT STAFF, Section 6.2.2 of the Technical Specifications (TS) to reflect the current Hope Creek Generating Station (HCGS) operating shift schedules, which consist of 12 hour shifts but average 40 hours per week. Additionally, this amendment revised Administrative Controls, TECHNICAL REVIEW AND CONTROL, Section 6.5.3.2.c to indicate that Station Qualified Reviewers meet or exceed the qualifications described in Sections 4.1 and 4.7 of ANS 3.1, 1981.

Date of issuance: April 22, 1991.

Effective date: As of the date of issuance and shall be implemented within sixty days of date of issuance.

Amendment No. 41

Facility Operating License No. NPF-57. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 6, 1991 (56 FR 4871) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 22, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: December 28, 1990

Brief description of amendment: This amendment revised Technical Specifications (TS), DEFINITION 1.10, CRITICAL POWER RATIO (CPR). This amendment made the TS definition for CPR more generic by permitting the use of NRC-approved critical power correlations. Additionally, the bases for THERMAL POWER and MINIMUM CRITICAL POWER RATIO were modified to reference the latest approved version of the GE Standard Application for Reactor Fuel (GESTAR II) and to more clearly define how certain MCPR factors are determined.

Date of issuance: April 24, 1991

Effective date: As of its date of issuance and shall be implemented within 60 days of its date of issuance.

Amendment No. 42

Facility Operating License No. NPF-57. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 6, 1991 (56 FR 4870) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 24, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of application for amendment: November 26, 1990

Brief description of amendment: The amendment changes to the Technical Specifications to delete surveillance requirement 4.8.1.1.1.b. The surveillance requirement, which is to demonstrate the operability of the offsite, preferred power sources, is not applicable to Summer Station. In addition, it made editorial changes to TS 3.8.1.1.1 to reflect the deletion of the Surveillance Requirement.

Date of issuance: April 29, 1991

Effective date: April 29, 1991

Amendment No.: 98

Facility Operating License No. NPF-12. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** January 9, 1991 (56 FR 897). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 29, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2, and 3, Limestone County, Alabama

Date of application for amendment: March 1, 1991

Brief description of amendment: The proposed amendment would update Section 6.0, "Administrative Controls" to align the Plant Operations Review Committee (PORC) membership with the current Browns Ferry Nuclear Plant Organizational titles.

Date of issuance: April 22, 1991

Effective date: April 22, 1991

Amendment Nos.: 182 - Unit 1, 195 - Unit 2, 154 - Unit 3

Facility Operating License Nos. DPR-33, DPR-52 and DPR-68: Amendments revised the Units 1, 2, and 3 Technical Specifications.

Date of initial notice in **Federal Register:** March 20, 1991 (FR 56 11786) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 22, 1991.

No significant hazards consideration comments received:

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611.

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2, and 3, Limestone County, Alabama

Date of application for amendment: April 11, 1990 (TS 278)

Brief description of amendment: This Amendment deletes Appendix B, "Environmental Technical Specifications."

Date of issuance: April 29, 1991

Effective date: April 29, 1991

Amendment Nos.: 183-Unit 1, 196-Unit 2, 155-Unit 3

Facility Operating License Nos. DPR-33, DPR-52 and DPR-68: Amendment revises the Technical Specification.

Date of initial notice in **Federal Register:** May 8, 1990 (55 FR 18414) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 29, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611.

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of application for amendments: June 4, 1990

Brief description of amendments: This amendment revises Section 3.7.F/4.7.F and associated bases of the Technical Specifications to more accurately prescribe the allowed operations for purging and venting the primary containment.

Date of issuance: April 29, 1991

Effective date: April 29, 1991

Amendment Nos.: 184-Unit 1, 197-Unit 2, 156-Unit 3

Facility Operating Licenses Nos. DPR-33, DPR-52 and DPR-68: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 5, 1990 (55 FR 36355) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 29, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611.

Tennessee Valley Authority, Docket No. 50-328, Sequoyah Nuclear Plant, Unit 2, Hamilton County, Tennessee

Date of application for amendment: February 14, 1991 (TS 91-01)

Brief description of amendment: The amendment modifies Section 3/4.5.1.1, Cold Leg Injection Accumulators, of the Sequoyah Nuclear Plant, Unit 2, Technical Specifications. The change reduces the required boron concentration for one of the four cold leg injection accumulators from between 2,400 and 2,700 parts per million (ppm) boron to between 1,900 and 2,700 ppm boron. This reduces the frequency at which the Unit 2 cold leg injection accumulator No. 3 is being removed from service for periodic draindowns and refills. This periodic evolution has been necessary as a result of a continuing small reactor coolant inleakage into the accumulator on the order of 0.1 of 0.2 gallon per minute during the Unit 2 Cycle 5 operation.

The licensee requested an expedited review so that this relief may be implemented as soon as possible. The change would be only for the remainder of the current Unit 2 Cycle 5 operation.

Date of issuance: April 24, 1991

Effective date: April 24, 1991

Amendment No.: 141

Facility Operating License No. DPR-79: Amendment revised the Unit 2 Technical Specifications.

Date of initial notice in **Federal Register:** March 11, 1991 (56 FR 10287) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 24, 1991.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402

Toledo Edison Company, Centerior Service Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application for amendment: August 1, 1988

Brief description of amendment: The amendment clarified the testing requirements and updated the regulatory and industry guidance reference for High Efficiency Particulate Air (HEPA) filters and charcoal adsorber units in

Engineered Safety Feature (ESF) cleanup systems.

Date of issuance: April 23, 1991

Effective date: April 23, 1991

Amendment No. 155

Facility Operating License No. NPF-3. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 22, 1990 (55 FRN 34383) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 23, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia.

Date of application for amendments: January 31, 1991

Brief description of amendments: These amendments provide a visual snubber inspection program consistent with the guidance of Generic Letter 90-09, "Alternative Requirements for Snubber Visual Inspection Intervals and Corrective Actions."

Date of issuance: May 1, 1991

Effective date: May 1, 1991

Amendment Nos. 156, 155

Facility Operating License Nos. DPR-32 and DPR-37: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 20, 1991 (56 FR 6883) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 1, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of application for amendment: March 19, 1991, as supplemented by letter dated April 26, 1991. This supplement makes the proposed changes more conservative, and hence does not change the staff's preliminary determination of no significant hazards.

Brief description of amendment: The amendment provided clarification on how motorized rotating pancake coil (MRPC) eddy current indications in the steam generator (SG) hot leg tubesheet crevice area was dispositioned during spring 1991 refueling outage. The method of dispositioning crevice area indications described in the Technical Specification (TS) change was an interim measure to be utilized for the upcoming 1991-1992 operating cycle only.

Date of issuance: May 3, 1991

Effective date: May 3, 1991

Amendment No.: 93

Facility Operating License No. DPR-43. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 1, 1991 (56 FR 13341) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 3, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Notice of Issuance of Amendment To Facility Operating License and Final Determination of No Significant Hazards Consideration and Opportunity For Hearing (Exigent or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for a Hearing. For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C., and at

the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U. S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Projects.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By June 14, 1991, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C. 20555 and at the Local Public Document Room for the particular facility involved.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (Project Director): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: January 18, 1991, as supplemented April 5, and April 8, 1991.

Brief description of amendment: The amendment changes Technical Specification (TS) 4.6.4.2.b.4, "Electric Hydrogen Recombiners," and adds the following note to the pressure - dependent flow requirements for the hydrogen recombiners in TS Figure 3.6-2:

Until September 30, 1991, a flow rate of 72.4 scfm or greater at a pressure of 14.5 to 14.8 psia is acceptable in lieu of the values indicated by Figure 3.6-2.

Date of Issuance: April 22, 1991

Effective date: April 22, 1991

Amendment No.: 61

Facility Operating License No. NPF-49. Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: Yes. April 3, 1991 (56 FR 13666) on the January 8, 1991 application. No comments were received. The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated April 22, 1991.

Local Public Document Room location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Dated at Rockville, Maryland, this 8th day of May 1991.

For the Nuclear Regulatory Commission

Steven A. Varga,

Director, Division of Reactor Projects - I/II, Office of Nuclear Reactor Regulation

[Doc. 91–11427 Filed 5–14–91; 8:45 am]

BILLING CODE 7590–01–D

OFFICE OF PERSONNEL MANAGEMENT

Pay-for-Performance Labor-Management Committee; Meetings

The Office of Personnel Management announces the following meetings:

Name: Pay-for-Performance Labor-Management Committee.

Dates and Times: May 29, 1991, 9 a.m. to 5 p.m., June 20, 1991, 9 a.m. to 5 p.m., July 8, 1991, 9 a.m. to 5 p.m., July 30, 1991, 9 a.m. to 5 p.m.

Place: Office of Personnel Management, 1900 E Street NW., Washingotn, DC 20415–0001. Meetings will be held in room 1350, except for May 29, when the Committee will meet in suite 5H09, room 5A06A.

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 Meetings: To consider ways to strengthen the linkage between the performance of General Schedule employees and their pay.

Agenda: Committee goals and objectives; scope of inquiry; research and resources regarding performance-based pay; basic issues and challenges facing the committee; committee administration; comments and observations; public input; closing.

SUPPLEMENTARY INFORMATION: The Committee welcomes written data, views, or comments concerning pay-for-performance for General Schedule employees. All such submissions received by close of business (COB) on the dates indicated below will be provided to the committee members and included in the record of the respective meeting:

If received by COB	Input wil be considered at the meeting
May 21, 1991	May 29, 1991.
June 13, 1991	June 20, 1991.
June 28, 1991	July 8, 1991.
July 23, 1991	July 30, 1991.

If time permits, the committee will consider oral presentations relating to agenda items. Persons wishing to address the committee orally at a meeting should submit a written request to be heard by the deadline listed above for that particular meeting. 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 intended presentation, and an estimated 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. 91–11535 Filed 5–14–91; 8:45 am]

BILLING CODE 6325–01–M

PRESIDENT'S COMMISSION ON WHITE HOUSE FELLOWSHIPS

Annual Meeting of Commissioners

AGENCY: President's Commission on White House Fellowships.

ACTION: Notice of Annual Selection Meeting of the President's Commission on White House Fellowships * * Closed to the Public.

SUMMARY: Notice is hereby gviven that the annual Selection Meeting of the President's Commission on White House Fellowships will be held at Mt. Washington Conference Center, Baltimore, Maryland, May 30 through June 2, 1991, beginning at 5 p.m.

The Annual Selection Meeting is part of the screening process of the White House Fellowships program. During this three-day meeting, the applicants will be interviewed by members of the Presidential Commission. At the conclusion of this meeting, the Commissioners will recommend to the President those they propose be selected to serve as White House Fellows.

It has been determined by the Director of the Office of Personnel Management that because of the nature of the screening process, wherein personnel records and confidential character references must be used, which, if revealed to the public would constitute a clear invasion of the individual's privacy, the content of this meeting falls within the provisions of section 552b(c) of title 5 of the United States Code. Accordingly, this meeting is closed to the public.

DATES: The dates of the Annual Selection meeting of the President's Commission on White House Fellowships, which is closed to the public, are May 30–June 2, 1991.

FOR FURTHER INFORMATION CONTACT: Phyllis Byrne, Associate Director, President's Commission on White House Fellowships, 712 Jackson Place, NW., Washington, DC 2503, (202) 395–4522.

Dated: April 29, 1991

Marcy L. Head,

Director, President's Commission on White House Fellowships.

[FR Doc. 91–11460 Filed 5–14–91; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–29186; File No. SR-Amex-91–09]

Self-Regulatory Organizations; Notice of Filing and Order Granting Temporary Accelerated Approval to Proposed Rule Change by American Stock Exchange, Inc. Relating to a Pilot Program for Execution of Odd-lot Market Orders

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 May 6, 1991, the American Stock Exchange, Inc. ("Amex" 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 provided by the Amex. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend for six months its existing pilot program under Amex Rule 205 requiring execution of odd-lot market orders at the prevailing Amex quote with no differential charged.[1] The Amex received approval, on a pilot basis expiring on May 10, 1991, of amendments to Amex Rule 205.[2]

[1] The Exchange seeks accelerated approval of the proposed rule change in order to allow the pilot program, which will expire on May 10, 1991, to continue without interruption.

[2] *See*, Securities Exchange Act Release No. 28758 (January 10, 1991), 56 FR 1658 (January 16, 1991) (approving File No. SR-Amex-90–39) ("1991 Approval Order"). *See also* Securities Exchange Act Release No. 27590 (January 5, 1990), 55 FR 1123 (January 11, 1990) (approving File No. SR-Amex-89–31) ("1990 Approval Order"). The Commission previously approved this pilot program and granted permanent approval of procedures which provide that the odd-lot portion of a Part of Round Lot ("PRL") order will be executed at the same price as the round lot portion, with no differential charged. *See* Securities Exchange Act Release No. 26445 (January 10, 1989), 54 FR 2248 (approving File No. SR-Amex-88–23) ("1989 Approval Order").

The text of the proposed rule change is available at the Office of the Secretary, Amex 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 Amex 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 III below. The Amex 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 the Statutory Basis for, the Proposed Rule Change

Purpose

The Commission has approved, on a pilot basis extending to May 10, 1991, amendments to Exchange Rule 205 to require the execution of odd-lot market orders at the prevailing Amex quote with no odd-lot differential.[3] Under the pilot procedures, market orders with no qualifying notations are executed at the Amex quotation at the time the order is represented in the market either by being received at the trading post or through the Exchange's Post Execution Reporting system ("PER"). Enhancements to the PER system have been implemented to provide for the automatic execution of odd-lot market orders entered through PER. For purposes of the pilot program, limit orders that are immediately executable based on the Amex quote at the time the order is received at the trading post or through PER are executed in the same manner as market orders.

The Exchange proposes that the pilot program applicable to odd-lot execution procedures be extended for six months. This will provide the Commission with an additional period of time to assess procedures under the pilot program and will permit the Exchange to provide additional data and information regarding its experience under the pilot program as well as the operation of the PER system enhancements.

Basis

The proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Sections 6(b)(5) and 11A(a)(1) in particular in that it facilitates the economically efficient execution of odd-lot transactions, and is intended to result in improved execution of customer orders.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no 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. 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 persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–91–09 and should be submitted by June 5, 1991.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with the requirements of sections 6 [4] and 11A(a)(1) [5] of the Act and the rules and regulations thereunder. In particular, the Commission believes that the revised procedures which provide for pricing of odd-lot market orders at the prevailing market quote rather than a subsequent transaction should provide investors with more timely executions of these orders. Moreover, these orders will receive execution prices that more accurately reflect market conditions than would otherwise be the case under former procedures. In addition, the Exchange has implemented enhancements to its PER system to provide for the automatic execution of odd-lot market orders, as set forth in the Commission's 1989 Approval Order.[6]

In its 1989, 1990 and 1991 Approval Orders, the Commission asked the Amex to analyze the difference in executions between using the Intermarket trading System ("ITS") best bid or offer and the Amex quote without the differential. Specifically, the Commission was interested in whether customers are receiving a better execution, both in terms of price and time, using the new Amex system. The Commission also was interested in the feasibility of implementing an odd-lot pricing system using the ITS best bid or offer and no differential.

The Amex submitted the requested information with respect to the difference in executions between the ITS best bid or offer and the Amex quote to the Commission on January 9, 1991 and April 22, 1991.[7] The Amex data submitted in January indicated that for 97.4% of the odd-lot executions, the Amex quote was the ITS best bid or offer. The Amex data submitted in April indicated that for 93.1% of the odd-lot executions, the Amex quote was the ITS best bid or offer. Based upon data submitted in both January and April, the Amex concluded that odd-lots were executed at a price equal to or better than the inside quote 97.0% of the time. The Amex also concluded that the prices at which odd-lot market orders are executed under the pilot program have been, on balance, superior to those available under the Exchange's previous procedures. The Amex states that, based upon its data submitted in January, it is expected that 87% of Amex odd-lot executions would receive a better price under the pilot procedures than under the prior procedures.

The Commission believes that it is reasonable to extend the pilot program for six months to enable the Commission to fully review the Amex report and to enable the pilot to

[3] *See supra* note 2.

[4] 15 U.S.C. 78f (1988).

[5] 15 U.S.C. 78k–1(a)(1) (1988).

[6] *See* 1989 Approval Order, *supra* note 2 for a description of the Exchange's odd-lot procedures and the Commission's rationale for approving those procedures on a pilot basis. The discussion in that Order is incorporated by reference into this Order.

[7] *See* letters from Jules L. Winters, Executive Vice President, Operations, Amex, to Howard L. Kramer, Assistant Director, Commission, dated January 8, 1991 and April 19, 1991.

continue without interruption during the Commission's review. The Amex data indicates that the pilot procedures provide a superior price for a substantial majority of odd-lot executions. The Commission, however, remains concerned that odd-lot orders could receive executions at less than the best available price since the Exchange's pricing formula does not include quotations from other markets.[8] Due to the low number of odd-lot market orders,[9] the small percentage of Amex quotes that are worse than the ITS best bid and offer, and the benefits to customers under the pilot program procedures, however, the Commission believes that it is acceptable to continue the pilot's current pricing procedures for an additional six months. The Commission requests that the Amex provide data for additional trade dates that will analyze the difference in executions between using the ITS best bid or offer and the Amex quote without the differential during the extension of the pilot program. The Commission also is interested in the feasibility of implementing an odd-lot pricing system using the ITS best bid or offer and no differential. The Commission requests that the Amex provide a report on these questions by September 1, 1991.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. This will permit the pilot program to continue on an uninterrupted basis. In addition, the procedures the Exchange proposes to continue using are the identical procedures that were published in the **Federal Register** for the full comment period and were approved by the Commission.[10]

[8] The Commission has approved amendments to the New York Stock Exchange's ("NYSE") rules which incorporate the ITS quote into the NYSE's odd-lot pricing procedures through the use of the "Best Pricing Quote." *See* Securities Exchange Act Release No. 27981 (May 2, 1990), 55 FR 19409 (May 9, 1990).

[9] The Amex states that during the period of January 1 to November 30, 1990, odd-lots accounted for 0.24% of total Exchange volume (7,529,926 shares). *See* leter from Jules L. Winters, Executive Vice President, Operations, Amex, to Howard L. Kramer, Assistant Director, Commission, dated January 8, 1991. During the period of January 1 to April 12, 1991, the Exchange states that odd-lots accounted for 0.26% of total Exchange volume (3,182,228 shares). *See* letter from Jules L. Winters, Executive Vice President, Operations, Amex, to Howard L. Kramer, Assistant Director, dated April 19, 1991.

[10] No comments were received in connection with the proposed rule change which implemented these procedures. *See* 1989 Approval Order, *supra* note 2.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change is approved for a six month period ending on November 10, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Dated: May 9, 1991.

Jonathan G. Katz,

Secretary.

[FR Doc. 91-11534 Filed 5-14-91; 8:45 am]

BILLING CODE 8010-01-M

[11] 15 U.S.C. 78s(b)(2) (1988).

[12] 17 CFR 200.30-3(a)(12) (1990).

[Release No. 34-29185; File No. S7-12-91]

Automated Systems of Self-Regulatory Organizations

AGENCY: Securities and Exchange Commission.

ACTION: Policy statement.

SUMMARY: The Securities and Exchange Commission today announces the publication of a second Automation Review Policy statement in which the Commission sets forth its views concerning: (1) The nature of the independent reviews that the self-regulatory organizations ("SROs") are encouraged to obtain with respect to their automated trading and information dissemination systems; (2) the contents of SROs' annual reports on major systems changes and a process for provision of notifications of material systems changes; and (3) notifications of significant systems problems. In addition, the Policy Statement requests comment on establishing a process to explore the development of generally accepted standards for automated systems of regulated entities with respect to computer audits, security and capacity.

DATES: Comments must be received on or before June 14, 1991.

ADDRESSES: Persons wishing to submit comments should file ten copies with Jonathan G. Katz, Secretary, Securities and Exchange Commission Mail Stop 6-9, 450 Fifth Street, NW., Washington, DC 20549 All comments should refer to File No. S7-12-91 and will be.available at the Commission's Public Reference Room.

FOR FURTHER INFORMATION CONTACT: Alden S. Adkins, Chief, 202/272-2782, or Eugene A. Lopez, Special Counsel, 202/272-2828, Office of Automation and International Markets, Division of Market Regulation, Securities and Exchange Commission, Mail Stop 5-1, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION:

I. Background

On November 16, 1989, the Securities and Exchange Commission ("SEC") or "Commision") issued its first Automation Review Policy ("ARP I") [1] in which it stated its view that the self-regulatory organizations ("SROs"), on a voluntary basis, should establish comprehensive planning and assessment programs to determine systems capacity and vulnerability. At that time, the Commission noted the impact that systems problems and failures could have on public investors, broker-dealer risk exposure and market efficiency, and as a result, urged that the SROs take appropriate measures to ensure that, initially, their automated trading systems "have the capacity to accommodate current and reasonably anticipated future trading volume levels adequately and to respond to localized emergency conditions." (ARP I at 12).

Accordingly, the Commission recommended that the SROs establish comprehensive planning and assessment programs to test systems capacity and vulnerability. ARP I stated that the SRO programs should have three objectives: (1) each SRO should establish current and future capacity estimates; (2) each SRO should conduct capacity stress tests periodically; and (3) each SRO should obtain an annual independent assessment of whether the affected sytems can perform adequately in light of estimated capacity levels and possible threats to the systems.

Since the issuance of the first Policy Statement, the Commission's staff has met on a regular basis with Senior technology staff of all of the exchanges [2] and the National Association of Securities Dealers, Inc. ("NASD") with regard to the issues raised by ARP I,[3]

[1] Securities Exchange Act Release No. 27445 (November 16, 1989), 54 FR 48703, November 24, 1989.

[2] Staff met on a regular basis with representatives from the American Stock Exchange (Amex), Boston Stock Exchange (BSE), Chicago Board Options Exchange (CBOE) (CBOE is the facilities manager for the computer operations of the Cincinnati Stock Exchange as well as its own computer systems), Midwest Stock exchange (MSE), New York Stock Exchange (NYSE), the Pacific Stock Exchange (PSE) and the Philadelphia Stock Exchange (Phlx), as well as the NASD. In addition, participants from the Securities Industry Automation Corporation (SIAC), the facilities manager for the computer operations of the NYSE and Amex, attended these meetings. Generally the persons in attendance were the senior officials from the technology divisions of the SROs.

[3] Since issuing ARP I, the Commission has created within the Division of Market Regulation

Continued

These discussions to date have focused directly on the independent review suggestion contained in ARP I. Specifically, the Commission staff and the SROs have discussed an approach to the independent review process that fairly, effectively and efficiently permits the SROs to obtain reviews of their automated trading and market information dissemination systems, taking into account that the SROs already engage in testing and quality assurance reviews of new or modified systems, and that there are other significant controls in place to prevent, detect or correct problems, in such areas as capacity planning, testing, systems development, vulnerability and contingency planning.

To this end, based, in part, upon these discussions, the Commission is setting forth in this Automation Review Policy ("ARP II") guidance concerning the nature of the independent reviews it believes should be conducted, on a voluntary basis, by the SROs and solicits comment on the approach it has suggested.

In addition to discussing the independent review process, the SROs and Commission staffs have discussed various means by which the SROs could provide Commission staff with advance notification of significant changes to and problems occurring in, the automated systems of the SROs. This Policy Statement also reflects the Commission's views on a voluntary approach to a uniform and consistent standardized methodolgy for advising the staff of new systems developments and outages. The Commission also solicits comment from all interested persons on the approaches regarding notifications contained in the Policy Statement. Finally, the Commission calls for comments on the need for establishing standards regarding computer security, capacity and audits, including the need for the formation of an advisory committee on the issue of standards in these areas.

II. Policy Statement

In consideration of the importance of the automated trading and information dissemination systems of the SROs to investors, intermediaries, and other market participants, and after engaging in extensive discussions with the exchanges and the NASD about the nature and scope of review necessary to maintain the integrity of the systems, the Commission believes that it is appropriate for the exchanges and the NASD to obtain independent reviews of the general controls in place in the SRO's automated trading and information dissemination systems [4] and risk analyses of those controls to determine the need for further reviews of or enhancements to those controls and applications controls. The Commission continues to believe that, as stated in ARP I, periodic, independent reviews of each SRO's systems should help to "identify potential weak points, and reduce the risk of serious failure." [5] We believe that the independent reviews and risk analyses should: (1) Cover significant elements of the operations of the automation process, including the capacity planning and testing process, contingency planning, systems development methodology and vulnerability assessment; (2) be performed on a cyclical basis by competent and independent audit personnel following established audit procedures and standards; and (3) result in the presentation of a report to senior SRO management on the recommendations and conclusions of the independent reviewer, which report should be made available to Commission staff for its review and comment.

Apart from the need for independent reviews, the Commission also believes that the SROs should provide notice of significant additions, deletions, or other changes to their automated systems on an annual and an as-needed basis. In addition, we believe that the SROs should provide Commission staff with real-time notification of unusual events such as significant outages involving automated systems.

Finally, the Commission believes that its staff, the SROs and other interested parties should continue the dialogue on automation issues and begin the process of exploring the establishment of (1) standards for determining capacity levels for the SROs' automated trading systems; (2) generally accepted computer security standards that would be effective for SRO automated systems; and (3) additional standards regarding audits of computer systems.

III. Discussion

A. Independent Reviews

Since the issuance of ARP I, significant efforts have been made on the part of the SROs to address the concerns raised in that Policy Statement. As a result, all of the SROs, have begun to develop processes for measuring and forecasting capacity levels related to trading activity conducted through their automated systems. Additionally, the SROs have commenced a market-wide review of contingency issues that affect the national market system, as well as continuing their own security and contingency reviews and disaster recovery planning processes.

Nonetheless, although these steps are important to the safe operation of SRO automated systems, the Commission believes that a critical element to the success of the capacity planning and testing, security assessment and contingency planning processes for those systems is obtaining an objective review of those planning processes by persons independent of the planning process to ensure that adequate controls and procedures have been developed and implemented. Among other things, the Commission believes that an independent review process could include use of a checklist for the review of the general controls in place at the SROs and a format for issuing a report with recommendations and conclusions. Finally, the process could include a means for determining the need for additional procedures, including controls or controls reviews after completion of the initial general controls review cycle.

Using either a review questionnaire [6] developed by the Commission and SRO

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the Office of Automation and International Markets ("OAIM"). An important role of this Office is to work with the SROs to design the review process, review and react to the results of the independent reviews, and to develop, generally, the Commission's automation oversight program. Because the Commission does not rely primarily upon direct examinations, the independent reviews obtained by the SROs are the "first line of defense" in ensuring the intergrity of the SROs' EDP operations.

[4] As noted in the first ARP, the Commission's emphasis in its automation review policies thus far has been and continues, to refer collectively to computer systems operated by the exchanges and the NASD, or facilities managers for those entities, for listed and over-the-counter ("OTC") equities, as well as options. The covered systems include those that electronically route orders to applicable market centers and those that electronically route and execute orders, as well as the market data systems that feed those systems. It is intended, also, that the Commission's policies encompass SRO systems that disseminate transaction and quotation information, and those that are used to conduct trade comparisons prior to settlement. Perforce, the policies also include the communications networks associated with these systems and markets.

[5] *See* ARP I, *supra* note 1, at 17.

[6] Copies of this questionnaire are available from the Office of Automation and International Markets within the Division of Market Regulation. Some questions or areas of questions may not be relevant in the context of the systems under review. Conversely, additonal questions may be appropriate for some systems. The Commission expects that the reviewer would exercise its professional judgment as to the precise questions that need to be addressed, keeping in mind the ultimate purpose of the review is to provide a report on the SRO's capacity planning and testing, contingency

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staffs or a similar review questionnaire that can be used to measure whether an SRO is meeting the guidelines of the ARP, the independent reviewer is to assess the SRO's general controls in the following areas of the SROs EDP operations: (1) Computer operations and facilities; (2) telecommunications; (3) systems development; (4) capacity planning and testing; and (5) contingency planning. Under the Commission's approach as set forth in this Policy Statement, the purpose of the independent review is to have the reviewer evaluate, and report on, the degree to which:

1. The SRO has in place a capacity requirements, evaluation, monitoring, and reporting process that allows the SRO to formulate current and anticipated estimated capacity requirements. The independent reviewer would be expected to verify that the process is technically, organizationally, and procedurally appropriate for the trading and reporting systems in place and under development and that the process is actually in place, that the SRO uses it for the above purposes, and that it is maintained for systems being brought into production and for changing market conditions.

2. The SRO has formal contingency protocols for back-up purposes, that the SRO has followed a formal, organized process of reviewing the likelihood of contingency occurrences, and that the contingency protocols are documented and maintained on a regular basis.

3. The SRO has implemented a standardized and documented systems development methodology, that the development documentation is maintained and available for review, that the methodology generally is followed, that systems development life cycle responsibilities are clearly identified, that quality assurance and operations testing and review is in place, and that periodic stress tests of each system are performed.

4. The SRO has in place a process for preventing, detecting and controlling threats, both internal and external, to automated systems that are vulnerable to systems integrity failures, and that procedures designed to protect against security breaches are followed.

To assure that the review accomplishes its intended objectives,[7] we believe that any independent review should be performed by competent, independent audit personnel following established audit procedures and standards. Generally, the Commission believes that if internal auditors are used to complete the review, they should comply with the standards of the Institute of Internal Auditors ("IIA") and the Electronic Data Processing Auditors Association ("EDPAA"), and if external auditors are used, they should comply with the standards of the American Institute of Certified Public Accountants ("AICPA") and the EDPAA.[8] The decision on which type of reviewer, an internal EDP auditor or an external firm, should perform the review is a decision for the SRO to make. The Commission believes that, as long as the independent reviewer has the competence, knowledge, consistency, and independence sufficient to perform the role, the independent review can be performed by either recognized EDP audit firms or it can be performed, in whole or in part, by a qualified internal audit department knowledgeable of EDP system.[9]

Nevertheless, if an SRO chooses to use an internal audit department to perform the review, the Commission believes that an independent, external firm should assess the internal audit department's independence, competency, and work performance with respect to the particular review performed by the internal auditor.[10] The external firm would be expected, in conjunction with the issuance of the internal auditor's report, to issue a letter available to the Commission regarding the competency, independence and work performance of the internal auditor. If the external firm is used by the SRO to perform the independent review, it is expected that the firm would issue a report similar to that issued under SAS 30, Reporting on Internal Accounting Control, and other related standards.

Further, to assist the Commission staff in its oversight role, the reviewer is expected to make such questionnaire, as well as supporting client material and client-prepared schedules, part of the reviewer's work papers, and such work papers should be made available for review by the Commission staff.[11]

As a result of the independent review, the Commission believes that the reviewer should issue a report to management, in letter form, that: (1) Sets out the scope and objectives of the review; (2) refers to the professional standards, such as AICPA, IIA, or EDPAA, governing the reviewer's work and the specific procedures followed in reviewing and assessing the SROs compliance with the questionnaire items; (3) provides overall conclusions regarding the capacity process, contingency protocols, systems development methodology, vulnerability; and (4) details the specific recommendations and supporting discussion in each of the preceding areas.

The reviewer should discuss its recommendations and conclusions as set out in the management letter with management of the SRO with the SRO

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planning, security review and systems development methodology processes as noted below.

[7] The Commission notes that such reviews, at the least, should have two objectives. A primary objective is to provide regulators and market participants an independent assurance that the control processes for capacity planning and testing, contingency planning, systems development and vulnerability assessments at the exchanges and the NASD are in place and being used. From an SRO's business perspective, an equally important objective is to provide the SRO with an additional tool to ensure the effectiveness and efficiency of existing control processes in carrying out its regulatory and business objectives.

[8] The Commission believes that internal auditors have an important role to play in the sound development of SRO systems. For example, in addition to these reviews and other periodic after-the-fact reviews the internal auditor may decide to conduct, internal auditor review of the development of new systems is often a prudent measure in the implementation of adequate audit controls and can assist management in management's operation of an internal control structure. *See, e.g.*, Kay and Searfoss, Ed., Handbook of Accounting and Auditing, Chapter 8 at 8–7 (2d ed., 1989).

[9] The Commission notes that, as used in the context of independent EDP reviews performed by internal auditors as described in this policy statement, the term "independence" is used differently from its ordinary use in the context of financial audits. In the EDP review context, we believe that independence means that the internal auditors are independent of the activities that they are auditing, *i.e.*, they have the organizational status and objectivity such that they operate separately from and are not controlled by the technology staff. The internal audit department that performs the EDP reviews should be structured to enable it to perform its work freely, objectively and without control by the entity being audited so that the auditor may render impartial and unbiased judgments. The Commission believes that the internal audit department's independence should be measured against and evaluated under the IIA's Standards For the Professional Practice of Internal Auditing.

[10] The Commission believes that the external audit firm should use criteria similar to that found in AICPA's Statement on Auditing Standards ("SAS") No. 65, The Auditor's Consideration of the Internal Audit Function In An Audit of Financial Statements, and the previously mentioned IIA standards to evaluate the work of the internal audit department. SAS No. 65 guides an audit firm in its review of an internal audit department's objectivity, competence and work performance in the context of a financial audit. (It should be noted that the effective date for SAS No. 65 is December 15, 1991, although early application of the Statement is permissible, and its predecessor statement, SAS No. 9, contains similar guidelines). We believe that those guidelines can be useful in the EDP review context suggested in the ARP.

[11] It is expected that Commission staff would review the auditor's workpapers at the auditor's offices, during business hours and with reasonable notice. Staff would not be expected to remove the workpapers from the auditor's possession.

expected to forward a final copy of the letter to the Commission.[12]

In addition to obtaining independent assessments of the general controls for the SRO's trading and market information EDP systems, as a part of the independent assessment of those systems the SROs should begin the process of determining whether any additional systems controls or reviews of controls may be necessary. Consequently, as a part of the above general controls review, the Commission believes that the independent reviewer should undertake to perform a risk analysis of the covered systems to determine whether, and in what priority, any particular elements of the system should be reviewed. Factors to be considered in performing the risk analysis are magnitude of exposure, age, risk of failure, degree of recent modifications, complexity of application, criticality of application, and sufficiency of general and compensating controls. It is the Commission's view that the management report on the risk analysis should contain the conclusions regarding the costs and benefits of the additional controls review. Based upon the results of the risk analysis and any other relevant considerations, the SRO will discuss with the SEC staff the need for additional controls or additional control reviews.[13]

The Commission believes that this cooperative and voluntary effort to provide for periodic, comprehensive and independent reviews of SRO automated systems should provide a reasonable and cost-effective level of assurance to the Commission and investors alike that the SROs' automated systems are being adequately developed and managed with respect to capacity, security, development and contingency planning concerns. Although the Commission at this time has no reason to believe otherwise, nonetheless, if during the initial cycles of the independent reviews flaws are demonstrated, or if for any reason the Commission believes that this approach does not adequately address the concerns it is intended to address,[14] we will either continue the discussions with the SROs to refine, rework, or replace this review process outlined above or may determine to commence rulemaking to impose a more satisfactory method of independent review. In this regard, then, the Commission will monitor carefully the review process to determine the need for additional steps.[15]

B. SRO EDP Systems Reporting

In keeping with its oversight role, especially as that role relates to SRO implementation of the comprehensive planning and assessment programs suggested under the Commission's first automation policy statement, the Commission believes that it would be useful for the SROs to inform the Commission staff of significant system changes. One approach would be through a two-tiered reporting process. The two tiers consist of: (1) an annual planning and status report; and (2) a system change notification with respect to significant systems changes.[16] Previously, the only means by which staff were notified of significant systems developments was through the rule change process pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Act"),[17] and Rule 19b–4 thereunder. Because the statute imposes shortened timeframes for action on proposed rule changes and because not all systems changes trigger the need for changes to rules of the SROs, staff was unable to obtain timely and complete detail on various significant systems changes occurring at the SROs. Recognizing the need for providing timely and accurate information on these matters, the SROs and the staff of the Commission have identified a multi-level approach to providing this information.

1. *Annual Report.*[18] The Commission believes that the reporting process would consist of Commission staff meeting with senior technical staff of each SRO. The Commission believes that the meeting should cover the SRO's trading, post-trade, and information dissemination systems and should include information on the configuration of current systems; current capacity estimates and testing; a summary of previous period's changes; systems development plans for the next period, Including systems development methodology used; capacity planning for next period, including stress test plans; contingency planning; vulnerability planning; and planned significant systems changes not falling within the above categories.[19]

2. System Change Notifications

Although the annual report process by itself should provide the Commission with a firm understanding of the general developments at an SRO, it also would assist the Commission if the SROs provided specific information on particular automated systems changes. Accordingly, the Commission believes that the SROs should provide the Commission with notifications of significant changes to automated systems. Specifically, the Commission believes that an SRO should provide notification of a significant or material system change that: (1) Affects existing capacity or security; (2) in itself raises capacity or security issues, even if it does not affect other existing systems, (3) relies upon substantially new or different technology; (4) is designed to

[12] The Commission expects that the initial general controls review would be completed by the end of 1992. At the end of 1991, however, the independent reviewer should issue a report on the review completed to date and discuss its conclusions and recommendations with management and provide a copy of its report to the Commission. Similarly, if an internal auditor is performing the review, the external reviewer's assessment of the internal auditor should be issued within the same timeframes. During the second year of the initial cycle of the general controls review, *i.e.*, 1992, Commission staff, the SROs and the independent reviewers should plan to meet to discuss implementation of the general controls reviews in years beyond the initial cycle.

[13] The Commission understands that many SROs already conduct additional controls reviews as a part of their internal audit process. The Commission expects that these ongoing reviews will continue, will not be deferred pending the results of the formal risk analysis, and will be taken into account in considering the need for additional reviews.

[14] For example, in its oversight of this review process, the Commission plans to examine carefully the independence and competence of any internal audit departments at the SROs that assume major responsibilities regarding the performance of these reviews.

[15] While neither this Policy Statement nor the previous ARP deal directly with the automation obligations of proprietary trading systems, the Commission informally has been applying ARP I to proprietary trading systems and to the Wunsch Auction Systems, Inc. (operating under an exemption from exchange registration pursuant to a limited volume exemption under Section 5 of the Act) (Securities Exchange Act Release No. 28899, February 20, 1991) and intends to discuss, where appropriate, use of the principles set forth in this ARP by these systems. In addition, the Commission continues to believe that the approach outlined herein merits consideration by broker-dealers, service bureaus, vendors and clearing agencies, as well. *See* ARP I, *supra* note 1, at 12, n. 17.

[16] Even if an SRO chooses to adopt the suggested approach, the Commission would continue to expect summary capacity and vulnerability representations as part of filings under Rule 19b–4. (17 CFR 240.19b–4 (1990)).

[17] 15 U.S.C. 78s(b) (1990).

[18] The original ARP requested the SROs include in the annual reports filed with the Commission, submitted on Form 1A, a section describing the SROs capacity, vulnerability, and contingency plans and stress tests. *See* ARP I, *supra* note 1, at n. 28. This format, however, did not permit provision of sufficient information concerning the specific systems development plans of the SROs, their capacity planning methodology and results, or their security and contingency programs. Thus, rather than continuing the Form 1A approach, the Commission believes that a more efficient approach is a reporting process that would permit each SRO to present an annual EDP systems planning and status report.

[19] The Commission believes that, to the extent possible for efficiency and cost purposes, the annual report should coincide with the SROs' current planning cycles. If possible, it also may be beneficial to have the report coincide with the meetings related to the EDP audit cycle.

provide a new service or function for SRO members or their customers; or (5) otherwise significantly affects the operations of the SRO.[20]

In general, the notification should describe briefly: the system's functionality and configuration; capacity estimates; test plans and schedules; contingency protocols, *i.e.*, plans for disaster recovery; vulnerability assessments, *e.g.*, security measures; and production schedules. Specifically, as the Commission sees the process working, the presentation contained in the notification should be sufficiently detailed to explain the new system development process, including the systems development methodology employed, the new configuration of the system, its relationship to other systems, the timeframes or schedule for installation, any testing performed or planned, and an explanation of the impact of the change on the SRO's capacity estimates, contingency protocols, and vulnerability assessments. Because the typical filing would be made prior to testing, the Commission believes that updates to the filing describing the test results would be necessary.[21]

Consistent with its purpose of advising the Commission of changes to systems especially regarding the implications that such changes may have for SRO rules, a notification should be made sufficiently in advance of the planned production date so that the staff can evaluate the adequacy of the capacity estimates and tests, take security measures and consider the need for a Rule 19b–4 filing. Generally speaking, the determination for when a rule filing is necessary must be made on a case-by-case basis depending in large part on what the staff learns about the system change in the systems notification. Given the generally lengthy lead time required for the planning and development of significant systems changes, most notifications could be submitted as a part of the annual EDP planning report. This process for advising the staff of systems changes, of course, does not eliminate the need for filing under section 19(b) of the Act when the system change also entails a need for changing an SRO rule.[22]

C. Outage Notification Procedures

To facilitate the Commission's understanding of SRO systems problems and to enhance the ability of the staff to respond to events that cause disruptions in the automated trading on the securities markets, the Commission requests that the SROs provide staff with real-time notification of significant system outages at the SROs. Under this request for notification, the Commission staff in OAIM and the staff at the SROs will designate particular persons to contact in the event that the SRO develops a significant problem with an automated system. The Commission believes that when a problem with an automated trading or market information dissemination system occurs and the problem appears as if it will extend for 30 minutes or more, the SROs should contact the appropriate person on the staff immediately upon realizing that the problem will continue beyond the allotted period. Additionally, even if a problem does not extend beyond that time frame, it is the Commission's view that the SRO should inform Commission staff of a significant outage or problem occurred in a system after the outage has been resolved, within a reasonable period on the same day of the outage. In both circumstances, the Commission believes that, if the staff requests it, the SROs also should provide the staff with a written description of the outage within a reasonable period after resolution of the problem. Such description would be expected to provide details concerning the nature and extent of the problem, including the systems affected and the effect on the trading community, and the nature of the corrective action.[23]

D. Development of Standards

In its first ARP, the Commission specifically requested comment on standards for stress tests that are used to determine capacity levels and standards for audit processes. Since then, the Commission has evaluated additional materials regarding the development of generally accepted standards for computer capacity, security and audit and control standards. For example, in December, 1990, the National Research Council ("NRC") [24] issued a report [25] calling for, among other things, the promulgation of a comprehensive set of generally accepted system security principles that would provide a clear articulation of essential security features, assurances, and practices. Similarly, a recent book [26] on information systems controls called for the development of generally accepted information systems control and audit standards, analogous to the control and audit standards that have been established by financial accountants and auditors for financial reporting purposes.

The Commission believes that, with respect to SRO automation developments, the time is rapidly approaching where the need for development of generally accepted standards and procedures for automation issues becomes crucial. We believe that uniform and consistent approaches to the monitoring and regulation of certain aspects of automation, particularly with regard to capacity levels and security, are necessary to ensure fair and orderly markets, economic efficiency in the execution of securities transactions and fair competition among markets.[27]

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[20] Even for less significant changes to systems, *i.e.*, changes that do not rise to the level of materiality found in systems notices, the SROs nonetheless may determine to inform the Commission staff of developments at the SRO. For example, a decision to change a surveillance data base from one hardware environment to another environment does not appear to be the type to involve a system notification, and, in most circumstances, would not require a proposed rule change, but may be helpful in providing the staff a fuller view of systems development at an SRO. Thus, if the SRO believes that a particular change does not necessitate a systems notification or a Rule 19b–4 rule change, the SRO nonetheless may choose to advise of the change to elicit the staff's view.

[21] Several SROs have raised questions concerning the status of information disclosed in these notifications under the Freedom of Information Act ("FOIA") (5 U.S.C. 552), and Commission rules thereunder (17 CFR 200.83) (1990). While the Commission reviews all FOIA requests on a case-by-case basis, we expect most, if not all of the contents of these notifications to qualify for exemptions under the FOIA due to the highly sensitive, commercial nature of the information. The Commission cannot, however, assure the outcome of any litigation that might result should the Commission deny a FOIA request for access to this information.

[22] *See* Rule 19b–4 under the Act. 17 CFR 240.19b–4.

[23] As with system notifications, the Commission believes that it is likely that all outage notifications would fall within exemptions from disclosure under FOIA. *See supra*. note 20.

[24] The NRC is an organization created by the National Academy of Sciences ("Academy") in 1916 to assist the Academy in its goals of furthering knowledge and advising the federal government. The NRC functions in accordance with general policies determined by the Academy and is comprised of persons drawn from science and technology communities.

[25] System Security Study Committee, Computer Science and Telecommunications Board, Commission on Physical Sciences, Mathematics, and Applications, National Research Council, Computers At Risk: Safe Computing In the Information Age, National Academy Press, 1991.

[26] Govindan and Picard, Manifesto on Information Systems Control and Management: A New World Order (1990).

[27] *See* Sections 2 and 11A of the Act. 15 U.S.C. 78b and 78k–1. *See also* Senate Comm. on Banking, Housing and Urban Affairs, Report to Accompany S. 249, S. Rep. No. 94–75, 94th Cong., 1st Sess. 7, reprinted in 1975 U.S. Code Cong. & Ad. News 179. (One of the paramount objectives of a national market system is the "maintenance of stable and orderly markets with maximum capacity for absorbing trading imbalances without undue price movements.")

Several means for developing the process appear to be available, including the continuation of the informal meetings that Commission staff has held with automation personnel of the SROs over the last year. Although the Commission believes that staff of the Commission and the SROs should continue to meet on an informal basis, we believe that a more structured mechanism also should be explored. An additional approach might entail the formation of an advisory committee of industry, academic, and government participants to assist the Commission's development of such standards. Accordingly, the Commission requests comment from interested entities on the process by which the Commission should begin to explore the development of standards regarding computer security, capacity and auditing of systems.

IV. Conclusion

The Commission is committed to the sound and efficient oversight of the automated systems used in the securities industry today. The Commission believes that, through the voluntary implementation of the independent review process guidelines and the notification processes regarding system changes and outages enunciated in this Policy Statement, the SROs will be acting consistently with one of the paramount objectives of the securities laws of the United States, the maintenance of fair, stable, and orderly markets. Moreover, through the commencement of a process to explore the need for standards for securities industry automated trading systems, the Commission, the SROs, and other interested parties will be able to ensure that an effective process for monitoring the rapid developments in this field is established.

By the Commission.

Dated: May 9, 1991.

Jonathan G. Katz,

Secretary.

[FR Doc. 91-11532 Filed 5-14-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-29181; File No. SR-NASD-91-17]

Self-Regulatory Organizations; Notice of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to the Small Order Execution System and Day Trading

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 15, 1991, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change, and amendments thereto on May 6, 1991 [1] and May 8, 1991,[2] as described in items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing amendments to the Rules of Practice and Procedure of the Small Order Execution System ("SOES") regarding day trading and to specify certain review and appeal procedures for accounts prohibited from using SOES.[3]

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 NASD 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 NASD 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

SOES is designed to improve the efficiency of executing small-sized customer orders in NASDAQ securities by offering an alternative to traditional telephone contact and negotiation with market makers. SOES provides automated execution of small customer orders with NASDAQ market makers at the best available market price. Since the exclusive purpose of the system is to facilitate the execution of small customer orders, the Association has taken steps in the past the ensure market maker presence in the system [4] and to prohibit misuse of the system by professional traders.[5] The term "professional trading account" is currently defined as an account in which five or more day trades have been executed through SOES during any trading day or an account in which there has been a professonal trading pattern in SOES as demonstrated by a pattern or practice of day trading, executing high volume of day trades in relation to the total transactions in the account or executing a high volume of day trading in relation to the amount and volume of securities held in the account.

The NASD is proposing to define professional trading accounts to include accounts with day trades that have one or both sides executed through SOES. This rule change would prevent professional traders from using SOES to automatically execute one side of a day trade against a market maker, while executing the other side of the day trade outside of SOES in order to elude the "five day trade" criteria in the SOES rules.

The NASD believes that linking "professional trading accounts" to "day trading through SOES" severely limits the NASD's ability to preserve the function of SOES' as a facility for strictly public customer use. It is necessary, therefore, to provide a constructive and responsible modification to the rule to clarify that both a purchase and sale need not be executed through SOES to be considered a "day" trade. The designation of an account as a professional trading account by the NASD will be accomplished after review and consideration of the pattern and practice of trading using SOES execution capability for either purchases or sales in offsetting transactions.

The NASD is also adding a cross reference to the specific section in the Code of Procedure that governs review and appeal procedures for grievances concerning automated systems. Order

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[1] See Memorandum from Beth Mastro to Kathy England dated May 1, 1991, re: clarification of language in SR-NASD-91-17. Two amendments were received by the Commission. Although not labeled Amendment No. 1, the memorandum from Beth Mastro to Kathy England, dated May 1, 1991 is considered an amendment.

[2] See amendment No. 1 filed on May 8, 1991 which clarified that individuals aggrieved by a designation of their account as a professional trading account have a right to review by adding to the text of the proposed rule change "and other persons."

[3] The Commission also is publishing notice at this time of proposed rule change SR-NASD-91-18 which would establish a 15 second delay between SOES executions to provide the market maker that was subject to a SOES execution a period of time in which to update his quote. See Securities Exchange Act Release No. 29182 (May 9, 1991).

[4] See, SR-NASD-88-1, Securities Exchange Act Release No. 25791 (June 9, 1988), 53 FR 22594 (June 16, 1988), mandating participation in SOES by NASDQ market makers in National Market System ("NMS") securities.

[5] See, SR-NASD-88-43, Securities Exchange Act Release No. 26361 (December 15, 1988), 53 FR 51605 (December 22, 1988).

entry firms and other persons prohibited from using SOES because of a professional trading account designation, may seek review of the determination pursuant to article IX of the NASD Code of Procedure, "Procedures on Grievances Concerning the Automated Systems."

The NASD believes the proposed rule change is consistent with section 15A(b)(6) of the Act. Section 15A(b)(6) requires that the rules of a national securities association be designed to "foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market." SOES is operated to facilitate automated executions of small customer orders and the proposed amendments are intended to benefit public customers by curbing misuses of the system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD 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 written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by June 5, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Dated: May 9, 1991.

Jonathan G. Katz,

Secretary.

[FR Doc. 91–11527 Filed 5–14–91; 8:45 a.m.]

BILLING CODE 8010–01–M

[Release No. 34–29182; File No. SR–NASD–91–18]

Self-Regulatory Organizations; Notice of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Quotation Updates in the Small Order Execution System

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 18, 1991, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing amendments to the Rules of Practice and Procedure for the Small Order Execution System to permit market makers a period of time in which to update quotations following an execution before being required to execute another transaction on the same side in the same security.[1]

[1] The Commission is also publishing notice at this time of proposed rule change SR–NASD–91–17 which would amend the SOES rules to expand the meaning of "day" trading in relation to the definition of "professional trading account" and which would specify certain review and appeal procedures for accounts prohibited from using SOES. See Securities Exchange Act Release No. 29181 (May 9, 1991).

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 NASD 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 NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspect of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The NASD's Small Order Execution System ("SOES") is designed to improve the efficiency of executing small-sized customer orders in NASDAQ securities by offering an alternative to traditional telephone contact and negotiation with market makers. SOES provides automatic execution of small customer orders with NASDAQ market makers at the best available market price. Since the exclusive purpose of the system is to facilitate the execution of small customer orders, the Association has taken steps in the past to prohibit misuse of the system by professional traders [2] and to ensure market marker presence in the system.[3]

The NASD is proposing a period of time (i.e., 15 seconds) [4] following an execution to allow a market maker to update a quotation before being obliged to execute a second transaction in the same security on the same side through SOES.[5] Currently, the SOES system can almost instantaneously execute multiple orders against a market maker until the market maker's exposure limit in the security is exhausted. SOES market makers are permitted to establish exposure limits anywhere from five times the SOES tier size (e.g., 1,000,

[2] See, SR–NASD–88–43, Release No. 34–26361 (December 15, 1988); 53 FR 51605 (December 22, 1988).

[3] See, SR–NASD–88–1, Release 34–25791 (June 9, 1988); 53 FR 22594 (June 16, 1988), mandating participation in SOES by NASDAQ market makers in National Market System securities.

[4] The NASD is establishing the time period at 15 seconds and has stated that it may modify the period with appropriate notice to SOES participants. Any change in the time period must be submitted to the Commission for review pursuant to section 19(b) of the Act.

[5] The NASD states that it may take between six and nine months to complete the reconfiguration of SOES in order to allow for a 15 second delay between executions.

2,500, or 5,000 shares for securities trading at the 200, 500, and 1,000 share tier levels, respectively) up to an unlimited exposure limit of 999,999 shares. This feature assures liquidity in the NASDAQ issues traded through SOES, but currently does not allow time for market makers to update their quotations in response to executions occurring through the system.

The NASD has taken various steps in the past to assure continuous liquidity in NASDAQ issues traded through SOES, especially in NASDAQ/National Market System ("NMS") issues: mandatory exposure limits of five times the SOES tier size; the requirement for market makers to participate in SOES in NMS securities; and the requirement to display size in quotations at least as great as the SOES tier size. The instant proposal for a quotation update period will not diminish market makers' responsibilities to participate in SOES or to post mandatory size in quotations; the update period will give market makers time to react to an execution and adjust their markets, if appropriate, to reflect the execution or altered market conditions.

SEC rule 11Ac1–1, the "Firm Quote Rule," requires brokers and dealers to execute orders to buy and sell securities at their published quotations unless the broker/dealer is communicating a revised bid or offer to the NASD or has effected a transaction in the security and is updating its quotation.[6] NASDAQ market makers are required to maintain firm quotes and be willing to execute trades at their quotations. Allowing time in between these automated executions of SOES, while still retaining the automated features of the SOES system, strikes an appropriate balance between the small customer's desire for efficiency and immediacy in executions, and the NASD's responsibilities to operate a system that provides a fair, responsive trading environment for the parties extending the capital commitment to the NASDAQ market. The NASD believes that proposing a period of time in which a market maker may update its quotation following an automatic execution essentially beyond its control is well within the dictates of the SEC's Firm Quote Rule.

Following receipt of an execution report of a purchase or sale through SOES, a market maker will have a period of time (15 seconds) to update its quote prior to executing any subsequent purchase or sale at the same quote. If a market maker has executed a sale, and subsequently receives a purchase order, SOES will execute that order. If a customer order is executed against the market maker's bid and the market maker subsequently updates its offer or its size in the security, the quotation update period will expire immediately because any update to the market maker's quotation terminates the update period. If an update is accomplished before the period expires, executions will resume immediately after the update; executions will also resume against the market maker after the update period has elapsed, regardless of whether the quote has been changed.

Orders would continue to be executed against other market makers in the security during the window and executions will continue to occur against all market makers once the inside quotation (best published bid and offer) is changed. To summarize:

- The quotation update period will commence after an execution report has been received, at the specific price quoted, on the same side of the quotation that has been executed against, either bid or offer;
- Any subsequent quotation change (to bid, offer, or size) will end the quotation update window; and
- Formulation of a new inside quotation will terminate the window. The period to update a quotation will not apply to a market maker that is locking or crossing the market in a security, as the SOES system has been reconfigured to automatically execute against the locking or crossing market maker in order to correct the erroneous quotations.

In addition, the language of the SOES rules has been clarified to indicate that preferencing is voluntary—market makers may decline preferencing overall or by individual security, and the orders preferenced to market makers that have declined preferencing are executed as if they were unpreferenced, that is, against any market maker at the best bid or offer quotation in rotation. Execution reports will be generated and transmitted to the order entry firms immediately after the execution has taken place.

The NASD believes the proposed rule change is consistent with section 15A(b)(6) of the Act and SEC rule 11Ac1–1. Section 15A(b)(6) requires that the rules of a national securities association be designed to "foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market." SOES operates to facilitate automated customer executions and the proposed amendments will benefit public customers by curbing misuse of the system. SEC rule 11Ac1–1, the "Firm Quote Rule," grants broker/dealers an opportunity to update their quotations following an execution before being required to execute another transaction in the same security. The NASD believes that a fixed period for quotation updates through the SOES system is fully in compliance with the requirements of the Firm Quote Rule.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the

[6] 17 CFR 240.11Ac1–1(c) (3) (ii) (1987).

Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by June 5, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Dated: May 9, 1991.

Jonathan G. Katz,

Secretary.

[FR Doc. 91-11528 Filed 5-14-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-29180; File No. SR-NYSE-91-14]

Self-Regulatory Organizations; Notice of Filing and Order Granting Temporary Accelerated Approval of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to the Extension of Rule 103A—Specialist Stock Reallocation—Until May 9, 1992

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 30, 1991, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in items I and II below, which items have been prepared by the self-regulatory organization. The Exchange has requested accelerated approval of the proposed rule change pursuant to section 19(b)(2) of the Act.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the effectiveness of rule 103A (Specialist Stock Reallocation) for an additional year until May 9, 1992.

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 III 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

(1) Purpose

The intent of rule 103A is to encourage a high level of market quality and performance in Exchange listed securities. Rule 103A grants authority to the Exchange's Market Performance Committee ("MPC") to develop and administer systems and procedures, including the determination of appropriate standards and measurements of performance, designed to measure specialist performance and market quality on a periodic basis to determine whether or not particular specialist units need to take actions to improve their performance. Based on such determinations, the MPC is authorized to conduct a formal Performance Improvement Action in an appropriate case.

On July 17, 1990, the Commission approved various revisions to rule 103A and extended the effectiveness of the rule until May 9, 1991.[2] In the July 17 Order, the Commission stated its belief that the Exchange should develop objective performance standards to measure specialist performance.[3] The Exchange currently is studying the issue of objective performance standards and is seeking to extend the effectiveness of rule 103A for an additional year while the Exchange considers adopting such objective standards.

(2) Basis

The statutory basis under the Act for this proposed rule change is the requirement under section 6(b)(5) that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and in general, to protect investors and the public interest. The proposed extension of rule 103A is consistent with these objectives in that it will allow the Exchange to continue to administer the Rule on an uninterrupted basis ensuring quality specialist performance.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

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.

III. 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 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-91-14 and should be submitted by June 5, 1991.

IV. Discussion and Conclusion

The Commission believes that specialist units play a crucial role in providing stability, liquidity and continuity to the trading of stocks on the Exchange. Among the obligations imposed upon specialists by the Exchange, and by the Act and rules thereunder, is the maintenance of fair and orderly markets in their designated securities.[4] To ensure the fullfillment of

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[1] 15 U.S.C. 78s(b)(2) (1988).

[2] The revisions to rule 103A which the Commission approved on July 7, 1990 included, among other things, enhancing the performance criteria for administrative messages received through the SuperDOT system. See Securities Exchange Act Release No. 28215 (July 17, 1990), 55 FR 30060 ("July 17 Order") (order approving File No. SR-NYSE-90-24).

[3] The Commission notes that the Exchange's current evaluation criteria under rule 103A.10 include objective standards that measure specialist performance at the opening (both regular and delayed), systematized order turnaround, and the timeliness of a unit's response to status requests. Objective market making measures, however, currently are not included in the rule 103A program.

[4] Rule 11b-1 under the Act, 17 CFR 240.11b-1 (1990); NYSE Rule 104.

these obligations, it is important that the Exchange conduct effective oversight of specialist performance. Critical to this oversight is the specialist performance evaluation process embodied in rule 103A.

In the July 17 Order the Commission stated its expectation that the Exchange amend rule 103A.10, by filing a proposed rule change with the Commission pursuant to rule 19b–4 under the Act, to implement relative performance standards for specialist performance evaluations based on Specialist Performance Evaluation Questionnarie ("SPEQ") scores.[5] The Exchange complied with this request and the proposal to adopt relative performance standards into the rule 103A program subequently was approved by the Commission on February 27, 1991.[6] In addition, in the July 17 Order, the Commission emphasized its desire for the NYSE to develop objective measures of market making performance and incorporate such measures into the proposed rule change to extend the rule 103A pilot. As indicated previously, however, the proposal herein to extend rule 103A until May 9, 1992, does not include objective measures of market making performance. In the proposed rule change, the Exchange states that it currently is studying the issue of objective performance standards and is seeking to extend rule 103A for an additional year while it considers adopting objective standards. Prior to the July 17 Order, the Exchange informed the Commission that it had employed the services of an outside expert to study the feasibility of adopting such objective measures of specialist performance. The Exchange has informed the Commission that the consultants hired by the NYSE are still reviewing the use of objective standards.

Even though the proposal lacks the inclusion of objective market making performance standards, standards which the Commission believes are important to a truly effective specialist performance program, the Commission has determined to approve the proposal to extend the effectiveness of rule 103A for an additional year in light of the significant enhancements the NYSE has made to the rule 103A program thus far and the substantial commitment the Exchange has made to developing objective criteria. The revisions to rule 103A, adopted in the July 17 Order, and the subsequent adoption of relative performance standards have augmented the Exchange's ability to evaluate specialist performance, resulting in higher performance levels and market quality.

The Commission continues to believe, however, that the Exchange should develop objective performance standards that would measure accurately the traditional indicia of specialist performance, namely, market depth, price continuity and dealer participation and stabilization. Similarly, as noted in the July 17 Order, the Commission believes that the mature status of the Intermarket Trading System ("ITS") as a market structure facility warrants the incorporation of ITS turnaround and "trade-through" concerns into the NYSE's rule 103A performance standards. The Commission, therefore, encourages the NYSE to incorporate objective standards into the rule 103A program prior to or simultaneous with the NYSE's future proposal to extend the effectiveness of Rule 103A or adopt the Rule on a permanent basis.[7]

In conclusion, the Commission has reviewed carefully the NYSE's proposed rule change and believes that the proposed rule change is consistent with the requirements of sections 6 and 11 of the Act [8] and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission believes that the proposal is consistent with the section 6(b)(5) requirement that the rules of the Exchange be designed to promote just and equitable principles of trade, perfect the mechanism of a free and open national market system, and, in general, further investor protection and the public interest. Further, the Commission finds that the proposal is consistent with section 11(b) of the Act,[9] and rule 11b–1 thereunder,[10] which allow securities exchanges to promulgate rules relating to specialists in order to maintain fair and orderly markets and to remove impediments to and protect the mechanism of a national market system. The extension of rule 103A's effectiveness until May 9, 1992 will provide the Exchange with the ability to continue evaluating specialist performance, which should result in a continued high level of market quality and performance in Exchange listed securities. The Exchange also will be able to continue developing objective measures of market making performance.

Moreover, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Commission believes it is appropriate to approve the proposed rule change on an accelerated basis so that the Exchange can continue to administer, on an uninterrupted basis, its rule 103A evaluation process. During the one year extension of the rule, the Commission and the NYSE will plan to examine the efficacy of its current specialist evaluation procedures, as well as determine whether to extend the pilot for a further period or, in the alternative, approve rule 103A on a permanent basis. Finally, a substantial portion of current rule 103A was noticed for the full statutory period in 1987, and the Commission did not receive any adverse commentary on the revised rule 103A program.[11] Further, interested persons were invited to comment on the past proposals to extend the effectiveness of rule 103A, the most recent of such proposals being the extension of rule 103A until May 9, 1991. The Commission received no comments on these proposals. The Commission believes, therefore, that granting accelerated approval of the proposed rule change is appropriate and consistent with section 6 of the Act.[12]

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act [13] that the

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[5] The SPEQ is a quarterly survey on specialist performance completed by eligible floor brokers (*i.e.*, any floor broker with at least one year of experience). The SPEQ requires floor brokers to rate, and provide written comments on, the performance of specialist units with whom they deal frequently.

[6] See Securities Exchange Act Release No. 28923 (February 27, 1991), 56 FR 9993 (order approving File No. SR–NYSE–90–44).

[7] In this regard, the Commission expects the NYSE to submit to the Division of Market Regulation, prior to the quarter ending March 1992, a proposed rule change pursuant to rule 19b–4 under the Act, 17 CFR 240.19b–4, to extend the rule 103A pilot or make the Rule permanent. As emphasized above, this proposed rule change should include objective measures of marekt making performance that have been developed by the outside experts retained by the Exchange. The Commission also expects the Exchange to submit to the Division, by the quarter ending March 1992, a status report on the implementation of rule 103A. The report should contain data, for each quarter of 1991, on (1) the number of specialists that fell below acceptance levels of performance for each category; (2) the number of performance improvement actions commenced; (3) the number of units subjected to informal counseling to improve performance; and (4) a list of stocks reallocated due to substantard performance under the Rule and the particular unit involved.

[8] 15 U.S.C. 78f and 78k (1988).

[9] 15 U.S.C. 78k(b) (1988).

[10] 17 CFR 240.11b–1 (1990).

[11] See Securities Exchange Act Release Nos. 24919 (September 15, 1987), 52 FR 35821 (notice of filing of File NO. SR–NYSE–87–25); and 25681 (May 9, 1988), 53 FR 17287 (order approving File No. SR–NYSE–87–25).

[12] 15 U.S.C. 78f (1988).

[13] 15 U.S.C. 78s(b)(2) (1988).

proposed rule change be, and hereby is, approved for the period ending May 9, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Dated: May 8, 1991.

Jonathan G. Katz,

Secretary.

[FR Doc. 91-11529 Filed 5-14-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-29178; International Series No. 268; File No. SR-NYSE-91-13]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to the Listing of Index Warrants Based on the Financial Times-Stock Exchange 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 April 26, 1991, the New York Stock Exchange, Inc. ("NYSE" 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

The NYSE proposes to approve for listing and trading under section 703.17 of its Listed Company Manual index warrants based on the Financial Times-Stock Exchange Eurotrack 200 Index ("Eurotrack 200 Index" or "Index"), an index that represents 100 of the most highly capitalized and actively traded British stocks, and 100 of the most highly capitalized and actively traded stocks of non-British European issuers, traded on the International Stock Exchange of the United Kingdom and the Republic of Ireland ("ISE").

The text of the proposed rule change is available at the Office of the Secretary of the Exchange 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 statutory 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

Under section 703.17 (Index Warrants) of the Exchange's Listed Company Manual, the Exchange may list index warrants based on established foreign and domestic indices.

The NYSE is now proposing to list index warrants based on the Eurotrack 200 Index, an internationally recognized, capitalization-weighted stock index representing 100 of the most highly capitalized and actively traded British stocks, and 100 of the most highly capitalized and actively traded stocks of non-British European issuers traded on the ISE.[1] The Eurotrack 200 combines two other internationally recognized indices: The FT-SE 100 Index,[2] and the FT-SE Eurotrack 100 Index ("Eurotrack 100").[3] The Eurotrack 200 Index currently is calculated and published in Deutschemarks each minute from 9:45 a.m. to 3:30 p.m. (London time) and is currently disseminated in the United States by the ISE and by market data vendors.

The ISE owns the Eurotrack 200 Index, as well as the FT-SE 100 Index and the Eurotrack 100 Index, and is responsible for calculating and maintaining the Index. The Financial Times monitors corporate developments relating to the component stocks of the Index and licenses the use of its name to the ISE for the purposes of the Index. In addition to the ISE and the Financial Times, an "index working committee" was formed to assist with the design and development of the Index.

The NYSE represents that such Index warrant issues will conform to the listing guidelines under section 703.17, which provide that (1) the issuer shall have assets in excess of $100,000,000 and otherwise substantially exceed the size and earnings requirements in Section 102.01 of the Listed Company Manual; (2) the term of the warrants shall be for a period of at least one year from the date of issuance; and (3) the minimum public distribution of such issues shall be 1,100,000 warrants together with a minimum of 400 public holders, and the warrants shall have an aggregate market value of $4,000,000.

Eurotrack 200 warrants will be direct obligations of their issuer subject to cash-settlement during their term, and either exercisable throughout their life (*i.e.*, American style) or exercisable only on their expiration date (*i.e.*, European style). Upon exercise, or at the warrant expiration date (if not exercisable prior to such date), the holder of a warrant structured as a "put" would receive payment in U.S. dollars to the extent that the Eurotrack 200 has declined below a prestated cash settlement value. Conversely, holders of a warrant structured as a "call" would, upon exercise or at expiration, receive payment in U.S. dollars to the extent that the Eurotrack 200 has increased above the pre-stated cash settlement value. If "out-of-the-money" at the time of expiration, the warrants would expire worthless.

The NYSE has adopted suitability standards applicable to recommendations to customers of index warrants and transactions in customer accounts. Specifically, Exchange Rule 405, Supplementary Material .30 applies the options suitability standard in Exchange Rule 723 to recommendations regarding Index warrants. The Exchange also recommends that Index warrants be sold only to options-approved accounts. In addition, Exchange Rule 408, Supplementary Material .10 requires a Senior Registered Options Principal or a Registered Options Principal to approve and initial a discretionary order in Index warrants on the day the order is entered. Finally, the NYSE prior to the commencement of trading in Eurotrack 200 Index warrants, will distribute a circular to its membership calling attention to specific risks associated with warrants on the Eurotrack 200 Index.

The Exchange has entered into an agreement with The Securities Association, Ltd. ("TSA") that provides for the sharing of necessary information between the Exchange and TSA to fulfill their respective regulatory responsibilities. In addition, the Exchange is about to enter into an

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[14] 17 CFR 200.30-3(a)(12) (1990).

[1] For a more complete description of the Eurotrack 200, the Chicago Board Options Exchange, Inc. submitted a proposal to trade options on the Eurotrack 200. See Securities Exchange Act Release No. 29043 (April 4, 1991), 56 FR 14551.

[2] The Commission has approved the Exchange's proposal to trade warrants based on the FT-SE 100 Index. *See* Securities Exchange Act Release No. 28399 (August 30, 1990), 55 FR 37390.

[3] The Exchange has submitted a proposal to trade warrants based on the Eurotrack 100. *See* File No. SR-NYSE-90-12.

agreement with the ISE that, among other things, provides for the sharing of surveillance information specifically in relation to trading warrants on the Eurotrack 200 Index.

The Exchange believes that the proposed rule change is consistent with the requirements of the Act, and, in particular, section 6(b)(5), as the rules governing warrants are designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, and are not designed to permit unfair discrimination between customers, issuers, brokers or dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NYSE believes that the proposed rule change will impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by June 5, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 8, 1991.

Jonathan G. Katz,

Secretary.

[FR Doc. 91-11530 Filed 5-14-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-29177; International Series Release No. 267; File No. SR-NYSE-91-12]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to the Listing of Index Warrants Based on the Financial Times-Stock Exchange 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 April 26, 1991, the New York Stock Exchange, Inc. ("NYSE" 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

The NYSE proposes to approve for listing and trading under section 703.17 of its Listed Company Manual index warrants based on the Financial Times-Stock Exchange Eurotrack 100 Index ("Eurotrack 100 Index" or "Index"), an index that represents 100 of the most highly capitalized and actively traded stocks of non-British European issuers traded on the International Stock Exchange of the United Kingdom and the Republic of Ireland ("ISE").

The text of the proposed rule change is available at the Office of the Secretary of the Exchange 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 statutory 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

Under section 703.7 (Index Warrants) of the Exchange's Listed Company Manual, the Exchange may list index warrants based on established foreign and domestic indices.

The NYSE is now proposing to list index warrants based on the Eurotrack 100 Index, an internationally recognized, capitalization-weighted stock index representing 100 of the most highly capitalized and actively traded stocks of non-British European issuers traded on the ISE. The Eurotrack 100 Index currently is calculated and published in Deutschemarks each minute from 9:45 a.m. to 3:30 p.m. (London Time) and is currently disseminated in the United States by the ISE and by market data vendors.[1]

The ISE owns the Eurotrack 100 Index and is responsible for calculating and maintaining the Index. The Financial Times monitors corporate developments relating to the component stocks of the Index and licenses the use of its name to the ISE for the purposes of the Index. In addition to the ISE and the Financial Times, an "index working committee" was formed to assist with the design and development of the Index.

The NYSE represents that such Index warrant issues will conform to the listing guidelines under section 703.17, which provide that (1) the issuer shall have assets in excess of $100,000,000 and otherwise substantially exceed the size and earnings requirements in section 102.01 of the Listed Company Manual; (2) the term of the warrants

[1] For a more complete description of the Eurotrack 100, see the proposal by the Chicago Board Options Exchange to trade options on the Eurotrack 100, Securities Exchange Act Release No. 29045 (April 4, 1991), 56 FR 14553.

shall be for a period of at least one year from the date of issuance; and (3) the minimum public distribution of such issues shall be 1,100,000 warrants together with a minimum of 400 public holders, and the warrants shall have an aggregate market value of $4,000,000.

FT–SE Eurotrack 100 warrants will be direct obligations of their issuer subject to cash-settlement during their term, and either exercisable throughout their life (*i.e.*, American style) or exercisable only on their expiration date (*i.e.*, European style). Upon exercice, or at the warrant expiration date (if not exercisable prior to such date), the holder of a warrant structured as a "put" would receive payment in U.S. dollars to the extent that the Eurotrack 100 has declined below a prestated cash settlement value. Conversely, holders of a warrant structured as a "call" would, upon exercise or at expiration, receive payment in U.S. dollars to the extent that the Eurotrack 100 has increased above the pre-stated cash settlement value. If "out-of-the-money" at the time of expiration, the warrants would expire worthless.

The NYSE has adopted suitability standards applicable to recommendations to customers of index warrants and transactions in customer accounts. Specifically, Exchange Rule 405, Supplementary Material .30 applies the options suitability standard in Exchange Rule 723 to recommendations regarding Index warrants. The Exchange also recommends that Index warrants be sold only to options-approved accounts. In addition, Exchange Rule 408, Supplementary Material .10 requires a Senior Registered Options Principal or a Registered Options Principal to approve and initial a discretionary order in Index warrants on the day the order is entered. Finally, the NYSE, prior to the commencement of trading in Eurotrack 100 Index warrants, will distribute a circular to its membership calling attention to specific risks associated with warrants on the Eurotrack 100 Index.

The Exchange has entered into an agreement with The Securities Association, Ltd. ("TSA") that provides for the sharing of necessary information between the Exchange and TSA to fulfill their respective regulatory responsibilities. In addition, the Exchange is about to enter into an agreement with the ISE that, among other things, provides for the sharing of surveillance information specifically in relation to trading warrants on the FT–SE Eurotrack 100 Index.

The Exchange believes that the proposed rule change is consistent with the requirements of the Act, and, in particular, section 6(b)(5), as the rules governing warrants are designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, and are not designed to permit unfair discrimination between customers, issuers, brokers or dealers.

B. Self-Regulatory Organizaton's Statement on Burden on Competition

The NYSE believes that the proposed rule change will impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washingotn, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submission should refer to the file number in the caption above and should be submitted by June 5, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 8, 1991.

Jonathan G. Katz,

Secretary.

[FR Doc. 91–11531 Filed 5–14–91; 8:45am]

BILLING CODE 8010–01–M

[Release No. 34–29179; File No. SR–PHLX–91–13]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to the Exercise of Discretion By a Floor Broker Over a Registered Options Trader's Order

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 25, 1991, the Philadelphia Stock Exchange ("PHLX") 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

The PHLX proposes to amend Options Floor Procedure Advice C–3, promulgated under PHLX Rule 1065, and Commentary .02 to PHLX Rule 1065 to prohibit a floor broker from exercising any discretion over a Registered Options Trader's ("ROT") order. Currently, floor brokers are prohibited from exercising any discretion as to the class, quantity, or nature (*i.e.*, buy or sell) of an ROT's order.

The text of the proposed rule change is available at the Office of the Secretary, PHLX 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

The proposed change to existing Exchange Options Floor Procedure Advice ("OFPA") C–3 relates to how a floor broker handles orders from a PHLX ROT. Proposed part (c) to OFPA C–3 would prohibit a floor broker from exercising any discretion with respect to an ROT's order. The proposal also adds Commentary .02 to Exchange Rule 1065 which also prohibits a floor broker from exercising such discretion. Further, the proposal also makes changes to the OFPA's fine schedule.

Currently, PHLX Rule 1065 provides that it is a violation of Exchange rules for a floor broker to exercise discretion with respect to any option's class, quantity or nature (*i.e.*, whether the order is to buy or sell). The proposed additions extend this prohibition to include the floor broker's exercising discretion as to price with respect to ROT orders. Specifically, new Commentary .02 is added to Rule 1065 governing discretionary transactions. The new text will expressly limit the ability of a broker to accept any discretion with respect to any aspect of an ROT's order. The proposed rule change does not affect floor broker discretion as to the price of customer orders, which is still permitted.

The proposed makes conforming amendments to OFPA C–3 to provide for specific fines to be imposed on floor brokers when they exercise any discretion over an ROT's order. OFPA B–A currently prohibits an ROT from giving discretion to a floor broker. Reading PHLX Rule 1065 with OFPA B–4, however, indicates that discretion as to price results in a citation for the ROT, but no comparable automatic penalty for the floor broker since the granting of discretion as to price is not specifically prohibited in Rule 1065. Therefore under current PHLX rules, an ROT's violation of OFPA B–4 results in a penalty as to himself, but the floor broker's exercise of price discretion is permitted. The proposal would close this loophole in regulation, as amended OFPA C–3 would prohibit the exercise of any discretion by a broker with respect to the order of a PHLX ROT and provide for penalties to be assessed against floor brokers in the event that any discretion is granted by a ROT to a floor broker.

The Exchange believes that the proposed rule change is consistent with the provisions of the Act, and the rules and regulations thereunder, and, in particular, with Section 6(b)(5), in that it is designed to a maintain consistency in the application of procedural guidelines, promoting just and equitable principles of trade.

(B) Self-Regulatory Organization's Statement of Burden on Competition

The Exchange believes that the proposed rule change will impose no burden on competion.

(C) Self-Regulatory Organization's Statement of Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450, Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by June 5, 1991.

For the Commission, by the Divisions of Market Regulation, pursuant to delegated authority.[1]

Dated: May 8, 1991.

Jonathan G. Katz,

Secretary.

[FR Doc. 91–11533 Filed 5–14–91; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–18139; File No. 811–5524]

Variable Annuity Account One (C)

May 8, 1991.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for an order under the Investment Company Act of 1940 (the "Act").

APPLICANT: Variable Annuity Account One (C) of Anchor National Life Insurance Company.

RELEVANT 1940 ACT SECTION: Order requested under section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on February 8, 1991.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any request must be received by 5:30 p.m., on June 3, 1991. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send a copy to the Secretary of the SEC along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549; Applicant, c/o Lorin M. Fife, Esq., Anchor National Life Insurance Company, 11601 Wilshire Boulevard, Los Angeles, California 90025.

FOR FURTHER INFORMATION CONTACT: Joyce M. Pickholz, Attorney (202) 272–3046 or Nancy M. Rappa, Senior Attorney (202) 272–2622, Office of Insurance Products and Legal Compliance (Division of Investment Management).

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[1] 17 CFR 200.30–3(a)(12) (1990).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from the SEC's Public Reference Branch.

Applicants Representations

1. On October 15, 1986, the Applicant filed a notification of registration as an investment company on form N–8A pursuant to section 8(a) of the Act and a registration statement on form N–4 (File No. 33–9468) pursuant to section 8(b) of the Act and the Securities Act of 1933 (the "1933 Act"). The securities registered under the registration statement were certain variable annuity contracts. The registration statement was declared effective on June 1, 1987.

2. The Applicant (formerly, Capitol Variable Annuity Account One (C)) was established by The Capitol Life Insurance Company pursuant to Colorado insurance law on September 23, 1986. Variable Annuity Account One (C) was assumed intact by Anchor National Life Insurance Company on January 18, 1990 and reestablished under California insurance law. Thus, as of that date, Variable Annuity Account One (C) ceased to exist under Colorado law.

3. During the last 18 months, the Applicant has not transferred any of its assets to a separate trust.

4. On January 17, 1990, the Executive Committee of the Board of Directors of Anchor National Life Insurance Company ("Anchor National") on behalf of the Applicant unanimously approved the merger of the Applicant into Variable Annuity Account One of Anchor National. On January 24, 1990, an application was filed on behalf of the Applicant and certain other parties, requesting an exemptive order under the Act to permit the proposed merger. The order was granted by the SEC on July 26, 1990 (Investment Company Act Release No. 17620) and on September 24, 1990, the proposed merger was consummated. As a result of the merger, the variable annuity contracts that were funded through the Applicant are now funded through Variable Annuity Account One (File No. 811–4296), and the contract owners of the Applicant became contract owners of Variable Annuity Account One. The merger did not affect the rights or contract values of contract owners of either separate account.

5. Expenses incurred in connection with the merger of the Applicant into Variable Annuity Account One have been borne by Anchor National Life Insurance Company. There were no brokerage fees incurred in connection with the merger since both separate accounts were invested in shares of Anchor Series Trust, an open end, management investment company.

6. All filings and other actions required by state insurance law have been completed and the merger has been approved by the California Insurance Commissioner.

7. No assets have been retained by the Applicant. The Applicant has no debts or other liabilities outstanding and it is not party to any litigation or administrative proceedings.

8. The Applicant has no security holders and is not now engaged, nor does it propose to engage, in any business activity other than that necessary for the winding-up of its affairs.

For the Commission, by the Division of Investment Management, under the delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 91–11468 Filed 5–14–91; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Solicitation for Airway Science Grant Proposals

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of solicitation for Airway Science Grant Proposals.

SUMMARY: This solicitation represents a continuation of the Federal Aviation Administration's AWS Grant Program. The Federal Aviation Administration (FAA) is authorized by Public Law 101–516 to solicit competitive proposals for Airway Science (AWS) grants from accredited 4-year public or nonprofit private colleges and universities with recognized FAA AWS Curriculum programs. The FAA expects to award most, if not all, of an available $9,700,000 in the form of grants, to a select number of these recognized institutions. A portion of the available funds will be awarded to eligible minority institutions with recognized AWS curricula. Awards typically will range from $100,000 to $750,000 maximum. In no event shall the total Federal share of any AWS project exceed 50% of the cost of the project.

The grant funds may be used for the purchase, lease with intent to purchase, or construction of academic buildings and associated facilities to be used in support of an FAA recognized AWS curriculum. In addition, grant funds may be used for nonexpendable instructional materials or instructional equipment to be used in the actual teaching of the AWS curriculum. No federal grant funds shall be used for salaries, operating expenses, research and development, travel, consultant fees, indirect costs, office supplies automobiles, aircraft, maintenance agreements, printing costs, promotional and marketing materials or equipment, general purpose parking lots, land commercial airport facilities, taxiways, runways, or any project in support of a commercial activity.

FOR FURTHER INFORMATION CONTACT: Virginia Hancock Krohn, Airway Science Grant Manager, Federal Aviation Administration, Office of Training and Higher Education, AHT–30, room PL–100, 400 7th St. SW., Washington, DC 20590, Telephone: (202) 366–7003.

Closing Date

Six identical copies of the Proposal must be received by the FAA no later than July 31, 1991 (4 p.m. EST). One copy of the proposal must contain an original cover sheet. Applications received after the closing date will not be accepted.

Proposals Submitted by Mail: A mailed proposal must be sent to the address listed above. Applicants are strongly encouraged to use registered or first class mail. Any grant application received after the closing date will be treated as a late application and will not be considered for a grant award. Proposals Submitted by Messengers: A hand delivered proposal must be taken to the FAA at the address listed above. The office of the AWS Grant Program Manager will accept hand delivered proposals between the hours of 8 a.m. and 4 p.m. EST, except weekends and Federal Holidays. A hand delivered proposal will not be accepted after 4 p.m. on the closing date.

Each institution will be notified when its application is received. No supplemental materials received after the application deadline date will be considered unless such material is solicited by the AWS Grant Program Manager.

Background

The FAA is engaged in a comprehensive program to modernize the Nation's airway system to meet the challenge of aviation growth in the coming decades. The modernization program is reflected in the FAA's National Airspace System plan which takes advantage of current technological advances to increase the capacity of the Nation's airspace system while reducing relative costs to the Nation's taxpayers.

The FAA recognizes the increasing complexity of technical and managerial

skills that will be needed to accommodate the technological advances in equipment, systems, and configurations being planned and implemented throughout the aviation industry. The FAA sponsors an AWS curriculum as a direct result of an FAA assessment of the human resources needed to realize the full potential of the forthcoming airspace and airway system modernization.

In 1982, the FAA, in collaboration with the University Aviation Association, developed and recommended a specific college-level AWS curriculum. The AWS curriculum was designed to satisfy academic and accreditation requirements, be easily adaptable to existing aviation related programs, and yet allow individual educational institutions the option of offering any number of five areas of concentration.

The five areas of concentration are: (1) Airway science management, (2) airway computer science, (3) aircraft systems management, (4) airway electronics systems, and (5) aviation maintenance management.

The FAA currently recognizes 44 institutions which offer approved AWS curricula. The curricula directly support the human resource needs of both the FAA and the aviation industry by producing graduates with the necessary knowledge and skills to pursue aviation-related technical careers in the public and private sectors. Interested institutions which do not already have recognized AWS curricula, may contact the FAA for further information.

References

For further background information, refer to the following **Federal Register** Notices: 48 FR 116872, March 18, 1983, (FAA proposed AWS curriculum demonstration project plan); 48 FR 32490, July 15, 1983, (Office of Personnel Management approval of the FAA demonstration final plan); 49 FR 22903, June 1, 1984: 50 FR 37612, September 16, 1985; 52 FR 3195, February 2, 1987; and 54 FR 8617, March 1, 1969, (notices announcing the competitive criteria employed by the FAA in selecting the AWS grant recipients under the previous 4 solicitations).

The Airway Science Grant

Authority

This solicitation represents a continuation of the FAA's AWS Grant Program. This program funds projects at selected institutions of higher education which have evidenced a commitment to the agency's AWS curriculum program. The grants are authorized by Public Law 101–516 with an amount of $9.7M available for competitive grant awards. The funds may be used for allowable direct costs in the following categories, to the extent that such items are in direct support of a recognzied AWS curriculum: (a) The purchase, lease with intent to purchase, or construction of academic buildings and associated facilities, and (b) nonexpendable instructional materials and equipment to be used in the actual teaching of the AWS curriculum. Monies are not available for salaries, operating costs, research and development, travel, consultant fees, indirect costs, office supplies, automobiles, aircraft, maintenance agreements, printing and marketing materials or equipment, general purpose parking lots, land, commercial airport facilities, taxiways, runways, or any project in support of commercial activities.

Eligibility

Eligible institutions must be accredited 4-year public and non-profit colleges and universities in the United States and its possessions. To be eligible an applicant institution must have an established FAA-recognized AWS curriculum in place and available to students. The curriculum must have been recognized by the FAA Administrator no later than December 31, 1990.

Proposal Format and Content

Each FAA-sponsored, AWS grant project is subject to the provisions of applicable FAA regulations and OMB Circulars A–21, A–73, A–88, A–110, and A–133. Proposals must contain the following information in the order listed.

Cover Sheet

Type the title "Airway Science Grant Proposal" near the top of the Cover Sheet. Type the legal name of the grantee institution, its mailing address, and IRS Employer Identification Number in the center of the Cover Sheet. Type the names, titles, and telephone numbers of the proposed Project Director and of an official authorized to sign for the proposed grantee institution in the lower left and right corners, respectively, of the Cover Sheet. The Cover Sheet of one copy of the proposal must bear the original signatures and dates of the above individuals. The signatures of the authorized individuals signify institutional endosement of the proposal, cognizance of the eligibility and limitation requirements, and a commitment to provide the specific support for the proposed activities in the event the grant is made.

Standard Form 424

Submit Standard Form 424 (Rev. 4–88), Application for Federal Assistance, with the grant proposal. This form may be obtained by writing to the AWS Grant Program Manager at the address listed above. Applications without this form will be disqualified.

Table of Contents

Include a table of contents with page numbers.

Project Summary

Include a concise summary of the proposed project. State the goals and objectives and the long-range benefits of the project and the associated costs including cost sharing figures. The reader should be able to quickly identify the nature of the project and the requested funding level. The summary should not exceed two (2) double-spaced typewritten pages.

Narrative

The Narrative should be clearly written and not exceed forty (40) double-spaced typewritten pages in length. The Narrative must contain the following:

(a) Introduction

Present a brief description of the institution, including: Historical background, full time graduate and undergraduate student enrollment, student body profile, location (rural, urban, etc.), fields of emphasis and degrees awarded.

(b) AWS Background

Describe the evolution of the institution's involvement in the AWS Program. Provide a detailed discussion of the institution's current recognized AWS program. Provide information and statistics on the occupational areas AWS graduates and current AWS students have entered or will be entering within aviation industry and the FAA. Provide the following information in an "easy to read" chart format (a) recognized AWS options, (b) recognition dates by option, (c) declared majors by AWS option for current academic year in categories of minority, female, others, and total, (d) expected enrollment figures for next five years, (e) number of degrees awarded by AWS option, (f) number of degrees expected to be awarded by AWS option for the next five years.

Describe the institution's aviation degree options other than AWS and discuss how they interface with the AWS program. Provide in chart format

the same information requested for AWS Program as explained above.

Include an institutional organization chart to show how the AWS Program and other aviation programs fit into the institutional structure.

Provide information on full and part time faculty, including average teaching load, dedication to AWS Program options vs. other aviation program degree options. Prorated figures must total current dedicated aviation faculty.

Describe institutional activities to recruit AWS and other aviation students, including minority and female recruitment activities. Describe annual recruitment expenditures for both AWS and other aviation majors.

Submit one copy of an official course catalog and/or other brochure(s) showing the AWS course offerings to students during the 1990–1991 academic year. Institutions which do not submit the above information will be disqualified.

(c) Strategic Plan

Present a 5-year Strategic Plan for the institution's AWS Program. Discuss the components of the plan and discuss how the institution anticipates achieving the goals and objectives of the Strategic Plan. Justify the feasibility of the plan in relation to the projected workforce needs of the aviation industry and FAA, over-all direction of the institution, fiscal concerns, and interaction or partnership with aviation community, etc.

(d) Project Plan

Discuss in detail the proposed Project Plan with stated goals and objectives. Relate the project to the Strategic Plan.

Explain how the project will directly support the aviation and/or computer courses in the required core and the areas of concentration of an institution's recognized AWS curriculum options. Explain whether the project will enhance current recognized AWS courses or, rather, provide for the development of new AWS courses to be included in the institution's recognized AWS option(s) within the curriculum guidelines. Provide a similar discussion for other aviation programs.

Explain how AWS students and other aviation majors, respectively, will directly or indirectly benefit from the project. Provide a chart indicating the number of students who will benefit from the grant project by AWS option and other aviation degree options over the next five years.

Present a detailed discussion from project design to conclusion on the components of the Project Plan and the activities and tasks necessary to bring the project to a successful conclusion. The project is completed when the measurements discussed under the Evaluation Plan have been applied and analyzed. This should occur within 12 months of the time the facility and/or equipment is available to students. Provide a milestone chart for the project.

Provide a detailed discussion of the facilities and equipment requested for Federal funding and how they support the proposed project. Federal funds may not exceed 50% of the total project costs. Include a description of the items and an explanation of the need for the items. Applicants may submit photographs, architectural drawings, site plans, or other visual representation that would aid the reviewing panel in assessing the relative merits of the proposed items. Provide the same type of information for costs to be funded with other than Federal funds. Identify the sources of non-Federal funding and show evidence that the funds will be available such as a letter of commitment for funds which will be given to the institution by an outside source. Institutions will be held accountable for all cost sharing funds. Described and explain the mechanism that will be used to manage and monitor the progress of the project in terms of the milestones. Anticipated internal progress reports, advisory councils, and other similar mechanisms should be described.

(e) Project Personnel

Identify and describe the relevant skills of those individuals who will have major responsibilities for the proposed project. Include a discussion on their relevant skills in terms of the project and the amount of time each person will be required to devote to the project. The role of the Project Director is particularly important. Provide information indicating the director has appropriate qualifications, well defined responsibilities, sufficient time, and adequate academic and institutional authority and support to effectively manage the project.

Discuss the number of faculty and qualifications to adequately utilize the funded facility/equipment in teaching of AWS courses after conclusion of project. Demonstrate institutional commitment to provide necessary faculty positions.

(f) Budget Plan

The proposal must contain a Budget Plan that includes a detailed itemization of proposed expenditures for direct costs associated with the project according to the following catagories:

Item	Fed	Percent	Non-Fed	Percent	Total
(a) Facilities					
(b) Equipment					
(1) Flight					
(2) Air Traffic Control Simulation					
(3) Electronics					
(4) Maintenance					
(5) Computers					
(6) Meteorology					
(7) Office equipment					
(8) General classroom equipment					
(9) Resource Materials					
(c) Travel [1]					
(d) Consultant services [1]					
(e) Salaries [1]					
(f) Other direct costs [1]					
Total					

[1] Costs directly related to grant project, though not qualified for Federal funding.

Each category must contain line item entries of allowable costs and be subtotalled. (See OMB Circular A–21 for discussion of allowable costs). The line item entries must be allocated appropriately between Federal and non-Federal funding. FAA grant funds may only be dedicated to categories "a" and "b". Cost sharing funds include allowable project costs (categories "a" thru "f") which are incurred by the institution or the value of in-kind contributions. All costs, both Federal and non-Federal, may not occur prior to the official award of the grant. In no event shall the total Federal grant funds provided for an AWS project exceed 50% of the total allowable costs of the project. A sample itemized budget is available from the AWS Grant Program Manager upon request. Budget which do not include an itemization of expenditures will be disqualified. Budgets which include construction activities with a general cost per square foot will be disqualified.

(g) Institutional Need

Provide a detailed justification for the requested grant funding in terms of financial need. Discuss the consequences of not funding the proposed project. Explain and identify the funding sources and levels which support the institution's current AWS Program. Illustrate the amount of incoming funds over the past three years which have been dedicated to the institution's AWS Program. Provide the same information for funds dedicated to the institution's other aviation programs. Include a discussion of FAA sponsored AWS grants awarded to the institution including funding level, project, date of award, and status.

(h) Evaluation/Assessment Plan

Provide a project Evaluation/Assessment Plan. The reason for requesting submission of the plan, at the close of the project is to assess whether the goals and objectives of the project have been achieved and the impact of the project upon the AWS program at the institution. The completed Evaluation/Assessment Plan must include a strategy and measurement component for each goal and objective. The Evaluation/Assessment Plan may be prepared by the institution's staff or in collaboration with outside consultants. The results of the completed evaluation shall be submitted to the FAA as part of the final project report.

Local Review Statement

Attach a statement, signed by an appropriate official of the institution that contains: (a) An endorsement of the proposed project; (b) a description of how the proposed project supports the institution's long range goals and objectives in AWS; and (c) a commitment to provide the institutional resources necessary to meet cost sharing obligations, compete the proposed project, maintain the facilities and equipment to an acceptable standard, and continue financial support for the AWS Curriculum Program after the grant funds have been expended.

Reporting Requirements

Until the proposed project is completed, the FAA requires that each award institution prepare an Annual Project Report, not to exceed twenty (20) double-spaced typewritten pages in length. The Annual Project Report shall be submitted to the FAA within 90 days of the close of each institution's fiscal year. The report should include a summary of project progress, highlights and accomplishments, personnel changes and a status report on expenditures and account balances for each of the line items presented in the proposed Budget Plan.

In addition, a Final Project Report must be submitted to the FAA within 90 days of the project completion. The Final Project shall include summaries of project activities, accomplishments, outcomes of the implemented Evaluation Plan, and Budget Plan expenditures. The FAA anticipates that FAA representatives will make site visits to each grant institution during the lifetime of the project.

Proposal Review

Proposals will be reviewed, evaluated, and ranked against the evaluation criteria by a panel of educational and aviation specialists from the public and private sectors, including: Academia, private industry and/or the Federal Government. This review will be used by the FAA in the selection of applicants for grant awards.

For purposes of review, all proposals received by the FAA will be placed into one of two competitive classes: (1) Minority institutions (see June 1, 1984, 49 FR 22903) and (2) majority institutions. Grant awards will be made on a competitive basis within each competitive class. The awards within a given competitive class typically will range from $100,000 to $750,000 maximum. Each proposal will be reviewed, evaluated and ranked, within the competitive class to which it is assigned by the FAA.

The FAA does not intend to fund all proposed projects or necessarily all components of a proposed project. FAA expects to award at least 20 grants.

Evaluation Criteria

The evaluation criteria are designed to enable the reviewing panel and FAA officials to effectively evaluate the relative merit of submitted proposals. The proposals will be scored on a 100-point scale and will be evaluated based on the following factors:

1. *Institutional Commitment* (15 points maximum).

Each proposal will be evaluated as to the extent of the institution's commitment to the AWS Program, in relation to the date of curriculum recognition and overall size of program, as follows:

(a) Number of recognized AWS curriculum options.

(b) Number of students pursuing AWS degrees.

(c) Number of AWS degrees awarded since curriculum recognition.

(d) Recruitment activities including outreach programs for minority and female students.

(e) Number of faculty allocated to AWS.

(f) Projected growth over next 5 years. Realistic in comparison to current enrollment figures and strategic plan.

(g) Amount of institutional cost sharing funds provided toward the project.

(h) Demonstrated continued support and growth of the institution's AWS Program.

(i) Local Review Statement and level of signature.

2. *Strategic Plan* (15 points maximum).

The feasibility of the Strategic Plan will be evaluated in terms of the following:

(a) Institution's current AWS Program.

(b) Institution's planned approach to meet future aviation workforce needs.

(c) Potential resources, including fiscal, instructional, and administrative elements necessary for achievement.

3. *Project Plan* (20 points maximum).

The Project Plan will be evaluated as follows:

(a) Appropriateness of the project in terms of institution's current AWS Program.

(b) Relationship between the project and the strategic plan.

(c) Project adequately supports recognized curriculum.

(d) Number of AWS students to benefit in relation to size of institution's AWS Program.

(e) Benefits to students.

(f) Evidence institution has good understanding of activities and tasks required to bring project to conclusion.

(g) Appropriateness of facilities and/or equipment in terms of project goals and objectives.

(h) Realistic and attainable milestones.

(i) Demonstration that non-Federal funds required for the project are identified and available.

(j) Adequate management mechanisms are provided for the effective administration and technical direction of the project.

4. *Project Personnel* (10 points maximum).

The professional qualifications and experience of the institution's present AWS personnel, especially the AWS Project Director, and other key officials who will be involved in the proposed AWS grant project, will be evaluated as follows:

(a) Qualifications and experience of the Project Director.

(b) Qualifications and experience of project personnel in relation to the goals and objectives of the project.

(c) How well the institution scheduled and allocated project personnel time to perform duties associated with project.

(d) How well AWS personnel responsibilites are defined.

(e) Adequate faculty on board to utilize facilities and/or equipment *or* adequate institutional commitment to provide necessary faculty positions.

5. *Budget Plan* (10 points maximum).

The Budget Plan will be evaluated as follows:

(a) Proposed expenditures itemized by budget category and mathematical calculations correct.

(b) Entries detailed and consistent with project narrative.

(c) Budget figures appropriate for goods and services being procured.

6. *Institutional Need* (15 points maximum).

Each proposal will be evaluated to determine the extent to which the applicant institution has demonstrated the following:

(a) An overall financial need for funding.

(b) Consequences to the institution's AWS Program if Federal funding not obtained.

7. *Evaluation/Assessment Plan* (15 points maximum).

The Evaluation Plan will be evaluated as follows:

(a) Adequately tied to goals and objectives of the project.

(b) Strategy and measurement components are appropriate for stated project goals and objectives.

(c) Evaluation will produce information which would be useful to other institutions in implementing similar projects.

Issued in Washington, DC, on May 1, 1991.

Joseph P. Kisicki,

Director, Office of Training and Higher Education.

[FR Doc. 91-11501 Filed 5-14-91; 8:45 am]

BILLING CODE 4910-13-M

Research, Engineering, and Development Advisory Committee

Pursuant to section 10(A)(2) of the Federal Advisory Committee Act (Pub. L. 92-362; 5 U.S.C. app. I), notice is hereby given of a meeting of the Scientific Advisory Panel of the Security R&D Subcommittee of the Federal Aviation Administration (FAA) Research, Engineering, and Development (R,E&D) Advisory Committee to be held Tuesday, June 4, 1991, at 9 a.m. The meeting will take place at the Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC, in the MacCracken Room on the tenth floor.

The agenda for this first meeting will be focused on a review of the charter of this group, addressing proposed tasks in the areas of new technology for explosives detection and minimizing airframe damage.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statments, obtain information, or plan to access the building to attend the meeting should contact Ms. Jan Peters, Special Assistant to the Executive Director of the R,E&D Advisory Committee ASD-6, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-3096.

Any member of the public may present a written statement to the Committee at any time.

Issue in Washington, DC, on May 9, 1991.

Martin T. Pozesky,

Executive Director, Research, Engineering, and Development Advisory Committee.

[FR Doc. 91-11500 Filed 5-14-91; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

Petition of Maserati Automobiles Incorporated To Compromise Civil Penalty Liability for MY's 1982, 1983, 1986, 1989, and 1990; Order Granting In Part Petition To Remit Civil Penalties, Pursuant to 15 U.S.C. 2008(b)(3)

This order grants in part and denies in part the petition of Maserati Automobiles Incorporated ("MAI") to remit civil penalties for which MAI is liable due to its failure to meet passenger car corporate average fuel economy ("CAFE") standards for model years (MY's") 1982, 1983, 1986, 1987, 1989, and 1990.

On November 5, 1990, MAI, the importer of Maserati automobiles, submitted a petition requesting NHTSA to remit the entire amount of $1,225,410 in civil penalties for which MAI was liable pursuant to section 508(b)(1)(A) of the Motor Vehicle and Cost Savings Act ("the Act"), 15 U.S.C. 2008(b)(1)(A), due to its failure to meet passenger car CAFE standards for MY's 1982, 1983, 1986, 1987, and 1989. The petition was submitted pursuant to section 508(b)(3)(A) of the Act, 15 U.S.C. 2008(b)(3)(A). The petition was later supplemented with further information and a request for similar relief for MY 1990. For the reasons set forth herein, this order grants in part the petition, by reducing the penalty to $120,000, payment of which may be made in quarterly payments of $7,500 spread out over a four-year period.

Satutory Background

Pursuant to section 507 of the Act, 15 U.S.C. 2007, it is "unlawful conduct" for a motor vehicle manufacturer to fail to comply with an applicable CAFE standard, after taking into consideration credits earned in other years. Section 508 of the Act, 15 U.S.C. 2008, provides that NHTSA shall assess penalties for violations of section 507 by multiplying five dollars by the number of tenths of a mile per gallon by which the average fuel economy of the manufacturer's fleet is exceeded by the applicable standard, multiplied by the number of automobiles manufactured during the model year in question, reduced by any available credits.

Pursuant to section 508(b)(3) of the Act, these civil penalties may be compromised only under very limited circumstances. As applicable here, that section provides:

> The Secretary shall have the discretion to compromise, modify, or remit, with or without conditions, any civil penalty assessed under this subsection against any person, except that any penalty assessed for a violation of section 507(a)(1) or (2) may be compromised, modified, or remitted only to the extent—
>
> (A) necessary to prevent the insolvency or bankruptcy of such manufacturer * * *.

The Act provides no definition of "insolvency" or "bankruptcy." Using the common meanings of those words, I view "insolvency" as the condition of being unable to satisfy creditors or discharge liabilities, and "bankruptcy" as the state of being declared legally insolvent in a court proceeding.

Although there is no discussion of section 508(b)(3)(A) in the legislative history of the Act, it appears that it was intended to operate as a relief mechanism in circumstances in which a manufacturer with civil penalty liability under the CAFE program is in considerable financial difficulty. However, the fact that a company is in financial difficulty does not itself authorize or compel NHTSA to remit or compromise a civil penalty. Penalties may be reduced "only to the extent necessary to prevent the insolvency or bankruptcy of the manufacturer [emphasis added]." Thus, it is not sufficient that payment of the penalty might contribute to a potential insolvency or bankruptcy at some indefinite time in the future. Rather, NHTSA must conclude that the payment would directly cause insolvency or bankruptcy. Conversely, if a manfacturer has such large debts in relation to its assets that a reduction of the penalty would not prevent insolvency or bankruptcy, or if the company is already bankrupt, a compromise would not be allowed. (If a company were insolvent but not bankrupt, a compromise would be allowable if it would prevent a formal bankruptcy.)

Even if the agency concludes that payment of the full penalty would trigger insolvency or bankruptcy, the agency retains full discretion to decide whether to modify the amount of the penalty. The legislative history of the Act does not provide specific guidance on what

criteria the agency should apply in exercising its discretion.

MAI's Petition to Remit Civil Penalties

MAI was the principal U.S. importer of Maserati automobiles throughout the years at issue here, and it has been the sole importer since mid-1983. As of November 1, 1990, MAI had 18 employees, down from approximately 60 employees several years ago. It has working arrangements with a network of dealerships and is conducting a limited amount of ongoing business.

Pursuant to section 501(9) of the Act, 15 U.S.C. 2001(9), the importer of vehicles produced in a foreign country is the "manufacturer" of those vehicles for civil penalty purposes; *i.e.*, NHTSA cannot assess civil penalties against the entity that actually produces the vehicles. However, the statute does not preclude the agency from considering the financial status of the producer of the vehicles in exercising its discretion to decide whether, and by how much, to compromise a penalty.

MAI is a wholly-owned subsidiary of DeTomaso Industries Inc. ("DTI"), a Maryland corporation. DTI is also the parent company of American Finance SpA ("AF"), an Italian firm, which in turn controls Officine Alfieri Maserati ("OAM"), an Italian holding company. OAM has a 51% controlling interest in Maserati S.r.L. ("MSRL"), which is the actual manufacturer of Maserati automobiles, *i.e.*, "the factory." FIAT Auto SpA ("Fiat") recently purchased a 49% minority interest in MSRL from OAM.

During the 1980's, MAI applied for "low volume" exemptions from the industry-wide CAFE standards for the years in question here, pursuant to section 502(c) of the Act, 15 U.S.C. 2002(c). However, each of these petitions was rejected as untimely, pursuant to 49 CFR 525.6(b), which requires such petitions to be filed no later than 24 months prior to the beginning of the model year for which the exemption is sought, except where good cause is shown for the late filing. MAI did receive low volume exemptions for MYs 1978–1980 and 1984–1985, and it is not liable for any civil penalties for those years. (MAI did not import any vehicles in MYs 1981 and 1988).

Following the agency's rejection of MAI's exemption petitions, NHTSA's Associate Administrator for Enforcement notified MAI, by letter dated August 20, 1990, that it had a total CAFE shortfall for MY's 1982, 1983, 1986, 1987, and 1989 of $1,264,385. This total was offset by a credit of $8975 from MY 1980, resulting in a liability of $1,255,410.

Some MY 1982 and 1983 Maseratis were imported to the West Coast by a separate firm, British Motor Cars Distributors, Ltd. ("BMCD"). MAI asserts, with apparent justification, that it is not liable for any penalties attributable to the vehicles imported by BMCD. MAI also argues that it should not have to pay a CAFE penalty for vehicles that it reexported to Taiwan and Canada. For the above reasons, it claims that its civil penalty liability for MY's 1982, 1983, 1986, 1987, and 1989 is only $1,035,875.

The exact amount of MIA's civil penalty liability for MY 1990 is not yet known, but based upon its mid-model year report, the MY 1990 liability is estimated to be approximately $19,000.

Shortly after MAI's receipt of NHTSA's August 20 letter, counsel for MAI told NHTSA counsel that the company would request NHTSA to remit or compromise the civil penalty, and asked NHTSA to identify the financial information it required to consider such a request. NHTSA staff responded, and also agreed to MAI's request to hear an oral presentation from MAI on November 1, 1990. MAI's formal petition was submitted on November 5 and supplemented on November 13. MAI was cooperative in supplying all financial records that NHTSA staff had requested.

Under American financial accounting standards, parent companies must consolidate the financial statements of all companies in which their ownership interest exceeds 50%. Thus, in an accounting sense, DTI is the owner of MAI (and is also the owner of AF, OAM, and MSRL). Accordingly, NHTSA staff asked MAI, and MAI agreed, to furnish DTI's financial records and reports as well as its own. These financial data were reviewed by NHTSA staff, including a Certified Public Accountant.

In its oral presentation on November 1, MAI's principal executive officer indicated that MAI would likely close down if it were required to pay the entire penalty, since it could not afford to pay that amount. He opined that if the civil penalty were entirely remitted, or if only a "nominal" amount were assessed, MAI would have a 90–95 percent chance of surviving at least until 1993, when it intends to import new Maserati models equipped with air bags, which MAI hopes will be profitable. He also asserted that the proceeds received by DTI from Fiat in 1990 from the sale of 49 percent of MSRL were largely used to satisfy creditors, and that MAI expects no further infusion of cash from FIAT. Finally, he argued that by staying in business (*i.e.*, servicing warranty claims and assuring the availability of parts), MAI was providing a service to American consumers which would otherwise be unavailable.

Evaluation of MAI's Financial Condition

MAI is already insolvent in the sense that its debts exceed its assets, and it is surviving only because its creditors, principally MSRL, have not insisted on payment. Although it is appropriate to view with a skeptical eye the claims of any manufacturer seeking to avoid civil penalty liability, in this instance NHTSA has no basis for doubting the representation that MSRL is unwilling, or unable, to subsidize MAI to the extent needed to pay the full civil penalty.

There is some doubt as to whether MAI would be able to survive even if substantially all of the civil penalty were remitted. MAI's current ratio (*i.e.*, its current assets divided by its current liabilities) is declining, its negative net worth is increasing, and its parent's financial condition is also disturbing. However, NHTSA cannot conclude that remission of the penalty would not prevent the company from going bankrupt.

Policy Considerations

If a rejection of MAI's petition caused the company to go out of business, there would be a small adverse effect on employment, since approximately 18 MAI employees would lose their jobs. The approximately 60 Maserati dealerships sell or service other products, so there may be no immediate unemployment in those firms. However, the owners of the few thousand Maserati automobiles in this country would have difficulty obtaining parts and service for their vehicles.

The main argument against remitting or compromising the penalty is that firms who fail to comply with applicable CAFE standards should not be able easily to escape the consequences of that failure. In this regard, it might be argued that by remitting the penalty, NHTSA would be excusing firms that were not maximizing fuel economy and foregoing an opportunity to obtain revenue for the Government.

With respect to fuel economy considerations, there is no basis to believe that Maserati could have made significant improvements in its CAFE performance for the years in question, considering the type of vehicles it manufactures. In any event, U.S. sales of Maserati automobiles were so small for the model years in question (less than 2700 cars in total) that any fuel economy improvements the company realistically could have made would not have had a

significant effect on energy consumption.

With respect to revenue considerations, given the apparent likelihood that MAI would declare bankruptcy if I did not compromise the penalty, a compromise should not have a meaningful impact on the U.S Treasury, and could even produce a positive revenue gain. In a bankruptcy proceeding, the Government would likely receive far less than the full penalty amount due from MAI, and could well receive even less than the amount of a compromise penalty.

Those policy considerations suggest that the public interest would be served by remitting at least a portion of MAI's civil penalty liability. If a shutdown of MAI is prevented, its labor force would remain employed; consumers would avoid great difficulty in obtaining parts and service for Maserati automobiles; and the U.S. Treasury would obtain at least a partial amount of the entire civil penalty, *i.e.*, the portion of the penalty not remitted.

Conclusion

The evidence conclusively shows that MAI (as well as its parent DTI) is in very serious financial difficulty. MAI's financial problems are considerably greater than the civil penalty liability at issue, and the company would be in poor financial condition even in the absence of such liability. However, MAI asserts that the CAFE penalty, if not remitted or compromised, will be the straw that breaks the camel's back; *i.e.*, it contends that while it hopes to survive without liability for the full penalty, it cannot survive with it.

Under these circumstances, I believe that MAI is eligible for a modification of its civil penalty liability under section 508(b)(3)(A), because such a modification is "necessary to prevent the insolvency or bankruptcy of the manufacturer." I also believe that it is appropriate for the agency to exercise its discretion by significantly reducing the amount due.

I do not believe, however, that it would serve the public interest to forgive the entire penalty. If the agency were to do so, there would be no incentive for MAI or other firms in similar circumstances to attempt to improve their fuel economy or even to file petitions for low volume exemptions in a timely manner. Therefore, I believe it is appropriate to fashion a compromise penalty that would allow MAI to avoid bankruptcy while imposing some significant burden on the company.

Upon consideration of all the facts in the record and the policy matters noted above, I have decided to modify and compromise MAI's civil penalty liability to a total of $120,000 for all of the model years at issue. To ease the financial burden on the company, MAI may spread the payment out over four years. MAI has informed NHTSA staff that it concurs in this resolution of its petition.

Wherefore, it is hereby ordered that MAI's cumulative civil penalty liability for MY's 1982, 1983, 1986, 1987, 1989, and 1990 is hereby modified, compromised, and reduced to $120,000, and that MAI may pay the total over four years, without interest, provided that $7,500 is paid quarterly, i.e., every three months.

Issued on: April 30, 1991.

Jerry Ralph Curry,

Administrator, National Highway Traffic Safety Administration.

[FR Doc. 91–11503 Filed 5–14–91; 8:45 am]

BILLING CODE 4910–59–M

Sunshine Act Meetings

Federal Register
Vol. 56, No. 94
Wednesday, May 15, 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).

BOARD FOR INTERNATIONAL BROADCASTING

TIME AND DATE: 9:00 a.m., June 10, 1991.

PLACE: RFE/RL, Inc. Oettingenstrasse 67, Am Englischen Garten, 8000 Munich 22.

STATUS: Closed, pursuant to 5 U.S.C. 552b(c)(1) and (9)(B) and 22 CFR 1302.4 (a) and (h).

MATTERS TO BE CONSIDERED: Matters concerning the broad foreign policy objectives of the United States Government as they relate to international shortwave radio broadcasting into Eastern Europe and the Soviet Union.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Mark G. Pomar, Executive Director, Board for International Broadcasting, Suite 400, 1201 Connecticut Avenue, N.W., Washington, DC 20036.

Mark G. Pomar,
Executive Director.
[FR Doc. 91-11609 Filed 5-13-91; 11:34 am]
BILLING CODE 6155-01-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, May 20, 1991.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed purchase of check processing and computer equipment within the Federal Reserve System.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: May 10, 1991.
William W. Wiles,
Secretary of the Board.
[FR Doc. 91-11576 Filed 5-10-91; 4:17 p.m.]
BILLING CODE 6210-01-M

FOREIGN CLAIMS SETTLEMENT COMMISSION

F.C.S.C. Meeting Notice No. 2-91

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 AND TIME: Thurs., May 23, 1991 at 10 a.m..

SUBJECT MATTER: 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 May 13, 1991.
Judith H. Lock,
Administrative Officer.
[FR Doc. 91-11711 Filed 5-13-91; 3:44 pm]
BILLING CODE 4410-01-M

INTERNATIONAL TRADE COMMISSION

[USITC SE-91-15]

TIME AND DATE: Wednesday, May 29, 1991 at 2:00 p.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda
2. Minutes
3. Ratifications
4. Petitions and complaints
   Certain Bathtubs and other Bathing Vessels and Materials Used Therein. (Docket No. 1622).
5. Inv. 731-TA-515 (Preliminary) (Portable Electric Typewriters from Singapore)—briefing and vote.
   Inv. 731—TA-464 (Final) (Sparklers from the People's Republic of China)—briefing and vote.
6. Any items left over from previous agenda

CONTACT PERSON FOR MORE INFORMATION: Edward G. Carroll, Jr., Acting Secretary, (202) 252-1000.

Dated: May 13, 1991.
Edward G. Carroll Jr.,
Acting Secretary.
[FR Doc. 91-11715 Filed 5-13-91; 3:55 pm]
BILLING CODE 7020-02-M

INTERNATIONAL TRADE COMMISSION

USITC SE-91-14

TIME AND DATE: Wednesday, May 22, 1991 at 10:30 a.m.

PLACE: Room 101, 500 E Street, SW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda
2. Minutes
3. Ratifications
4. Petitions and complaints
5. Inv. 731-TA-52 (Final) (Sheet Piling from Canada)—briefing and vote.
   Inv. 731-TA-458-459 (Final) (Polyethylene Terephthalate Film Sheet, and Strip from Japan and the Republic of Korea)—briefing and vote.
   Inv. 731-TA-472 (Final) (Silicon Metal from the People's Republic of China)—briefing and vote.
6. Any items left over from previous agenda

CONTACT PERSON FOR MORE INFORMATION: Edward G. Carroll Jr., Acting Secretary, (202) 252-1000.

Dated: May 13, 1991.
Edward G. Carroll, Jr.,
Acting Secretary.
[FR Doc. 91-11716 Filed 5-13-91; 3:58 pm]
BILLING CODE 7020-02-M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [56 FR 22052 May 13, 1991].

STATUS: Closed meeting.

PLACE: 450 Fifth Street, N.W., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Wednesday, May 8, 1991.

CHANGE IN THE MEETING: Additional meeting.

The following items will be considered at a closed meeting on Thursday, May 16, 1991, at 2:00 p.m.

Institution of injunctive action.
Formal order of investigation.
Institution of administrative proceeding of an enforcement nature.
Settlement of injunctive action.
Settlement of administrative proceedings of an enforcement nature.

Commissioner Roberts, as duty officer, determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Daniel Gray at (202) 272–2000.

Dated: May 13, 1991.

Jonathan G. Katz,

Secretary.

[FR Doc. 91–11717 Filed 5–13–91; 4:02 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

AGENCY MEETINGS

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of May 20, 1991.

Open meetings will be held on Monday, May 20, 1991, at 3:00 p.m. and Thursday, May 23, 1991, at 10:00 a.m., in Room 1C30.

Closed meetings will be held on Tuesday, May 21, 1991, at 2:30 p.m., and Thursday, May 23, 1991, following the 10:00 a.m. open meeting.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meetings. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at closed meetings.

Commissioner Roberts, as duty officer, voted to consider the items listed for the closed meetings in closed session.

The subject matter of the open meeting scheduled for Monday, May 20, 1991, at 3:00 p.m., will be:

Consideration of whether to approve two proposed rule changes submitted by the NYSE that would extend the NYSE's trading hours beyond the close of the 9:30 a.m. to 4:00 p.m. trading session and would establish an "Off-Hours Trading" ("OHT") facility. The OHT facility would consist of two trading sessions: "Crossing Session I," which would permit the execution at the NYSE closing price of single-stock single-sided orders and crosses of single-stock buy and sell orders; and "Crossing Session II," which would allow the execution of crosses of multiple-stock portfolio buy and sell orders. For further information, please contact Liz Pucciarelli at (202) 272–7393.

The subject matter of the closed meeting scheduled for Tuesday, May 21, 1991, at 2:30 p.m., will be:

Consideration of whether to approve two proposed rule changes submitted by the NYSE that would extend the NYSE's trading hours beyond the close of the 9:30 a.m. to 4:00 p.m. trading session and would establish an "Off-Hours Trading" ("OHT") facility. The OHT facility would consist of two trading sessions: "Crossing Session I," which would permit the execution at the NYSE closing price of single-stock single-sided orders and crosses of single-stock buy and sell orders; and "Crossing Session II," which would allow the execution of crosses of multiple-stock portfolio buy and sell orders. For further information, please contact Liz Pucciarelli at (202) 272–7393.

The subject matter of the closed meeting scheduled for Tuesday, May 21, 1991, at 2:30 p.m., will be:

Institution of injunctive action.
Institution of administrative proceeding of an enforcement nature.
Settlement of administrative proceeding of an enforcement nature.
Settlement of injunctive action.
Opinion.

The subject matter of the open meeting scheduled for Thursday, May 23, 1991, at 10:00 a.m., will be:

The Commission will hear oral argument on an appeal by Bacardi Corporation, an issuer of stock registered under Section 12(g) of the Securities Exchange Act, from an administrative law judge's initial decision. Bacardi Corporation is seeking to terminate its registration pursuant to Section 12(g)(4). For further information, please contact George J. Zornada at (202) 272–2435.

The subject matter of the closed meeting scheduled for Thursday, May 23, 1991, following the 10:00 a.m. open meeting, will be:

Post oral argument discussion.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Ronald Mueller at (202) 272–2200.

Dated: May 13, 1991.

Jonathan G. Katz,

Secretary.

[FR Doc. 91–11718 Filed 5–13–91; 4:02 pm]

BILLING CODE 8010–01–M

federal register

Wednesday
May 15, 1991

Part II

Department of Agriculture

Commodity Credit Corporation

Presentation of Milk Inventory Management Program Study Results and Solicitation of Comments; Notice

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Presentation of Milk Inventory Management Program Study Results and Solicitation of comments

AGENCY: Commodity Credit Corporation, USDA.
ACTION: Solicitation of comments.

SUMMARY: This notice solicits comments concerning the milk inventory management study prepared by a U.S. Department of Agriculture task force chaired by the Agricultural Stabilization and Conservation Service (ASCS) on behalf of the Secretary of Agriculture pursuant to provisions of Section 101 of the Food, Agriculture, Conservation, and Trade Act of 1990 ("1990 Act"). Section 101 requires that the Secretary, by August 1, 1991, prepare and submit a report and recommendations on various milk inventory management programs to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. In addition to two inventory management proposals specified for study in the 1990 Act, the 1990 Act provided for the study of other programs suggested by the public. A notice requesting such proposals was published on January 7, 1991 (56 F.R. 510).

A copy of the study is appended to this notice for public comment prior to submitting the mandated report and recommendations to Congress. The study evaluates the two inventory management proposals specified in the 1990 Act. In addition, the study reviews two additional types of programs suggested by the public—two-tier pricing programs and milk diversion programs.

DUE DATE FOR COMMENTS: In order to assure consideration, comments submitted in response to this notice must be received by May 30, 1991.

ADDRESSES: Comments should be mailed to Dr. Charles Shaw, Commodity Analysis Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, P.O. Box 2415, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Dr. Charles Shaw, Group Leader, Dairy and Sweeteners Group, Commodity Analysis Division, Agricultural Stabilization and Conservation Service, Room 3756 South Agriculture Building; telephone (202) 447-7601.

FORM OF COMMENTS: There is no specific format for the submission of comments.

SUPPLEMENTARY INFORMATION: Section 101(a) of the 1990 Act amended the Agriculture Act of 1949 by adding section 204(e) which directs the Secretary of Agriculture, by August 1, 1991, to prepare and submit a report and recommendations on various milk inventory management programs to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

The Secretary was directed to study: (a) A program which would establish an alternative classification of milk for federal milk marketing orders operated under section 8c(5) of the Agricultural Marketing Agreement Act of 1937; and (b) a program which would support the income of milk producers through a system of established prices and deficiency payments.

The Secretary was also directed to study such other programs, submitted to the Secretary in response to the solicitation of public proposals published on January 7, 1991, as the Secretary determined appropriate after consultation with the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of the Senate. Section 101 also provides, however, that for purposes of the Section 101 study, the Secretary shall not consider any milk inventory management program that: (a) Includes any milk production termination program that is similar to the program established under section 201(d)(3) of the Agricultural Act of 1949, as amended, or (b) reduces the support price below the levels established by the Agriculture Act of 1949, as amended.

After review of the submissions made by the public and after consultation with Congress the Secretary deemed it appropriate to study, in addition to the two programs specifically provided for study in Section 101, two-tier pricing programs and milk diversion programs. More than 75 submissions were received during the solicitation period. The appended study describes the programs proposed by the public, why the selected programs were chosen for study, and study methodology.

Section 101 provides that the Secretary evaluate the alternative proposals based on the following criteria:

(a) The ability of the program to limit Government purchases of milk products to 6,000,000,000 pounds (milk equivalent, total milk solids basis) in a calendar year;

(b) The speed and effectiveness of reducing excess milk production;

(c) The effectiveness in sustaining reduced milk production for at least a 5-year period with and without the continuation of the program;

(d) The regional impact on milk prices, producer revenue, and milk supplies;

(e) The impact on national producer income and Government expenditures;

(f) The impact on the rural economy and maintaining family farms;

(g) The impact on the availability of wholesome dairy products for domestic and foreign nutrition and food assistance programs;

(h) Technological innovations;

(i) The effectiveness in reducing butter fat production and increasing protein content in milk;

(j) The impact of temporary increases and decreases of milk production;

(k) The impact on the United States livestock industry.

Section 101 also provides that the programs studied shall be evaluated on the basis of all other issues the Secretary considers appropriate. In making the evaluations in the appended study, the study also takes into account with respect to the programs studied:

(1) The consistency of the program with international obligations and the impacts on international trade.

(2) The impact of the program on consumers and the consumption of milk and milk products, including consumer costs.

(3) The effect of the program on long term economic efficiency of the U.S. dairy industry, as well as competitiveness with non-dairy products.

Because of intensified interest of Congress and the public, the Secretary announced on April 10, 1991, a study target completion date of June 15, 1991. In order that the final report and recommendations may be submitted to Congress by that date, the period for public comment on the appended study has been limited to 15 days.

Signed at Washington, DC this 7th day of May 1991.

Keith D. Bjerke,

Executive Vice President, Commodity Credit Corporation.

Report of the United States Department of Agriculture on Milk Inventory Management Programs prepared for public comment in preparation for submission to The Committee on Agriculture, U.S. House of Representatives and The Committee on Agriculture, Nutrition, and Forestry, U.S. Senate.

May 9, 1991.

Report of the United States Department of Agriculture on Milk Inventory Management Programs

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I. Introduction

This report analyzes four alternative types of milk inventory management programs. Title I, section 101 of the Food, Agriculture, Conservation, and Trade Act of 1990 (the FACT ACT) amends the Agricultural Act of 1949 (the 1949 Act) by adding a new section, "Section 204. Milk Price Support and Milk Inventory Management Program For Calendar Years 1991 Through 1995." Section 204(e) sets out the requirements for this study.

The programs analyzed in this report are composites of numerous proposals submitted by the general public for study. Legislation requires that two types of programs be studied,

(1) "an alternative classification of milk contained in section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), as amended by the Agricultural Marketing Agreement Act of 1937; and

(2) "a program to support the income of milk producers through a system of established prices and deficiency payments"

After review of public submissions, it was determined appropriate to study two additional types of programs: Two-tier pricing programs and milk marketing diversion programs.

The analyses of these four types of milk inventory management programs were made using the level of support as the primary independent variable. Each program was analyzed at two levels of support—the current level and a higher level. In addition, for some programs, variations designed to either generate additional farm cash receipts or contain government spending were analyzed.

The criteria for evaluation were set out in the legislation. In addition, to the 11 criteria explicitly designated, the Secretary of Agriculture added three criteria considered important. The impacts of these programs, including the long- and short-term consequences for dairy farmers, consumers, rural areas and geographical regions, and government costs, are presented in this report beginning with Chapter VI. Study continues on the impacts on rural areas and by regions, and additional information will be presented in the final report.

The short time frame for completion of the study prevented independent consideration of the large number of program variations received as a result of public solicitation. Although legislation calls for submission of this report to the Committees by August 1, 1991, changing conditions in the industry raised the urgency for this report among members of Congress. As a result, the Department agreed to publish the analyses for public comment as near to May 15, 1991, as possible. As such, work will continue on several fronts for possible inclusion in the final report.

The Department was prohibited by the FACT ACT from studying several other types of programs, and from fully analyzing all options within the four types of inventory management programs selected. Therefore, this report should not be considered to be a comprehensive study of the full range of government-assistance programs available to affect the supply of and demand for milk and dairy products.

II. Solicitation and Selection of Programs Studied

Solicitation of Programs for Study

The FACT ACT required the Secretary to solicit from the public proposals for milk inventory management programs for study. On January 7, 1991, a "Notice of Solicitation" was published in the **Federal Register**.

The public was provided a thirty-day period, ending February 6, 1991, to submit proposals for study. By the deadline, 77 submissions were received. Some submissions suggested more than one program for study. Other submissions supported programs submitted by others. A few submissions either presented general views on the value of supply management programs or made suggestions concerning the conduct of the study. Subsequent to the submission deadline, another 14 submissions were received.

The 77 submissions received by the deadline were summarized and categorized. Sixty of the submissions offered or supported one or more programs for study. These programs generally fell into one of five program-types:

- Target price / deficiency payment programs,
- Re-classification (Class IV) programs,
- Two-tier pricing programs,
- Milk marketing diversion programs, and
- Demand enhancement programs.

Nine of the 60 submissions submitted unusual or multi-faceted proposals that when summarized did not fit into one of the five program-types above. For example, two offered programs to reduce milk marketings through the use of culling programs. Others would have placed some type of absolute restrictions on Commodity Credit Corporation (CCC) purchases of surplus dairy products. One proposed using Class I and Class II prices as the primary support mechanism with Class III prices allowed to fluctuate with market conditions.

Five of the submissions included programs to encourage greater consumption of dairy products. For example, several proposed providing for direct monetary incentives to consumers to purchase milk. Others would enhance consumption by mandating a higher minimum nonfat solids content in all types of fluid milk products. Still others proposed expanding outlets for dairy products by strengthening domestic food assistance and nutrition programs and by use of the Dairy Export Incentive Program (DEIP) and other export assistance and international food aid programs.

Eight of the 77 submissions did not offer detailed programs. Review of the 14 late submissions revealed no major ideas not already presented in the 77 submissions received by the deadline.

Selection of Programs for Study

The FACT ACT established certain parameters concerning the types of programs that could be studied. The Secretary was directed to study:

"(A) an alternative classification of milk contained in section 8c(5) of the Agricultural adjustment Act (7 U.S.C. 608(5)), as amended by the Agricultural Marketing Act of 1937;"

(commonly referred to as Class IV programs during debate on the 1990 Farm Bill), and

"(B) a program to support the income of milk producers through a system of established prices and deficiency payments" (commonly referred to as target price/deficiency payment programs).

In addition, the Secretary had the discretion to select from among the public submissions, programs considered appropriate for study. Prior to such selection, however, legislation required consultation with the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. As part of those consultations, the 77 submissions received by the submission deadline and their summaries, along with the submissions received after the deadline, were provided to the Committees.

The Secretary, by law, was prohibited from including in the study "any milk inventory management program that includes any milk production termination program that is similar to the program established under section 201(d)(3)," or any program that would call for support price reductions below the minimum levels established in the 1949 Act, as amended.

It was determined that two additional types of programs were appropriate for study—(1) two-tier pricing programs and (2) milk marketing diversion programs. To facilitate analysis and comparison of the four programs studied, composite programs were developed based on the public submissions.

In virtually all cases, demand incentive programs offered for study by the public were not intended to stand alone, but rather they were submitted as complementary aspects of a comprehensive inventory management program. While demand incentive programs may or may not have merit, they were seen as peripheral both to the proposals within which they were submitted and to milk inventory management programs, in general. At this point, demand enhancement programs have not been included in the study.

III. Background and Baseline

Production

Milk production in the United States has expanded steadily since the late 1970's. Since the 1977/78 marketing year, milk production has increased in every year but three. Milk output dropped in 1983/84 because of the milk diversion program, in 1986/87 because of the dairy termination program, and in 1988/89 because of the 1988 drought that drove up feed costs to dairy farmers. However, in all of these cases, milk production rebounded substantially in the following year. Over this 13-year period, milk production has increased by 28.4 billion pounds, more than 23 percent, even with the three years of decline, or an average annual increase of 2.2 billion pounds.

These production increases were accomplished with fewer dairy cows, but with substantially higher milk output per cow, and with fewer dairy farms, but with sharply larger average herd size.

The long downtrend in milk cow numbers was reversed temporarily in the late 1970's and early 1980's, but cow numbers have again resumed their downtrend. In 1990/91, the number of milk cows may total around 10.1 million head, down around 1 million head since 1982/83. At the same time, milk production per cow has trended upward for decades because of heavier concentrate feeding, improved genetic potential and better management. During the past two decades, milk per cow has increased at a rate of about 2 percent per year. Milk output per cow slowed considerably in 1983/84 when the milk diversion program encouraged participating dairy farmers to reduce grain feeding to meet their production-cutback commitments. Again, production per cow rebounded in the years following the diversion program. By 1990/91, average milk per cow had reached almost 15,000 pounds.

The number of dairy farms continued to decline during the 1970's and 1980's, while the average number of cows per farm has more than doubled since the mid-1970's.

Prices

Milk prices received by farmers increased during the 1970's and early 1980's partly in response to increased dairy support prices. The 1977 Farm Bill increased the minimum support price for milk from 75 to 80 percent of parity and mandated semiannual price support adjustments. Farm milk prices peaked in the early 1980's, then trended downward in response to increased milk production and reduced support prices. Milk prices rose sharply in the 1988 to 1990 period as milk production dipped because of high feed prices caused by the 1988 drought, and a window of opportunity opened for the commercial export of nonfat dry milk. The average all-milk price reached a record high of $14.48 per hundredweight in the 1989/90 marketing year. With milk production expanding and foreign demand for U.S. produced nonfat dry milk demand ending, farm milk prices dropped sharply in late 1990, and for the 1990/91 marketing year are expected to average about $11.60, the lowest since 1978/79. In addition, while milk prices to farmers had been fairly stable on a seasonal basis through most of the 1980's, the dairy industry began experiencing widely fluctuating farm milk prices as the 1980's ended.

Producer Financial Conditions

Dairy farms finished 1990 in a generally strong financial position. Between 1986 and 1990 dairy farms' asset values increased and debts were slightly reduced, so net worth increased. USDA's Cost and Return Survey estimated an average net worth of U.S. dairy farms of $457,000 at the beginning of 1990, up from $285,000 in 1986. Still, we estimate that 11 percent of dairy farms were financially vulnerable in 1989. The concept of financial vulnerability cannot be measured precisely; the USDA bases its estimate on an operation having a debt/asset ratio of more than 0.40 and having insufficient cash income to cover debt-repayment and family living expenses. By this criterion 20 percent of U.S. dairy farms were estimated to be financially vulnerable in 1985 compared to 11 percent in 1989.

Underlying the financial improvements in the dairy sector are improved net cash incomes during the last half of the 1980s.

Use

Commercial disappearance of milk in all dairy products on a milk equivalent, (M.E.) milkfat solids basis, expanded around 2 percent a year during the 1983-91 period, about double the rate of the 1970's and early 1980's. Lower real retail dairy prices, increasing consumer incomes, and increased dairy product promotion helped boost commercial use of dairy products.

CCC Activity

Dairy product purchases by the CCC were relatively small during the 1970's averaging around 3.6 billion pounds, M.E., milkfat basis annually during that period. Milk supply and demand were in relatively good balance in most years of the 1970's with CCC price support removals totaling over 6 billion pounds in only 2 years. With milk production expanding rapidly in the 1980's as farmers responded to higher support prices, dairy product removals under the price support program increased substantially reaching a record of 16.6 billion pounds, M.E., milkfat basis in 1982/83 when the support price was $13.10 per hundredweight. During the 1980's, removals averaged around 11.0 billion pounds, M.E., milkfat basis. Removals would have been even greater during this period if it had not been for

two major programs to reduce milk production. Removals dropped in 1983/84 and 1984/85 because of the Milk Diversion Program and in 1986/87 as a result of the Dairy Termination Program, although the declines under both programs were temporary. Removals dropped in 1989/90 because of impacts of the drought and the unusual export and domestic demand for nonfat milk solids, but are expected to rebound in 1990/91 to almost to 10 billion pounds, M.E. milkfat and 8.5 billion pounds, M.E. nonfat solids.

Baseline Forecast

Baseline projections for milk supply, use and prices were made for the period from 1991/92 through 1996/97 and are presented in Table 1. The baseline developed for this study updates the projections used in the President's Budget presented in February 1991 to incorporate more recent information and data on supply and demand conditions. It also extends the time horizon.

BILLING CODE 3410-05-M

Table 1: Supply and utilization, baseline, current programs**

Item	Unit	1990/91	1991/92 1/	1992/93	1993/94	1994/95	1995/96 1/	1996/97
Support Level	$ Per Cwt.	10.10	10.10	10.10	10.10	10.10	10.10	10.10
Assessment:								
Budget	$ Per Cwt.	0.0375	0.0969	0.1125	0.1125	0.1125	0.0281	
Excess Production	$ Per Cwt.			0.0370	0.0540	0.0130		
Milk Production	Bil. Lb.	150.0	151.4	153.9	156.9	158.5	159.9	161.0
Farm Use	Bil. Lb.	2.1	2.1	2.1	2.1	2.1	2.1	2.1
Marketings	Bil. Lb.	147.9	149.3	151.8	154.8	156.4	157.8	158.9
Beginning Commercial Stocks	Bil. Lb.	5.1	5.3	5.3	5.3	5.3	5.3	5.3
Imports	Bil. Lb.	2.6	2.6	2.6	2.6	2.6	2.6	2.6
Commercial Supply	Bil. Lb.	155.6	157.2	159.7	162.7	164.3	165.7	166.8
Commercial Use	Bil. Lb.	140.5	144.9	146.8	149.5	152.0	154.9	156.5
Ending Commercial Stocks	Bil. Lb.	5.3	5.3	5.3	5.3	5.3	5.3	5.3
Total Utilization	Bil. Lb.	145.8	150.2	152.1	154.8	157.3	160.2	161.8
CCC Net Removals:								
Milkfat Basis	Bil. Lb.	9.8	7.0	7.6	7.9	7.0	5.5	5.0
Skim-Solids Basis	Bil. Lb.	8.5	6.3	7.6	7.9	7.0	5.5	5.1
Butter	Mil. Lb.	355	235	245	245	225	175	160
Cheese	Mil. Lb.	210	195	230	270	220	175	160
Nonfat Dry Milk	Mil. Lb.	550	375	455	450	410	325	300
Net CCC Purchase Costs	$ Mil.	1049	766	883	923	814	642	590
Net CCC Outlays	$ Mil.	916	626	727	779	685	548	491
Deductions 2/	$ Mil.	55	145	227	258	196	44	0
Diversion Payments	$ Mil.	0	0	0	0	0	0	0
Buyout Payments	$ Mil.	100	11	0	0	0	0	0
Net Government Costs	$ Mil.	960	492	500	521	489	504	491
Number of Cows	Thousands	10,080	10000	9905	9795	9700	9600	9540
Milk Per Cow	Lb.	14,880	15140	15540	16020	16340	16655	16880
Prices Received by Farmers:								
Manufacturing Grade	$ Per Cwt.	10.30	10.45	10.40	10.35	10.45	10.55	10.60
All Milk Sold to Plants	$ Per Cwt.	11.60	11.55	11.50	11.45	11.55	11.65	11.70
Effective Price	$ Per Cwt.	11.36	11.45	11.35	11.28	11.42	11.62	11.70
Farm Cash Receipts 3/	$ Mil.	17,250	17,250	17380	17620	18020	18500	18750
Margin	$ Per Cwt.	22.50	22.00	22.00	23.00	24.10	25.30	26.50
Retail Value	$ Per Cwt.	34.10	33.55	33.50	34.45	35.65	36.95	38.20
Retail Cost	$ Mil.	47,920	48,610	49,190	51,490	54,180	57,230	59,770

1/ Leap year. 2/ Does not include promotion deductions. 3/ Receipts adjusted to reflect deductions. Buyout payments are not reflected in dairy cash receipts since the recipients are no longer dairy farmers.

** NOTE: Some numbers may not add due to rounding.

BILLING CODE 3410-05-C

In making these baseline projections, the following basic assumptions were used:

1. The FACT ACT set the support price for milk at a minimum of $10.10 per hundredweight with provision for increases of at least 25-cents if surplus is estimated to be less than 3.5 billion pounds. It also provides for an assessment to cover the cost of surplus purchases in excess of 7 billion pounds, M.E., milkfat basis per year. These requirements were extended through the end of the baseline.

2. Following the current economic slowdown, longer run projections indicate a moderate rate of economic growth during the rest of the baseline period. This is expected to provide a favorable demand for dairy products.

3. Bovine Somatotropin (BST) will be approved and become available for general use by dairy farmers by the fall of 1992.

4. There will be no consumer response to BST in terms of reduced milk and dairy product consumption.

5. There will be no impact of the California drought on milk production.

6. The producer assessments provided under the 1990 Omnibus Budget Reconciliation Act will be in place through calendar 1995 as specified in the Act.

7. No assumption is made with respect to the conclusions of the Uruguay Round of negotiations in the General Agreement on Tariffs and Trade (GATT).

Productivity gains and structural changes that lowered costs and caused milk production increases: in the 1930's are expected to continue in the 1990's. The assumed adoption of bST in 1992 will help maintain milk production increases in the 1990's. Milk production is expected to increase throughout the 1991/92–1996/97 period reachinq 161 billion pounds by 1996/97. Gains are expected to be the largest in 1992/93 and 1993/94 immediately following adoption of bST.

Use of bST will produce increases in milk production per cow in the early 1990's. However, milk-feed price ratios may be less favorable, which will be a limiting factor in the growth in milk production per cow. Milk production per cow is expected to reach almost 17,000 pounds in 1996/97. This would represent about a 2-percent annual growth rate from l990/9l, with the largest increases in 1992/93 and 1993/94, the two years immediately following the introduction of bST.

Milk cow numbers are estimated to decline slowly during the baseline period. Cow numbers are estimated at around 9.5 million head by 1996/97, around a 1-percent per vear decline from 1990/91.

After declining sharply in 1990/91, farm milk prices are estimated to hold relatively stable during the baseline period with the all milk price holding in the $11.45 to $11.70 range. Real milk prices will decline slowly throughout the period to bring rising production and use into balance.

Commercial use of milk in all dairy products will likely increase during the baseline period. A growth rate of around 2-percent per year is projected. Declining real consumer prices, income growth and population increases probably will boost commercial use.

CCC removals of dairy products under the price support program are expected to gradually decline during the baseline period. Purchases on a M.E., milkfat basis may rise during the 1991/92 to 1993/94 period to around 8 billion pounds, before declining to some 5 billion pounds by 1996/97.

Criteria for Evaluation of Programs

Evaluation Criteria Required

The FACT ACT requires the Secretary to evaluate potential milk inventory programs based on the following:

(A) The ability of the program to limit Government purchases of milk products to 6,000,000,000 pounds (milk equivalent, total milk solids basis) in a calendar year;

(B) The speed and effectiveness of reducing excess milk production;

(C) The effectiveness in sustaining reduced milk production for at least a 5-year period with and without the continuation of the program;

(D) The regional impact on milk prices, producer revenue, and milk supplies;

(E) The impact on national producer income and Government expenditures;

(F) The impact on the rural economy and maintaining family farms;

(G) The impact on the availability of wholesome dairy products for domestic and foreign nutrition and food assistance programs;

(H) Technological innovations;

(I) The effectiveness in reducing butter fat production and increasing protein content in milk;

(J) The impact of temporary increases and decreases of milk production;

(K) The impact on the United States livestock industry; and

(L) All other issues the Secretary considers appropriate.

Additional Evaluation Criteria

Attention to the following additional criteria also is considered essential to a comprehensive and balanced evaluation of the alternative programs.

(L)(1) The consistency of the program with international obligations and the impacts on international trade.

(L)(2) The impact on consumers and the consumption of milk and milk products, including consumer costs.

(L)(3) The effect on long-term economic efficiency of the U.S. dairy industry, as well as competitiveness with non-dairy products.

Although not a criteria considered in this study, administrative/operational feasibility is an additional appropriate and potentially important factor for evaluating the alternatives.

The evaluations of impacts on the above criteria are presented in the order in which they were presented in the FACT ACT. The criteria, when taken as a whole, largely cover the broad spectrum of concerns which should be considered in formulating national program policy for dairy. In practice, many of the criteria are closely related or interdependent.

V. Study Methodology and Assumptions

Analytical Procedures

The impacts of the four general types of inventory management programs were analyzed using farm-level supply and demand models. The models adjusted milk production, commercial use, and the all milk price from the current program baseline based upon supply and demand elasticities and the assumptions of the individual program.

Supply elasticities differed between models based upon the assumed level of price support of the program. For inventory management programs which called for nearly the same support price level as in the baseline, supply elasticities remained constant at .15.

If a program alternative called for a support price significantly higher than in the baseline, the models were modified to reflect the dynamics (annual adjustments) of the milk industry by increasing the supply elasticities in consecutive years. The elasticities used were .15, .30, .40, .50, .50, and .50, from FY 1992 through FY 1997, respectively.

By changing the elasticities from very inelastic to more elastic, a more dynamic impact of higher prices on production was shown. For example, if producer prices were supported above the current $10.10 per hundredweight price, the assumption was that producers would attempt to expand production. In the shorter term, because it takes time to bring more heifers into the dairy herd, the potential for expansion was assumed limited. But

over time, if continued higher prices are anticipated, producers have time to enter the industry, build more facilities, save more heifers, and expand production at a greater pace. Thus, an expected sustained higher price would bring a stronger production reaction in the 4th year than it would in the first year.

Farm level demand elasticities for all milk were assumed unchanged across the six year period at –0.15. For example, a 10 percent increase in price, would result in decreased commercial use of 1.5 percent. Thus, consumers' tastes for milk were assumed unchanging and a large change in price would not affect the quantity of milk consumed by much.

Estimated impacts also are dependent on baseline assumptions and projections described on the previous pages. Modification of the assumptions would alter estimates of the impacts. Estimates are subject to some uncertainty given the unpredictability of natural events and economic conditions which influence the supply and demand for milk. In addition, the absence of historical experience with some of the new program types makes it difficult to estimate producer and market responses with confidence.

Purchases of Dairy Products for Use in Domestic Assistance Programs

The quantities of dairy products demanded by the Food and Nutrition Service (FNS) for donation through various domestic assistance programs are functions of several variables. These purchasing decisions are fundamentally different for schools and for the Temporary Emergency Food Assistance Programs (TEFAP). For TEFAP, purchasing decisions are based on price of products, recipient preferences and good nutrition principles.

For schools, States and local districts play a large role in deciding how to spend the commodity entitlement dollars available to them. They consider the desirability of the product and its price, and weigh that against the commercial price and the price of competing items. For example, cheese generally competes against other protein items like red meat, poultry and peanut butter. In addition, pressure from other producer groups builds if States increase the percent of their entitlement funding that goes to any one product.

Given these considerations, and more important, assuming no increased FNS appropriations to purchase dairy products, this analysis assumed the following purchases for FNS direct distribution.

$10.10 milk price	1.0 billion pounds, M.E., composed primarily of cheese and 15.0 million pounds of nonfat dry milk.
$13.10 milk price	At this price range, FNS would not spend any of its funds on cheese. This parallels history when FNS has withdrawn from the market at this price. 11.0 million pounds of nonfat dry milk would be purchased. Since some additional dairy products likely would be purchased at the State level if not available from FNS, 0.5 billion pounds was added to commercial use in programs having this price level.
$6.60 milk price	3.0 billion pounds, M.E., composed primarily of cheese and 15.0 million pounds of nonfat dry milk. Since purchases of dairy products at the State level would be reduced because they would be more cheaply available through FNS, 0.5 billion pounds was subtracted from commercial use in those programs having this price level.

Bovine Somatotropin Introduction

The current baseline assumes that bovine Somatotropin (bST) is given Food and Drug Administration (FDA) approval for commercial use and is introduced in FY 1993. This gives an added boost: to milk production in that and following years. This assumption carries on, unchanged, into the analysis of the different inventory management programs.

Milk Per Cow

Milk per cow was left unchanged. Some inventory management programs which would imply cow culling might increase productivity in the short-run but slow its improvement in the long-run. Dairy producers would most likely cull their least productive cows, leading to a short-run increase in milk per cow. But, if the inventory management programs were left in place for a sustained period of time, a lack of incentive to remain competitive might slow the trend towards increasing milk per cow.

Farm-Retail Margins

Farm-retail margins were left unchanged from the baseline regardless of the option under study. Arguments may be made for either an increasing margin or a decreasing margin in each of these options. The important factor in such argument is the market power of processors and retailers which was beyond the scope of this study.

Government (CCC plus FNS) Expenditures

The cost estimates in the study are subject to possible modifications for Congressional budget scorekeeping purposes in the event a program option is proposed in legislation. For example, legislative proposals which do not specifically provide for dairy product purchases may not be assigned a cost for FNS or other food assistance program purchases. Baseline assumptions used for official budget scorekeeping would differ somewhat from those used in the study as well.

Government cost estimates presented in the analyses include the costs of assumed Federal food assistance program purchases for direct distribution and the cost of CCC purchases of surplus dairy products. (Historical and projected baseline government costs include costs of surplus dairy products purchased by CCC and donated to food assistance programs and FNS appropriated funds used to reimburse CCC for dairy products.)

For this analysis, Government purchases are valued at the support price of milk plus $1.30 per hundredweight for those options having a surplus purchase program, or at the manufacturing milk price plus $1.30 per hundredweight for those options where FNS buys directly from the market.

International Dairy Market Assumptions

The price estimates shown in Table 2 were based on current and anticipated dairy product supply and demand conditions in the significant producing and consuming regions of the world. Trade and price forecasts were made from a 1990 base, when international prices for both butter and nonfat dry milk powder were estimated to have been approximately $1,425 per metric ton. During the analysis period, no significant net changes are anticipated in butter supplies on international markets. However, an increase of approximately 20 percent in international availabilities of nonfat dry milk powder from the reduced level of

1990 will result in the price levels indicated to absorb the larger supply. Finally, no assumptions were made as to the outcome of the current Uruguay Round of negotiations in the General Agreement on Tariffs and Trade (GATT).

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Table 2: Projected international dairy product prices

Fiscal Year	Butter		Nonfat Dry Milk		Equivalent Manufacturing Grade Milk
	Mt. Ton	Pound	Mt. Ton	Pound	Cwt.
	(dollars)				
1990-91	1,410	.6396	1,350	.6124	6.60
1991-92	1,420	.6441	1,340	.6078	6.60
1992-93	1,425	.6464	1,325	.6010	6.60
1993-94	1,425	.6464	1,310	.5942	6.50
1994-95	1,425	.6464	1,300	.5897	6.50
1995-96	1,425	.6464	1,300	.5897	6.50
1996-97	1,425	.6464	1,300	.5897	6.50

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Administrative Policy Assumptions—Milk Price Support Program Operation

There are a number of administrative policy assumptions that can have a bearing on the operation, and therefore, the effectiveness and cost of a milk price support program. For the most part, such policies relate to the operation of the commodity purchase program. Current policy positions are considered continued for the purposes of this study. Of most importance are:

CCC purchase prices for surplus butter and nonfat dry milk. It is the policy of CCC to establish the purchase prices for butter and nonfat dry milk at levels that are in relative alignment with the market demands for these products. The goal is to purchase these products in approximately the same proportion as their yields from cows milk. Achieving this goal eliminates program caused inequities that affect the competitive situation between plants manufacturing butter-nonfat dry milk and plants manufacturing cheese. Also, additional farm milk and product price stability can be expected when CCC purchase prices are in alignment with market demands.

CCC purchase prices are currently: $0.9825 per pound for butter, $0.8500 per pound for nonfat dry milk, $1.1100 per pound for cheese packaged in 40-pound blocks, and $1.0700 per pound for cheese packaged in 500-pound barrels.

The baseline assumes that current purchase price levels will allow CCC to achieve its goal throughout the period studied. Program options providing higher milk support levels by means of a purchase program will assume that purchase prices are adjusted to achieve the CCC goal. Therefore, the M.E. of surplus whether measured on a milkfat, nonfat solids, or total milk solids basis will be identical.

CCC prices for dairy products sold to the trade for unrestricted use. The current practice is to sell CCC-owned butter, cheese, or nonfat dry milk back to the trade for unrestricted use at the higher of 110 percent of the CCC purchase price, or the market price. This practice limits the seasonal variation in milk prices when a surplus purchase program exists and CCC has product to sell back to the trade.

Definitions For Marketing Histories, Bases and Quotas

Marketing History. All milk produced and marketed in the U.S. by a producer during the base forming period.

Marketing Base. The quantity of milk assigned to each producer on the basis of his/her marketing history from which the producers marketing quota is derived. In general, a producer's marketing base is equal to his/her marketing history. In some instances, a producer may be allowed to transfer or sell base. Rules may be provided to adjust a producer's base for hardship, to account for new producer status, or account for other occurrences.

For those options studied which require individual producer marketing bases, it was assumed that the marketing history period was FY 1989–90. No additional assumptions were made with respect to base transfers, hardship claims, or new producer base status. Production responses, however, assume that base acquires no value which would increase production cost.

Marketing Quota. The amount of milk that a producer can market during a given time period, generally one year, to receive program benefits and/or avoid program penalties. Often determined as a percentage of the producer's base.

Considerations in Evaluation of Impacts

This section discusses other analytical considerations used for evaluating program and program option impacts.

Temporary milk production changes. To help quantify the impact on potential milk inventory management programs of criterion (J): the impact of temporary increases and decreases of milk production, each option was tested for reaction to a 2 percent increase and decrease in milk production in FY 1992. Resulting impacts on prices, farm cash receipts and Government expenditures were observed.

Livestock Impact Analysis. The reported impacts are based on changes from the USDA dairy and livestock baseline projections from 1991 to 1997. Programs which increase the level of dairy cow slaughter in the beginning years will increase nominal returns to the sector over the total length of the analysis due to both the dynamics of the livestock sector and inflation. The opposite will be true of programs that decrease slaughter in the initial periods.

International Impacts Analysis. Unlike many other sectors of U.S. agriculture, exports traditionally have not provided a significant market outlet for the U.S. dairy industry. U.S. dairy product exports in most recent years have amounted to approximately 2 percent of production on a milk equivalent basis. Much of what is exported is sold either by CCC direct sales, through such subsidy programs as the current DEIP, or through various concessional and food aid programs. At the same time, imports of dairy products into the United States, limited by quotas originally authorized under Section 22 of the Agricultural Adjustment Act of 1933 (subsequently amended), have similarly amounted to the equivalent of about 2 percent of domestic milk production. Consequently, on a net volume basis, international trade has had a limited influence on U.S. dairy production and marketing industries.

Uruguay Round. Successful negotiations in the current Uruguay Round of the General Agreement on Tariffs and Trade (GATT) would change the world dairy trade situation. For most other countries as well as the United States, international trade in dairy products is relatively limited. Only about 5 percent of world dairy production is traded internationally. In part this is due to the perishable nature of fluid milk, but it is also because of numerous national production and export subsidies and import barriers that distort and limit dairy product trade around the world.

A major objective of the United States in the Uruguay Round agriculture negotiations is to substantially reduce the use of trade distorting measures with the goal of a much more market-oriented international trade in all agricultural products. Because a conclusion to Uruguay Round discussions could come as early as the end of 1991, it is important that any milk inventory management program adopted be compatible with prospective international obligations under the GATT. The long-term ability of the U.S. dairy sector to effectively compete in a liberalized international marketplace should be one of the factors weighed when considering the various proposals presented in this study. The highly efficient U.S. dairy sector could be in an excellent position to take advantage of the significant new export opportunities that would be opened by a liberalized international trade environment. Prospects are particularly bright for increased U.S. exports of ice cream mixes, frozen yogurt, whey concentrates and other higher value dairy products. Under the criteria for each model is a broad evaluation of the international competitiveness aspects of the proposals considered by the Milk Inventory Management Study and the impact a GATT agreement would have on the various options studied.

All participants in the GATT Uruguay Round have agreed to negotiate separate commitments in each of the areas of internal support, market access and export competition. The U.S. proposal contains the following elements: (1) The internal support commitment would be based on a commodity-specific Aggregate Measure of Support (AMS). Basically this is the

quantity of a product supported multiplied by the price gap between the support price and a world reference price plus direct transfers. (2) Under market access commitments, all non-tariff barriers would be converted to tariffs (tariffication) and reduced. A minimum market access commitment would be included. Safeguards would be available to protect against import surges or significant import price drops. (3) Export subsidy commitments would be on the basis of quantities exported and expenditures. Each of the options of this study has been analyzed for consistency with the key elements of the U.S. Uruguay Round proposal.

Under the current program and under the options considered below, some adjustments would be needed to meet internal support commitments. The average duty-paid import price after tariffication would generally be sufficient to protect against imports beyond the minimum access level at expected post-liberalization world price levels. Additionally, there would be safeguards to protect against import surges in years when the difference between U.S. and world prices are unusually large. Export subsidy commitments would affect our limited export subsidy programs: Direct sales and DEIP initiatives.

Analysis of the current dairy program given a Uruguay Round outcome of increases in market access and decreases in export subsidies and internal supports of about 6 to 8 percent per year produced the general results found in the international trade criteria section of each option.

Food Assistance Program Effect Assumptions. Benefits in several of the largest food assistance programs—the Food Stamp Program and Child Nutrition Programs (School Lunch and Breakfast, Child and Adult Care Feeding Program, Summer and Special Milk Programs)—are indexed to changing food prices. The Supplemental Food Program for Women, Infants, and Children (WIC) is a grant program that is not indexed. Price changes affect this program by altering the number of participants that can be served within a fixed annual grant. As a consequence, price changes can create two distinct impacts for Food Assistance Programs.

First, any increase in food prices between annual cost-of-living adjustments can have different effects depending on the program. Price increases can (1) erode the purchasing power of low-income consumers, (2) force school districts and States to absorb higher costs of preparing meals, or (3) reduce the number of clients served in some grant programs.

Second, increases in food prices beyond those expected in the baseline will increase program costs in following years. There will be no changes to the costs of food assistance programs during Fiscal Year 1992 because none of the options would be effective in time to affect any program's cost-of-living adjustment for the upcoming Fiscal Year.

The effects of changed milk prices brought about by the options presented in this report on food assistance program costs should be treated as indicative of the magnitude of potential impacts rather than as precise estimates. There are several reasons for this.

First, the estimates capture some but not all of the effects of changed milk prices. The analysis accounted for the changed price of fluid milk in each of the major food assistance programs. In addition, the analysis accounted for secondary changes in the price of (1) cheese on the Food Stamp and WIC programs and (2) infant formula in WIC. The latter analyses assume that the changes in fluid milk prices are passed directly through to the price of cheese and infant formula in proportion to their fluid milk content. The omission of cheese in the Child Nutrition Programs should not seriously understate total effects, since fluid milk represents the largest proportion of dairy products in the index used to adjust reimbursements. On the other hand, the Child Nutrition analysis presents the upper bound estimate of milk consumption for the child nutrition programs by assuming that all lunches and breakfasts contain a half-pint of milk. This is not necessarily the case since current rules for secondary schools allow students to select three of the five meal components and schools still receive reimbursement for a meal. Data are unavailable to indicate the frequency with which milk is selected for these meals.

Second, the timing of the price changes during the course of a year is unknown. Consequently the analysis reflects the changes in average price over the course of a year from the average price projected in the baseline. This difference was then applied proportionately to the fluid milk portion of the relevant program index. Since the cost-of-living indices are linked to either a specific market basket in a specific month or to rates of change in food prices across two specific months, reliance on the average is not likely to capture, precisely, the true effects on program costs.

VI. Target Price-Deficiency Payment Programs

General Structure

- Target price-deficiency payment programs would provide for payments to producers with payment rates determined by the difference between an announced target price and the actual price received by farmers.
- The target price could be specific to a particular class or grade of milk or on all milk.
- The deficiency payment rate would be the same for all farmers or independent of the grade of milk actually marketed or the class utilization of an individual farmer's milk.
- Deficiency payments would increase with a farmer's marketings or quota unless restricted by a payment limit.
- To be eligible for payments, a farmer may be required to limit marketings to the individual farmer's quota.
- The quota for individual farmers would be determined by their marketing history and set so as to balance supply and demand at the national level.
- Individual farmer's payments could be determined by the farmer's actual marketings, quota, or as a percentage of the farmer's marketings or quota.

Elements of Submitted Proposals

Target Price

- The target price could be established on all milk, manufacturing milk, or some other class or grade of milk.
- One proposal would have set the target price for all milk at $12.00 per hundredweight. Another proposal would have established a target price for manufacturing milk that would provide a reasonable return to producers. The remaining proposals did not specify the target price level or on which class or grade of milk it would apply.

Mandatory or Voluntary Participation

- Each year, the government would announce the percentage of base (quota milk) each farmer would be permitted to market and be eligible to receive deficiency payments. The Federal government could either require all farmers to market within their individual quotas or participation could be voluntary with each farmer electing whether or not to market within his or her quota.
- None of the proposals received would have required participation.

Voluntary Reduction in Marketings

• The percentage of a farmer's base that a farmer would be allowed to market (quota milk) and be eligible for deficiency payments would be determined on the basis of projected market needs defined as that quantity of milk needed to balance supply and demand at the national level.

• Under two proposals, the national quota would have been set to balance supply and demand or to reduce production to levels consistent with USDA's estimates of commercial use. The two remaining proposals did not specify how the national quota would be determined.

Marketings Eligible for Payment

• Deficiency payments could be based upon a farmer's marketings or the farmer's quota or by a percentage of the farmer's marketings or quota. If tied directly to the farmer's marketings or percentage of the farmer's marketings, there is an incentive for farmers to produce up to their quota or increase marketings, if there is no quota. In this way, they maximize the amount of payments they receive. If payments are determined by the farmer's historic base, and independent of current or future marketings, there is no incentive for farmers to market up to their quota or increase marketings for the purpose of increasing payments.

• None of the proposals received addressed this issue.

Advance Payments.

• A portion of the projected deficiency payment could be paid in advance or prior to the beginning of the marketing year. All or a portion of these payments could be refundable if the actual deficiency payment rate turned out to be below the advance payment rate.

• One proposal would have set the advance at 33 percent and another at 40 percent of the projected rate. Under both proposals, there would have been no repayment of the advance under any circumstances. The two remaining proposals did not specify advance payments.

Payment Limitation

• Deficiency payments could be subject to a separate payment limitation or subject to a combined payment limitation that includes payments from other government programs.

• One proposal would have set the payment limit at $50,000 per producer (husband and wife each eligible for $50,000), including all benefits received under other CCC programs less any assessments. The remaining proposals would set the limit on dairy deficiency payments at $50,000 per farm.

Purchase Program

• The purchase program could be continued or terminated.

• Two proposals would have continued the purchase program as is. One proposal would have replaced the purchase program with a 9-month nonrecourse loan program and another would have ultimately converted the purchase program to a 9-month recourse loan program.

Bases-Marketing History

• A farmer's marketing history would be used in determining the farmer's marketing base. The farmer's marketing quota or the maximum amount of milk a farmer may market in any year and remain eligible for deficiency payments would generally be set as a percentage of the farmer's marketing base.

• One proposal would have fixed the marketing history at the most recent 3 year average. Another proposal would have established the marketing history as marketings in the immediately preceding year.

• Rules could be established governing the sale and lease of production bases. Special regulations might be provided to "new" entrants or those wishing to establish a base or marketing history. One-half of proposals received would have not allowed the sale and lease of production bases or provided for special rules for "new" entrants.

Assessments

• Assessments could be used to reduce the cost of the program. Assessments might apply to all producers or only producers whose marketings exceed their quota.

• All proposals would have permitted assessments, but proposals were evenly split as to whether assessments should apply to all producers or only those whose marketings exceed their quota.

Cost Objectives

• Two proposals specify that program costs should be consistent with federal budget requirements. The two remaining proposals did not specify a program cost objective.

Program Implementation/Termination

• This program could be triggered annually based on the level of projected purchases or continued indefinitely.

• Three proposals would have terminated the program if projected purchases do not exceed a designated trigger level. The remaining proposal would have established this program permanently.

Target Price-Deficiency Payment Program Analyses

This study reports the impacts of four target price-deficiency payment program options. Target prices under all of these options were based on the "all milk price".

The first program option, TP1120–NQ, determined the impacts at the equivalent, current level of price support, $10.10 per hundredweight of manufacturing grade milk, with no milk marketing reductions required by individual producers.

The second program option, TP1220–Q–PP1010 raised the support price by $1.00 to enhance farm cash receipts and added a surplus purchase program to moderate market price declines. Minimum reduction percentages also were varied to contain Government costs.

The third program option, TP1320–Q raised the support price $2.00 above the baseline level to further enhance farm cash receipts. Minimum reduction percentages were varied to contain Government costs. The surplus purchase program was continued at $10.10 per hundredweight as a safety net.

The fourth program option, TP1420–Q raised the support price $3.00 above the baseline level to further enhance farm cash receipts. Minimum reduction percentages were varied to contain Government costs. The surplus purchase program was continued at $10.10 per hundredweight as a safety net.

Selection of a participation rate was made difficult by the absence of any prior target price-deficiency payment program in dairy. In program options which required a quota, returns for participants were compared with returns for nonparticipants. In all cases, the net returns for participants were greater than the returns for nonparticipants. Target price-deficiency payment programs for other commodities have participation rates ranging from 14 percent in oats during 1984/85 to 96 percent in rice during 1987/88. It was assumed for this analysis that most producers will enter programs with high returns options. However, once some producers see high market prices, they will opt out of the program to expand production and take advantage of the higher market prices. Participation drops over time, eventually reaching equilibrium. However, without any evidence from previous dairy target price-deficiency payment programs, a high level of confidence can not be place in the assumed participation rates.

See Table 3 at the end of this chapter for a summary of results.

TP1120–NQ

Target price	$11.20 per hundredweight for all milk marketings.
Deficiency payment	Difference between the target price and the all milk price. Paid on all milk marketings.
Quota	No reduction in marketings required.
Surplus purchase program.	None. FNS purchases needs from the market.

Estimation of Impacts

(A) The ability of the program to limit Government purchases of milk products to 6,000,000,000 pounds (milk equivalent, total milk solids basis) in a calendar year.

The Government purchases milk products only to the extent needed to service existing USDA food programs. USDA would no longer purchase products to support milk prices. Given these assumptions, Government purchases would be below 6 billion pounds in all years.

(B) The speed and effectiveness of reducing excess milk production.

Farmers would alter marketings to the extent that producer returns, including Government payments reflect production costs. The target price stabilizes producer returns if the all milk price falls below $11.20 per hundredweight. So, milk production would not be further reduced as the price drops. Producer returns decline slightly under this option compared to the baseline. It is expected that producers would reduce marketings over time in the face of reduced profitability.

The absence of a quota means that producer are under no obligation to reduce production to participate in the program.

(C) The effectiveness in sustaining reduced milk production for at least a 5-year period with and without the continuation of the program.

The program continued in place for the entire 6-year analysis period. Farmers would alter marketings to the extent that producer returns including Government payments reflect production costs. It is expected that producers would reduce marketings somewhat over time in the face of reduced profitability compared to the baseline. Substantial reductions are unlikely since the target price of $11.20 effectively limits the drop in producer returns.

(D) The regional impact on milk prices, producer revenue, and milk supplies.

See chapter X for a discussion of the regional impacts of target price-deficiency payment programs.

(E) The impact on national producer income and Government expenditures.

Farm cash receipts averaged $17.3 billion per year for the analysis period, more than $650 million lower than under the baseline. A target price of $11.20 on all milk marketed (equivalent of $10.10 for manufacturing grade milk) results in less revenue per hundred than provided under the baseline. The effective farm milk price averaged only $9.04 per hundredweight. Lower per unit revenues also resulted in a reduction in milk marketings, further depressing farm cash receipts.

Government expenditures, CCC costs and FNS direct purchase costs, averaged $3.2 billion for the analysis period. This was well above the baseline average of $522 million. The cost of the program cost primarily arose from large deficiency payments which occurred because of large drops in market prices due to the absence of a CCC surplus purchase program.

The substantial price reduction in retail milk could significantly reduce food assistance program costs. During the five year period, Fiscal Year 1993–97, Food Stamp Program costs would average about $230 million less per year. Child Nutrition Programs would cost an average of $95 million less in the period. The WIC program would cost $40 million less, or it would serve an additional 75,000 at-risk participants in an average month.

(F) The impact on the rural economy and maintaining family farms.

See chapter XI for a discussion of inventory management programs and the implications for the rural economy and maintaining the family farm.

(G) The impact on the availability of wholesome dairy products for domestic and foreign nutrition and food assistance programs.

Without a CCC purchase program, dairy products for food assistance and nutrition programs would have to be purchased from the commercial market. Market prices for milk would over the next 6 years average nearly $2.50 per hundredweight below the levels with the current program. While this would significantly reduce the cost of acquiring dairy products for food assistance programs, total dairy product use in these programs may be limited unless additional appropriations were provided. Since CCC supplies would no longer be available, expenditures for purchase of dairy products for program use would be dependent on food assistance program budgets, the prices of dairy products relative to other commodities, nutritional and other program factors.

Lower prices would also favorably affect the food assistance and nutrition programs which do not directly depend on purchase and distribution of dairy products. Costs of entitlement programs with benefit levels tied to food price indices influenced by dairy product prices would be reduced. Non-entitlement programs utilizing dairy products would face lower costs permitting increased utilization of dairy products, expansion of the number of participants served by the programs or current benefits could be maintained with a budget savings.

(H) Technological innovations.

See chapter XII for discussion of inventory management programs and the implications for the technology.

(I) The effectiveness in reducing butterfat production and increasing protein content in milk.

This program contains no element, other than reflecting market demands, to encourage adjustments in the composition of milk.

(J) The impact of temporary increases and decreases of milk production.

An unforeseen increase (decrease) in milk production would result in an increase (decrease) in deficiency payments. For example, an additional 2 percent increase in milk production in FY 1992 would result in about a 16 percent decrease in the average price to farmers and a corresponding decrease of about 5 percent in the average retail value. Farm cash receipts would increase about 2 percent as a result of greater marketings. Such a decrease in the farm milk price would widen the difference between it and the target price. Government expenditures would increase about $2.2 billion. (See chapter XVI, Tables 11 and 12 for summary information.)

(K) The impact on the United States livestock industry.

The target price-deficiency payment program at $11.20 with no quota requirements does not affect the livestock industry much. However, year-to-year changes are important. See Appendix C for more details.

(L)(1) The consistency of the program with international obligations and the impacts on international trade.

With more flexible market prices, domestic commercial use under a target price program could be quite closely aligned to supply, leaving a relatively small quantity available for export. At the same time, U.S. dairy products could

be priced much more competitively on world markets than at present. At more competitive prices and with enhanced export market opportunities, U.S. commercial dairy product exports could increase substantially under this proposal. In addition, without a mandatory surplus dairy product purchase program, there would no longer be the occasional need to export a burdensome accumulation from CCC inventories, which has from time to time caused friction among competing dairy exporting countries.

Uruguay Round: Under a Uruguay Round agreement as proposed by the United States, support levels as measured by the Aggregate Measure of Support (AMS) must be reduced from the 1986–88 level. With the target price/deficiency payment option, the AMS would be calculated by multiplying the gap between the equivalent administered manufactured milk price and a world reference price (1986–88 base) by the quantity supported. The administered manufactured price is $10.10 per hundredweight in this option and the baseline, and supported quantities are similar. This would yield an AMS that is about the same as the AMS for the current dairy program. With respect to market access commitments, since domestic prices are projected to be lower under this option than under the baseline, the level of import protection needed with this option is less than with the current program. Therefore, we should be able to convert existing import restrictions to tariffs and reduce the resulting tariffs in accordance with our proposed Uruguay Round commitments without allowing an increase in imports that undermine the support program. Our proposed export subsidy reduction commitments should also be easily met under this option. The United States should be in a strong competitive position on world markets with the rising world prices that are expected to result from a Uruguay Round agreement. We would not have to use export subsidies to dispose of surpluses.

(L)(2) The impact on consumers and the consumption of milk and milk products, including consumer costs.

Consumers would realize significant benefits from reduced dairy product prices relative to the current program. Market price reductions over the 1992–97 period averaging nearly $2.50 per hundredweight of milk sold to plants would benefit all consumers, and especially low income consumers. Commercial use of dairy products would be about 3.3 percent higher than projected under the current program. However, total consumer expenditures for dairy products would be over $2 billion less per year than with the current program.

(L)(3) The effect on long term economic efficiency of the U.S. dairy industry, as well as competitiveness with non-dairy products.

See chapter XV for a discussion of the long-run implications of inventory management programs.

TP1220–Q–PP1010

Target price	$12.20 per hundredweight for all milk marketings.
Deficiency payment	Difference between the target price and the all milk price. Paid on all milk marketings of participants.
Quota	Participation voluntary. Necessary reduction announced yearly.
Surplus purchase program.	Surplus dairy products purchased at the equivalent of $10.10 per hundredweight.

Estimation of Impacts

(A) The ability of the program to limit Government purchases of milk products to 6,000,000,000 pounds (milk equivalent, total milk solids basis) in a calendar year.

In order to control dairy program costs, producers would have to reduce marketings by an announced percentage below their base to be eligible for deficiency payments. The required reduction in marketings is expected to be large enough so that Government purchases would be below 6 billion pounds, M.E. Government purchases are expected to average less than 4.0 billion pounds under this option.

(B) The speed and effectiveness of reducing excess milk production.

Farmers would be required to reduce marketings below their base to be eligible for deficiency payments. Marketings decline by 2.6 percent in 1991/92 and average 2.3 percent lower over the period compared to the baseline.

(C) The effectiveness in sustaining reduced milk production for at least a 5-year period with and without the continuation of the program.

The program continued for the full 6-year analysis period. Farmers would be required to reduce marketings below their base to be eligible for deficiency payments. Reductions in marketings by participants raises market prices and encourages expansion by non-participants. Increased marketings by non-participants would require participants to voluntarily reduce marketings by about 5 percent.

(D) The regional impact on milk prices, producer revenue, and milk supplies.

See chapter X for a discussion of the regional impacts of target price-deficiency payment programs.

(E) The impact on national producer income and Government expenditures.

Farm cash receipts averaged $18.2 billion per year for the analysis period, $230 million higher than under the baseline. A target price of $12.20 on all milk marketed (equivalent of $11.10 on manufacturing grade milk) by participating producers results in greater revenue per hundredweight than provided under the baseline. Non-participating producers face an effective milk price of $11.77 per hundredweight under this option, $0.30 higher than the baseline. The greater per unit revenues more than offset the lower marketings due to quotas resulting in a slight increase in farm cash receipts.

Government expenditures, CCC costs and FNS costs, averaged near $500 million for the analysis period, about the same as the baseline. Costs were split between deficiency payments and payments for purchased surplus dairy products.

This option would result in relatively modest increases to food assistance program costs. Food Stamp Program costs would rise an average of $20 million annually, while Child Nutrition Program costs would increase an average of $10 million. The WIC program would require $5 million more annually in its grant to maintain service to the same number of clients.

(F) The impact on the rural economy and maintaining family farms.

See Chapter XI for a discussion of inventory management programs and the implications for the rural economy and maintaining the family farm.

(G) The impact on the availability of wholesome dairy products for domestic and foreign nutrition and food assistance programs.

This option would have less significant implications for food assistance programs (compared to the current program) than would the target price programs with no quotas or those with no CCC purchase program.

The purchase program under this option (depending on the quota level) could acquire 3 to 4 billion pounds, M.E., of surplus dairy products per year which could be sold or made available to the food programs.

Since milk prices would average about 30 cents per hundredweight higher than baseline levels, this option would

increase acquisition costs for dairy products for any program needs not met by the price support purchases.

(H) Technological innovations.

See chapter XII for discussion of inventory management programs and the implications for the technology.

(I) The effectiveness in reducing butter fat production and increasing protein content in milk.

This program relies upon CCC in establishing purchase prices for butter and nonfat dry milk to send price signals to dairy farmers concerning the value of milkfat and nonfat solids (protein). CCC policy is to continuously monitor purchases of surplus butter and nonfat dry milk. As necessary, with consideration of CCC costs, market impact and prices stability, CCC will make purchase price adjustments to move its purchases of butter and nonfat dry milk in the direction of alignment with their yields from whole milk.

(J) The impact of temporary increases and decreases of milk production.

An unforeseen increase (decrease) in milk production would lead to an increase (decrease) in purchases under the price support program. For example, an additional 2 percent increase in milk production in FY 1992 would result in most of the increase being purchased by the Government. The average price to farmers would drop about 2 percent and a corresponding decrease of about 1 percent in the average retail value. Farm cash receipts would increase about 1 percent, and Government expenditures would increase about $0.4 billion. (See chapter XVI, Tables 11 and 12 for summary information.)

(K) The impact on the United States livestock industry.

The target price-deficiency payment program at $12.20 with quota requirements and a $10.10 purchase program does not affect the livestock industry much. However, year-to-year changes are important. See appendix C for more details.

(L)(1) The consistency of the program with international obligations and the impacts on international trade.

With a quota, production/marketings and consumption would be lower and prices higher than the baseline. U.S. price competitiveness of world dairy product markets would be reduced under this proposal. Import protection would continue to be needed to prevent the floor price from being undercut by imports.

Uruguay Round. Of all the options studied, this one would require the least further adjustment to meet internal support commitments under a Uruguay Round outcome similar to the U.S. proposal. Although the administered support price is higher than under the current dairy program, the quantity supported at the target price is reduced because of the assumed participation rate. However, since domestic prices are projected to rise under this option as compared to the baseline, we would be somewhat less able to meet our proposed Uruguay Round commitments to convert existing import restrictions to tariffs and to reduce them because imports would undercut the domestic price. Meeting our proposed export subsidy reduction commitments would be no different than with the current dairy program. With higher domestic prices and lower production, the United States would be less competitive on world markets than under a baseline scenario and would have fewer surpluses available for export.

(L)(2) The impact on consumers and the consumption of milk and milk products, including consumer costs.

This option would have moderate implications for consumers. With a quota, milk marketings and consumption would be lower and prices higher than the baseline. Average milk prices are about 30 cents per hundredweight higher at the farm level for the 6-year analysis period. Total consumption would decline less than 1 percent and consumer expenditures for dairy products would be about $0.2 billion above the baseline.

(L)(3) The effect on long term economic efficiency of the U.S. dairy industry, as well as competitiveness with non-dairy products.

See chapter XV for a discussion of the long-run implications of inventory management programs.

TP1320-O

Target price	$13.20 per hundredweight for all milk marketings.
Deficiency payment	Difference between the target price and the all milk price. Paid on all milk marketings of participants.
Quota	Participation voluntary. Necessary reduction announced yearly.
Surplus purchase program.	Surplus dairy products purchased at the equivalent of $10.10 per hundredweight.

Estimation of Impacts

(A) The ability of the program to limit Government purchases of milk products to 6,000,000,000 pounds (milk equivalent, total milk solids basis) in a calendar year.

In order to control dairy program costs, producers would have to reduce marketings by an announced percentage below their base to be eligible for deficiency payments. The required reduction in marketings is expected to be large enough so that Government purchases in most years would be below 6 billion pounds. However, uncertainty regarding program participation, marketings by nonparticipants, growth in commercial use and the extent to which participant's bases reflect potential marketings could result in purchases exceeding 6 billion pounds in any year.

(B) The speed and effectiveness of reducing excess milk production.

Farmers would be required to reduce marketings below their quota to be eligible for target price deficiency payments. The extent to which marketings will be reduced depends on the announced reduction percentage, the level of program participation, the response of nonparticipants to higher market prices and the extent to which participant's quotas reflect potential marketings.

Despite a required 10 percent reduction in marketings below the baseline level, the target price is high enough to attract the majority of production to participate in the program.

(C) The effectiveness in sustaining reduced milk production for at least a 5-year period with and without the continuation of the program.

The program continued for the entire 6-year analysis period. Milk production is expected to average 5.1 percent below baseline under this option. However, not all producers reduce marketings. Reduced marketings by participants raises market prices and encourages non-participants to expand production. Increased production by non-participants would require participants to voluntarily reduce marketings by about 10 percent.

(D) The regional impact on milk prices, producer revenue, and milk supplies.

See Chapter X for a discussion of the regional impacts of target price-deficiency payment programs.

(E) The impact on national producer income and Government expenditures.

Farm cash receipts averaged $18.9 billion per year for the analysis period, $1.0 billion higher than under the baseline. A target price of $13.20 on all milk marketed (equivalent of $12.10 for manufacturing grade milk) by participating producers results in greater revenue per hundred than provided under the baseline. Non-participating producers faced an effective milk price of $12.43 per hundredweight under this option. Higher per unit revenues more

than offset lower marketings (a result of a high participation rate) to raise farm cash receipts.

Government expenditures, CCC costs and FNS costs, averaged $518 million for the analysis period, about the same as the baseline. Deficiency payments made up the greatest part of government cost. FNS purchases of dairy products were greatly reduced under this option.

This option could significantly increase food assistance program costs. The cost of the Food Stamp Program would rise an average of $90 million annually over the FY 1993–97 period. Child Nutrition Program costs could increase $35 million annually. The WIC program would require $15 million in increased funding annually to maintain service to the same number of participants as in FY 1991. Without this increase in funding, approximately 30,000 fewer at-risk participants would be served each month.

(F) The impact on the rural economy and maintaining family farms.

See Chapter XI for a discussion of inventory management programs and the implications for the rural economy and maintaining the family farm.

(G) The impact on the availability of wholesome dairy products for domestic and foreign nutrition and food assistance programs.

Quota levels to achieve milk marketings reductions to support market prices (and, thereby limit deficiency payment costs) would reduce dairy product supplies on the market, as well as eliminating CCC stocks available to food assistance programs. Milk prices averaging about $1 per hundredweight above the current program baseline would increase costs of acquiring dairy products for food assistance programs. Utilization of dairy products by food assistance programs would be constrained significantly without additional funding for purchase of dairy products.

(H) Technological innovations.

See Chapter XII for discussion of inventory management programs and the implications for the technology.

(I) The effectiveness in reducing butter fat production and increasing protein content in milk.

This program relies upon CCC in establishing purchase prices for butter and nonfat dry milk to send price signals to dairy farmers concerning the value of milkfat and nonfat solids (protein). CCC policy is to continuously monitor purchases of surplus butter and nonfat dry milk. As necessary, with consideration of CCC costs, market impact and prices stability, CCC will make purchase price adjustments to move its purchases of butter and nonfat dry milk in the direction of alignment with their yields from whole milk.

(J) The impact of temporary increases and decreases of milk production.

A higher target price magnified some of the impacts of an unforeseen increase (decrease) in milk production. For example, an additional 2 percent increase in milk production in FY 1992 with a target price of $13.20 per hundredweight would result in about a 10-percent decrease in the average price to farmers and a corresponding decrease of about 4 percent in the average retail value. Farm cash receipts would decrease about 1.5 percent. Government expenditures would increase $1.1 billion. (See chapter XVI, Tables 11 and 12 for summary information.)

(K) The impact on the United States livestock industry.

The target price-deficiency payment program at $13.20 with quota requirements has a large impact on the livestock industry. Year-to-year changes are important. See appendix C for more details.

(L)(i) The consistency of the program with international obligations and the impacts on international trade.

With production quotas further raising the effective all milk price, U.S. dairy products would be increasingly disadvantaged on world markets under this proposal. Import protection would be needed to prevent the domestic price from being undercut by imports.

Uruguay Round. Under a Uruguay Round agreement similar to the U.S. proposal, this option would yield an AMS that is somewhat lower than the AMS for the current dairy program. Although the equivalent administered manufactured milk price is higher, the program participation rate and the reduction requirement reduce the supported quantity. Nevertheless, some adjustment would still be required to meet our proposed Uruguay Round internal support commitment. With respect to market access commitments, since domestic prices are projected to rise significantly above the baseline, the level of import protection needed with this option is higher than with the current program. Therefore, the support program would occasionally be undermined if we meet our proposed Uruguay Round commitment to convert existing import restrictions to tariffs and to reduce them. Meeting our proposed export subsidy reduction commitments would be no different than with the current dairy program. With high domestic prices and lower production, the United States would be very non-competitive on world markets. Exportable surpluses would also be lower.

(L)(2) The impact on consumers and the consumption of milk and milk products, including consumer costs.

A target price of $13.20 would lead to higher production and much lower milk prices unless restrictive quotas were utilized. With a quota to moderate potential deficiency payment levels, expected market prices for milk could exceed current program baseline levels by an average of roughly $1 per hundredweight depending on the quota quantity. Consumption of dairy products would be reduced significantly. With quotas at levels resulting in milk price increases of $1 per hundredweight consumption of dairy products would be about 1 percent below current baseline levels. However, consumer expenditures for dairy products would be about $1.0 billion per year higher than with the current program.

(L)(3) The effect on long term economic efficiency of the U.S. dairy industry, as well as competitiveness with non-dairy products.

See chapter XV for a discussion of the long-run implications of inventory management programs.

TP1420-Q

Target price	$14.20 per hundredweight for all milk marketings.
Deficiency payment	Difference between the target price and the all-milk price. Paid on all milk marketings of participants.
Quota	Participation voluntary Necessary reduction announced yearly.
Purchase program	Surplus dairy products purchased at the equivalent of $10.10 per hundredweight.

Estimation of Impacts

(A) The ability of the program to limit Government purchases of milk products to 6,000,000,000 pounds (milk equivalent, total milk solids basis) in a calendar year.

Food assistance purchases are made at the State and local, rather than at the national level. No purchases are expected under the support program.

(B) The speed and effectiveness of reducing excess milk production.

Farmers would be required to reduce marketings below their quota to be eligible for target price deficiency payments. A substantial reduction in marketings is expected under this option because the target price is considered attractive compared to market price expectations.

(C) The effectiveness in sustaining reduced milk production for at least a 5-

year period with and without the continuation of the program.

The program continues in place for the entire analysis period. Milk production is expected to average 6.4 percent below baseline under this option. However, not all producers reduce marketings. Reduced marketings by participants raises market prices and encourages non-participants to expand production. Increased production by non-participants would require voluntary participants to reduce marketings from 4.4 percent to 7.9 percent below their base during the analysis period.

(D) The regional impact on milk prices, producer revenue, and milk supplies.

See chapter X for a discussion of the regional impacts of target price-deficiency payment programs.

(E) The impact on national producer income and Government expenditures.

Farm cash receipts averaged $20.2 billion per year for the analysis period, $2.3 billion higher than under the baseline. A target price of $14.20 on all milk marketed (equivalent of $13.10 for manufacturing grade milk) by participating producers results in greater revenue per hundred than provided under the baseline. Non-participating producers faced an effective milk price of $13.46 per hundredweight under this option, $2.00 higher than under the baseline. Higher per unit revenues more than offset lower marketings (a result of a high participation rate) to raise farm cash receipts.

Government expenditures, CCC costs and FNS costs, averaged $521 million for the analysis period, about the same as the baseline. Deficiency payments were the only government cost since there was no program to purchase surplus dairy products, and no assumed purchases of dairy products at the national level for food assistance.

This option could significantly increase food assistance program costs. The cost of the Food Stamp Program would rise an average of $180 million annually over the FY 1993–97 period. Child Nutrition Program costs could increase $70 million annually. The WIC program would require $30 million in increased funding annually to maintain service to the same number of participants as in FY 1991. Without this increase in funding, approximately 55,000 fewer at-risk participants would be served each month.

(F) The impact on the rural economy and maintaining family farms.

See chapter XI for a discussion of inventory management programs and the implications for the rural economy and maintaining the family farm.

(G) The impact on the availability of wholesome dairy products for domestic and foreign nutrition and food assistance programs.

Quota levels to achieve milk marketings reductions to support market prices (and, thereby limit deficiency payment costs) would reduce dairy product supplies on the market, as well as eliminating CCC stocks available to food assistance programs. Retail milk prices averaging about $2 per hundredweight above the current program baseline would increase State and local costs of acquiring dairy products for food assistance programs. Utilization of dairy products by food assistance programs would be constrained significantly without additional funding for purchase of dairy products.

(H) Technological innovations.

See chapter XII for discussion of inventory management programs and the implications for the technology.

(I) The effectiveness in reducing butter fat production and increasing protein content in milk.

This program relies upon CCC in establishing purchase prices for butter and nonfat dry milk to send price signals to dairy farmers concerning the value of milkfat and nonfat solids (protein). CCC policy is to continuously monitor purchases of surplus butter and nonfat dry milk. As necessary, with consideration of CCC costs, market impact and prices stability, CCC will make purchase price adjustments to move its purchases of butter and nonfat dry milk in the direction of alignment with their yields from whole milk.

(J) The impact of temporary increases and decreases of milk production.

An unforeseen additional 2 percent increase in milk production in FY 1992 with a target price of $14.20 per hundredweight would result in about a 10 percent decrease in the average price to farmers and a corresponding decrease of about 4 percent in the average retail value. Government expenditures would increase $1.5 billion. (See chapter XVI, Tables 11 and 12 for summary information.)

(K) The impact on the United States livestock industry.

The target price-deficiency payment program at $14.20 with quota requirements has the largest impact on the livestock industry of any of the target price-deficiency payment options. Year-to-year changes are important. See appendix C for more details.

(L)(1) The consistency of the program with international obligations and the impacts on international trade.

With production quotas further raising the effective all milk price, U.S. dairy products would be increasingly disadvantaged on world markets under this proposal. Import protection would be needed to prevent the domestic price from being undercut by imports.

Uruguay Round. Under an Uruguay Round agreement similar to the U.S. proposal, this option would yield an AMS that is somewhat higher than the AMS for the current dairy program. The higher administered support price more than offsets the reduction in the quantity supported resulting from the assumed program participation level and the reduction requirement. With respect to market access commitments, since domestic prices are projected to rise substantially above the baseline, the level of import protection needed with this option is much higher than with the current program. Therefore, the support program would be undermined if we meet our proposed Uruguay Round commitment to convert existing import restrictions to tariffs and to reduce them. Meeting our proposed export subsidy reduction commitments would be no different than with the current dairy program. With high domestic prices and lower production, the United States would be extremely non-competitive on world markets. Exportable surpluses would also be lower.

(L)(2) The impact on consumers and the consumption of milk and milk products, including consumer costs.

With a quota to moderate potential deficiency payment levels by restricting supplies, expected market prices for milk could exceed current program baseline levels by an average close to $2 per hundredweight. Consumption of dairy products would be reduced about 2.2 percent below current baseline levels. However, consumer expenditures for dairy products would be about $1.7 billion per year higher than with the current program.

(L)(3) The effect on long term economic efficiency of the U.S. dairy industry, as well as competitiveness with non-dairy products.

See chapter XV for a discussion of the long-run implications of inventory management programs.

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Table 3: Comparison of $11.20, $12.20, $13.20 and $14.20 target price/deficiency payment programs with baseline

Item	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995	FY 1996	FY 1997	FY 1992-97 Cum.	FY 1992-97 Avg.
Support price (average) or Target price			(dol. / cwt)						
Baseline	10.10	10.10	10.10	10.10	10.10	10.10	10.10	NA	10.10
TP1120-NQ (target price)	10.10	11.20	11.20	11.20	11.20	11.20	11.20	NA	11.20
TP1220-Q-PP1010 (support)	10.10	10.10	10.10	10.10	10.10	10.10	10.10	NA	10.10
TP1320-Q (target price)	10.10	13.20	13.20	13.20	13.20	13.20	13.20	NA	13.20
TP1420-Q (target price)	10.10	14.20	14.20	14.20	14.20	14.20	14.20	NA	14.20
All Milk Price			(dol. / cwt)						
Baseline	11.60	11.55	11.50	11.45	11.55	11.65	11.70	NA	11.57
TP1120-NQ (target price)	11.60	8.81	8.46	8.29	8.93	9.92	10.29	NA	9.12
TP1220-Q-PP1010 (support)	11.60	11.84	11.81	11.81	11.83	11.88	11.90	NA	11.85
TP1320-Q (target price)	11.60	12.56	12.48	12.39	12.43	12.56	12.64	NA	12.51
TP1420-Q (target price)	11.60	13.65	13.53	13.44	13.40	13.59	13.64	NA	13.54
Effective Milk Price			(dol. / cwt)						
Baseline	11.56	11.45	11.35	11.28	11.42	11.62	11.70	NA	11.47
TP1120-NQ (target price)	11.56	8.72	8.35	8.18	8.82	9.89	10.29	NA	9.04
TP1220-Q-PP1010 (support)	11.56	11.74	11.70	11.70	11.72	11.85	11.90	NA	11.77
TP1320-Q (target price)	11.56	12.46	12.37	12.28	12.32	12.53	12.64	NA	12.43
TP1420-Q (target price)	11.56	13.55	13.41	13.33	13.29	13.56	13.64	NA	13.46
Assessment on Marketings 1/			(dol. / cwt)						
Baseline	0.0375	0.0969	0.1125	0.1125	0.1125	0.0281	0	NA	0.08
			0.037	0.054	0.013			NA	0.02
ALL TP/DP PROGRAMS @ $10.10	0.0375	0.0969	0.1125	0.1125	0.1125	0.0281	0	NA	0.08
Deficiency Payment			(dol. / cwt)						
TP1120-NQ (target price)	N/A	2.39	2.74	2.91	2.27	1.28	0.91	NA	2.08
TP1220-Q-PP1010 (support)	N/A	0.36	0.39	0.39	0.37	0.32	0.30	NA	0.36
TP1320-Q (target price)	N/A	0.64	0.72	0.81	0.77	0.64	0.56	NA	0.69
TP1420-Q (target price)	N/A	0.55	0.67	0.76	0.80	0.61	0.56	NA	0.66
Participation Rate			(%)						
TP1220-Q-PP1010 (support)	N/A	55.0	50.0	50.0	50.0	50.0	50.0	NA	50.8
TP1320-Q (target price)	N/A	70.0	65.0	60.0	60.0	60.0	60.0	NA	62.5
TP1420-Q (target price)	N/A	85.0	75.0	70.0	65.0	65.0	65.0	NA	70.8
Base Reduction Required			(%)						
TP1220-Q-PP1010 (support)	N/A	2.2	1.7	0.5	(1.9)	(4.5)	(5.8)	NA	(1.3)
TP1320-Q (target price)	N/A	5.9	6.4	6.3	4.5	1.9	0.7	NA	4.3
TP1420-Q (target price)	N/A	6.0	7.4	7.8	7.9	5.6	4.4	NA	6.5

Table 3 (cont.): Comparison of $11.20, $12.20, $13.20 and $14.20 target price/deficiency payment programs with baseline

Item	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995	FY 1996	FY 1997	FY 1992-97 Cum.	FY 1992-97 Avg.
Retail Value			(dol. / cwt)						
Baseline	34.10	33.55	33.50	34.45	35.65	36.95	38.20	NA	35.38
TP1120-NQ (target price)	34.10	30.81	30.46	31.29	33.03	35.22	36.79	NA	32.93
TP1220-Q-PP1010 (support)	34.10	33.84	33.81	34.81	35.93	37.18	38.40	NA	35.66
TP1320-Q (target price)	34.10	34.56	34.48	35.39	36.53	37.86	39.14	NA	36.33
TP1420-Q (target price)	34.10	35.65	35.53	36.44	37.50	38.89	40.14	NA	37.36
Milk Production			(billion pounds)						
Baseline	150.0	151.4	153.9	156.9	158.5	159.9	161.0	941.6	156.9
TP1120-NQ (target price)	150.0	150.9	153.5	156.6	158.0	159.0	160.0	938.0	156.3
TP1220-Q-PP1010 (support)	150.0	147.5	149.7	152.4	154.7	157.0	158.3	919.6	153.3
TP1320-Q (target price)	150.0	143.0	144.9	147.6	150.3	153.1	154.6	893.5	148.9
TP1420-Q (target price)	150.0	140.9	142.9	145.6	148.3	151.0	152.6	881.3	146.9
Commercial Use			(billion pounds)						
Baseline	140.5	144.9	146.8	149.5	152.0	154.9	156.5	904.6	150.8
TP1120-NQ (target price)	140.5	150.4	153.0	156.1	157.5	158.5	159.5	935.0	155.8
TP1220-Q-PP1010 (support)	140.5	144.4	146.2	148.8	151.4	154.4	156.1	901.3	150.2
TP1320-Q (target price)	140.5	143.2	145.1	147.9	150.5	153.3	154.9	894.9	149.2
TP1420-Q (target price)	140.5	141.4	143.4	146.1	148.9	151.5	153.1	884.4	147.4
Govt. Purchases M.E. Milkfat			(billion pounds)						
Baseline	9.8	7.0	7.6	7.9	7.0	5.5	5.0	40.0	6.7
TP1120-NQ (target price)	9.8	1.0	1.0	1.0	1.0	1.0	1.0	6.0	1.0
TP1220-Q-PP1010 (support)	9.8	3.6	4.0	4.1	3.8	3.0	2.8	21.3	3.6
TP1320-Q (target price)	9.8	0.3	0.3	0.3	0.3	0.3	0.3	1.8	0.3
TP1420-Q (target price)	9.8	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
CCC plus FNS Expenditures			(million dollars)						
Baseline	982.2	514.2	522.2	543.2	511.2	526.2	513.2	3130.2	521.7
TP1120-NQ (target price)	982.2	3492.5	4046.9	4395.2	3439.1	2046.6	1528.9	18949.2	3158.2
TP1220-Q-PP1010 (support)	982.2	490.9	496.3	507.7	471.8	481.7	484.0	2932.4	488.7
TP1320-Q (target price)	982.2	519.5	507.1	525.7	503.5	536.3	515.4	3107.5	517.9
TP1420-Q (target price)	982.2	515.9	520.1	547.2	530.0	503.7	506.3	3123.2	520.5

Table 3 (cont.): Comparison of $11.20, $12.20, $13.20 and $14.20 target price/deficiency payment programs with baseline

Item	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995	FY 1996	FY 1997	FY 1992-97 Cum.	FY 1992-97 Avg.
CCC Receipts from Assessments			(million dollars)						
Baseline	55.0	144.7	226.9	257.7	196.3	44.0	0.0	869.6	144.9
TP1120-NQ (target price)	55.0	144.2	170.3	173.8	175.4	44.1	0.0	707.8	118.0
TP1220-Q-PP1010 (support)	55.0	140.9	166.1	169.1	171.7	43.5	0.0	691.3	115.2
TP1320-Q (target price)	55.0	136.5	160.7	163.7	166.7	42.4	0.0	670.0	111.7
TP1420-Q (target price)	55.0	134.5	158.4	161.4	164.5	41.8	0.0	660.6	110.1
Deficiency Payment			(million dollars)						
TP1120-NQ (target price)	N/A	3551.4	4144.1	4497.6	3536.5	2006.5	1443.2	19179.3	3196.6
TP1220-Q-PP1010 (support)	N/A	280.0	275.6	283.2	274.0	238.9	227.4	1579.1	263.2
TP1320-Q (target price)	N/A	613.7	636.4	658.1	638.9	547.4	484.0	3578.5	596.4
TP1420-Q (target price)	N/A	639.5	678.5	708.6	694.5	545.5	506.3	3772.9	628.8
Farm Cash Receipts 2/			(million dollars)						
Baseline	17,250	17,250	17,380	17,620	18,020	18,500	18,750	107,520	17,920
TP1120-NQ (target price)	17,250	16,614	16,883	17,228	17,384	17,630	17,780	103,519	17,253
TP1220-Q-PP1010 (support)	17,250	17,444	17,640	17,954	18,254	18,695	18,924	108,911	18,152
TP1320-Q (target price)	17,250	18,258	18,386	18,622	18,981	19,560	19,855	113,662	18,944
TP1420-Q (target price)	17,250	19,540	19,654	19,924	20,217	20,830	21,125	121,290	20,215
Retail Cost			(million dollars)						
Baseline	47,920	48,610	49,190	51,490	54,180	57,230	59,770	320,470	53,412
TP1120-NQ (target price)	47,920	46,343	46,615	48,847	52,027	55,836	58,662	308,330	51,388
TP1220-Q-PP1010 (support)	47,920	48,850	49,435	51,793	54,414	57,425	59,945	321,862	53,644
TP1320-Q (target price)	47,920	49,503	50,052	52,344	54,980	58,049	60,611	325,539	54,257
TP1420-Q (target price)	47,920	50,420	50,947	53,237	55,813	58,923	61,451	330,791	55,132

KEY: TP, Target price/deficiency payment program, 1120, 1220, 1320 and 1420 are equal to target prices of $11.20, $12.20, $13.20 and $14.20 per cwt. PP1010 signifies a milk purchase price level of $10.10 per cwt. NQ signifies no quota required; Q signifies quota required.

1/ First assessment: $.05 per cwt. for CY91, $.1125 per cwt., Jan. 92-Dec. 1995.

2/ Farm cash receipts plus deficiency payments net of assessments.

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VII. Re-Classification (Class IV) Programs

General Structure

- A separate class, designated Class IV, would be established in Federal and State milk orders for manufactured dairy products surplus to domestic commercial needs.
- Markets available for Class IV products would be limited to the international market and/or CCC which would purchase surplus product at a price equivalent to the international price.
- Class IV prices for blend price calculations would be established at a level equal to the Class III price adjusted for the cost of disposing of Class IV products. Class IV prices would essentially be equal to an equivalent international price for milk going into butter and nonfat dry milk.
- Minimum prices for Class III milk would be established by USDA.
- Dairy farmers in Federal and State milk marketing orders would receive a lower blend price reflecting the cost of disposing of Class IV products. Dairy farmers not in a Federal or State order would be individually assessed an amount equivalent to the reduction in blend prices to producers shipping to a Federal or State order.
- A national Class IV pool would be established to equalize the cost of disposing of Class IV products over all milk marketed in the country. Handlers disposing of Class IV products could apply to the national pool for compensation for the difference between the Class III price and revenue from sales of these products. Money would move from those areas which would have little or no Class IV products to those markets that would have relatively large volumes of Class IV products.

Elements of Submitted Proposals

Only one detailed Class IV proposal, which closely resembled the program structure above, was submitted as a result of the public solicitation.

Re-Classification (Class IV) Programs Analyzed

This study reports the impacts of three re-classification (Class IV) program options. The first option, RECLASS–1050, determined the impacts at the current level of price support, adjusted slightly to bring farm cash receipts near baseline. Government purchases were limited to FNS needs purchased at market prices.

The second re-classification program option, RECLASS–1050–PPWP, provided a CCC purchase program alternative to selling in the international market. The CCC purchase price level equated to $6.60 per hundredweight.

The third re-classification program option, RECLASS–1310–PPWP, enhanced farm cash receipts by raising the minimum domestic Class III price to $13.10 per hundredweight. A CCC purchase program alternative to selling in the international market was provided at a price level equated to $6.60 per hundredweight.

See Table 4 at the end of this chapter for a summary of results.

RECLASS 1050

Minimum domestic Class III price.	$10.50 per hundredweight.
Government Purchase Program.	No CCC purchases of surplus. Food assistance programs purchase needs from the market.
Class IV price	Equal to the Class III price minus average per hundredweight loss on disposal of Class IV products. (Price ranged from $5.02 to $5.48)

Estimation of Impacts

(A) The ability of the program to limit Government purchases of milk products to 6,000,000,000 pounds (milk equivalent, total milk solids basis) in a calendar year.

USDA purchases milk products only to the extent needed to service existing food assistance programs. Given this assumption, Government purchases are expected to be well below 6 billion pounds in all years.

(B) The speed and effectiveness of reducing excess milk production.

Farmers would alter marketings to the extent that producer returns including assessments on Class IV milk reflect production costs. The average effective farm milk price is $0.07 per hundredweight higher than the baseline. This is expected to lead to an average annual increase of 0.2 billion pounds of milk marketings and excess milk products for export ranging from 5.2 billion pounds M.E. to 7.4 billion pounds M.E. per year.

(C) The effectiveness in sustaining reduced milk production for at least a 5-year period with and without the continuation of the program.

Farmers would alter marketings to reflect their new blend price which includes Class IV milk, and their production costs. There would be no authority to limit marketings under this option.

(D) The regional impact on milk prices, producer revenue, and milk supplies.

See Chapter X for a discussion of the implication of inventory management programs on regional milk prices, producer revenue and milk supplies.

(E) The impact on national producer income and Government expenditures.

Farm cash receipts averaged $18.0 billion per year for the analysis period, slightly above the baseline. The $0.32 higher domestic all milk price offset effects of the lower Class IV price, raising effective farm milk prices $0.07 per hundredweight. Marketings also were slightly higher for the period.

Government expenditures which were limited to FNS purchases at market prices were more than offset by the budgetary assessment that continues through 1995. Thus for FY 1992 through FY 1995, receipts for these assessments more than offset FNS expenditures for program needs. With the termination of the budgetary assessments, government expenditures rose to an average of $100 million in the last two years. For the analysis period, government expenditures totaled only $50 million.

This option can result in relatively modest increases in the Food Assistance Programs. The cost of the Food Stamp Program would increase an average of $25 million annually during the FY 1993–97 period. Child Nutrition Programs would cost an average $10 million more each year and the WIC Program account would need to be increased $5 million annually to maintain service at its FY 1991 levels.

(F) The impact on the rural economy and maintaining family farms.

See Chapter XI for a discussion of the implications of inventory management for the rural economy and maintaining family farms.

(G) The impact on the availability of wholesome dairy products for domestic and foreign nutrition and food assistance programs.

The re-classification program does not require CCC purchases of surplus dairy products for price support purposes. CCC would no longer have excess inventories for donation through food assistance programs. Therefore, dairy products for nutrition and food assistance programs would have to be purchased from the commercial market. Utilization of dairy products by food assistance programs would depend on program requirements, such as nutritional needs of participants, program funding and market prices and supplies of dairy products.

The Class IV program with a minimum price of $10.50 for Class III

milk would provide for continued milk and dairy product market supplies near projected levels under the current program. Retail prices would exceed baseline levels by about 30 cents per hundredweight, therefore, the volume of dairy products utilized by food assistance programs would be limited unless funding for dairy product acquisition by these programs was increased.

(H) Technological innovations.

See chapter XII for discussion of the impact of inventory management programs on the adoption of technology.

(I) The effectiveness in reducing butter fat production and increasing protein content in milk.

This program relies upon CCC in establishing minimum domestic prices for butter and nonfat dry milk to send price signals to dairy farmers concerning the value of milkfat and nonfat solids (protein). CCC would monitor exports of surplus butter and nonfat dry milk. As necessary, with consideration of market impact and prices stability, CCC would make adjustments to minimum domestic product prices to move exports of butter and nonfat dry milk in the direction of alignment with their yields from whole milk.

(J) The impact of temporary increases and decreases of milk production.

An unforeseen increase (decrease) in milk production would lead to a decrease (increase) in the Class IV price and an increase (decrease) in the milk assigned to Class IV. To accommodate more milk, for example, demand would have to expand, which would require in the shortrun a price decline in the international market. A lower Class IV price would, in turn, result in a lower blend or average producer price. An additional 2 percent increase in milk production in FY 1992 would result in about a 1.5 percent decrease in the average price to farmers, but no corresponding decrease in the average (domestic) retail value. Farm cash receipts would increase about 1 percent as a result of greater marketings. Government expenditures would decrease slightly because of additional revenues from more milk being assessed under existing law. (See chapter XVI, Tables 11 and 12 for summary information.)

(K) The impact on the United States livestock industry.

The re-classification program with minimum domestic prices at $10.50 has little impact on the livestock industry. However, year-to-year changes are important. See appendix C for more details.

(L)(1) The consistency of the program with international obligations and the impacts on international trade.

Reclassification proposals establishing a Class IV for U.S. fluid milk based on projected world dairy product prices are the most explicitly export oriented of any of the programs studied. Class IV milk would be used for the manufacture of dairy products exclusively for export (although proposals including product purchase features also use world prices for CCC and Food and Nutrition Service domestic nutrition and food aid purposes) at prices that would be free to fluctuate according to international market requirements.

The U.S. domestic Class III minimum price for milk is an important determinant of the supply of dairy products available for export. Higher Class III prices stimulate production, discourage domestic consumption and shift U.S. dairy products away from domestic markets and, potentially, toward export in amounts above levels that would otherwise be attained.

With a Class III price of $10.50, the supply of U.S. dairy products available for export under the lower Class IV world price would average 6.4 billion pounds. Because the CCC would no longer be required to purchase surplus dairy products and occasionally dispose of them on international markets, all non-food aid exports under this option would be carried out on a commercial basis by private exporters. At the lower Class IV price, U.S. exporters can be more aggressive on world markets, and overall U.S. dairy product exports may be expected to rise moderately from current levels. In the relatively thin and highly competitive world market for dairy products, competing dairy exporting nations may respond with offsetting price reduction, also including a greater use of export subsidies. World dairy product prices could decline markedly, although the blend price for milk in the United States would remain fairly stable if continued import protection prevents imports from undermining the U.S. price.

Uruguay Round. Under a Uruguay Round agreement similar to the U.S. proposal, this option would yield an AMS that is somewhat higher than the AMS for the current dairy program because the administered support price is higher and the quantity receiving support is slightly larger. With respect to market access commitments, since domestic prices are projected to rise significantly above the baseline, the level of import protection needed with this option is higher than with the current program. Therefore, the support program would occasionally be undermined if we meet our proposed Uruguay Round commitment to convert existing import restrictions to tariffs and to reduce them. Depending on how the program is administered, the exports that could result from this option likely would be considered government-sponsored export subsidies and, thus, subject to our proposed Uruguay Round export subsidy reduction commitments. Any restrictions on exports would severely limit the ability to effectively operate a program under this option.

(L)(2) The impact on consumers and the consumption of milk and milk products, including consumer costs.

Consumption levels would be less than 1 percent below the baseline. Milk prices would be about 30 cents per hundredweight higher than with the current program. Total consumer expenditures for dairy products would increase about $250 million per year.

(L)(3) The effect on long term economic efficiency of the U.S. dairy industry, as well as competitiveness with non-dairy products.

See chapter XV for a discussion of the long-run implications of milk inventory management programs.

RECLASS1050–PPWP

Minimum domestic Class III price.	$10.50 per hundredweight.
Government Purchase Program.	Yes. CCC stands ready to purchase surplus at equivalent of $6.60 per hundredweight as an alternative to the international market.
Class IV price	A minimum of $6.60 as a result of the purchase program.

Estimation of Impacts

(A) The ability of the program to limit Government purchases of milk products to 6,000,000,000 pounds (milk equivalent, total milk solids basis) in a calendar year.

The CCC price support purchase program is continued but at a reduced level of $6.60 per hundredweight. Processors of surplus dairy products may choose to sell to the government rather than in the international market. Purchases therefore, are expected to exceed the baseline and 6 billion pounds in all years since the minimum established domestic price (which was set $0.40 higher to bring farm cash receipts up to baseline) has a negative impact on consumption.

(B) The speed and effectiveness of reducing excess milk production.

Farmers are not expected to reduce marketings below baseline levels since

the average effective milk price is $0.07 above the baseline.

(C) The effectiveness in sustaining reduced milk production for at least a 5-year period with and without the continuation of the program.

Farmers would alter marketings to reflect their new blend price which includes Class IV milk, and their production costs. There would be no authority to limit marketings under this option.

(D) The regional impact on milk prices, producer revenue, and milk supplies.

See chapter X for a discussion of the implication of inventory management programs on regional milk prices, producer revenue and milk supplies.

(E) The impact on national producer income and Government expenditures.

Farm cash receipts averaged $18.0 billion per year for the analysis period, $0.1 billion higher than under the baseline. The effects of the $0.32 higher minimum domestic price just offset effects of the lower Class IV price raising effective farm milk price an average of $0.07 per hundredweight for the analysis period. Marketings were unchanged.

Government expenditures, CCC costs and FNS costs, averaged $400 million for the analysis period, $100 million less than the baseline. CCC costs were held in check by the budgetary assessment and by purchasing products at the equivalent price of only $6.60 per hundredweight of milk. For the analysis period, government costs totaled $2.4 billion, $700 less than the baseline.

This option can result in relatively modest increases in the Food Assistance Programs. The cost of the Food Stamp Program would increase an average of $25 million annually during the FY 1993–97 period. Child Nutrition Programs would cost an average $10 million more each year and the WIC Program account would need to be increased $5 million annually to maintain service at its FY 1991 levels.

(F) The impact on the rural economy and maintaining family farms.

See chapter XI for a discussion of the implications of inventory management for the rural economy and maintaining family farms.

(G) The impact on the availability of wholesome dairy products for domestic and foreign nutrition and food assistance programs.

As noted previously re-classification programs do not require CCC price support purchases. However, this option provides for a CCC purchase program for Class IV milk priced at international price levels (about $6.60 per hundredweight). These purchases could be made available to food assistance programs. This option would result in CCC purchases (approximately 8 billion pounds M.E. per year) greatly in excess of normal food assistance program needs.

Retail milk prices under this option are about $.30 per hundredweight higher than projected prices under current programs. Therefore, food assistance programs would face higher prices for dairy products not acquired through the CCC Class IV purchase program.

(H) Technological innovations.

See chapter XII for discussion of the impact of inventory management programs on the adoption of technology.

(I) The effectiveness in reducing butter fat production and increasing protein content in milk.

This program relies upon CCC in establishing minimum domestic prices for butter and nonfat dry milk to send price signals to dairy farmers concerning the value of milkfat and nonfat solids (protein). CCC policy is to continuously monitor purchases of surplus butter and nonfat dry milk. As necessary, with consideration of CCC purchase costs, market impact and prices stability, CCC will make purchase price adjustments to move its purchases of butter and nonfat dry milk in the direction of alignment with their yields from whole milk.

(J) The impact of temporary increases and decreases of milk production.

With a CCC purchase program, the additional Class IV products resulting from an unforeseen increase in milk production likely would be sold to the Government. For example, a 2-percent increase in milk production in FY 1992 would result in about a 1 percent decrease in the average price to farmers, but no corresponding decrease in the average retail value. Farm cash receipts would increase about 1 percent as a result of greater marketings. Government expenditures would increase about $0.2 billion.

If milk marketings declined an unforeseen 2 percent in FY 1992, Government purchases would be reduced by about 40 percent. (See chapter XVI, Tables 11 and 12 for summary information.)

(K) The impact on the United States livestock industry.

The reclassification program with minimum domestic prices at $10.50 and a purchase program at the international price has little impact on the livestock industry. However, year-to-year changes are important. See appendix C for more details.

(L)(1) The consistency of the program with international obligations and the impacts on international trade.

The addition of a world price-based CCC domestic surplus purchase program effectively reduces the export orientation from the reclassification option. Although Class IV pricing would allow U.S. dairy product exporters to be competitive on world markets, forecasts indicate that most dairy processors will sell to CCC rather than pursue export opportunities at the equivalent world dairy product price. (Note—this option assumes that CCC is not selling its stocks on world markets.) Although U.S. exports of higher value dairy products such as ice cream, frozen yogurt and so forth will be enhanced through this reclassification program, export sales of the major bulk dairy commodities such as butter and nonfat dry milk powder will show little growth with CCC standing by as a ready alternative market. Import protection would be needed to prevent the domestic price from being undercut by imports.

Uruguay Round. Under a Uruguay Round agreement similar to the U.S. proposal, this option would yield an AMS that is somewhat higher than the AMS for the current dairy program because the administered support price is higher and the quantity receiving support is larger. With respect to market access commitments, since domestic prices are projected to rise significantly above the baseline and since the United States would have a large surplus potentially available for world markets, potentially depressing world prices, the level of import protection needed with this option is higher than with the current program. Therefore, the support program would occasionally be undermined if we meet our proposed Uruguay Round commitment to convert existing import restrictions to tariffs and to reduce them. As long as the CCC does not dump its surplus on the world market (as assumed in this option), meeting our proposed export subsidy reduction commitments would be no different than with the current dairy program.

(L)(2) The impact on consumers and the consumption of milk and milk products, including consumer costs.

Since milk prices average about $.30 per hundredweight higher than current baseline slightly higher retail prices would affect consumers. Domestic (commercial) use of dairy products would decline less than 1 percent under this option relative to consumption under the current program (in part this reflects FNS withdrawal of 0.5 billion pounds, M.E., from the commercial hundredweight basis, retail prices would increase less than 1 percent.

(L)(3) The effect on long term economic efficiency of the U.S. dairy industry, as well as competitiveness with non-dairy products.

See chapter XV for a discussion of the long-run implications of milk inventory management programs.

RECLASS 1310–PPWP

Minimum domestic Class III price.	$13.10 per hundredweight.
Government Purchase Program.	Yes. CCC stands ready to purchase surplus at equivalent of $5.60 per hundredweight as an alternative to the international market.
Class IV price	A minimum of $6.60 as a result of the purchase program.

Estimation of Impacts

(A) The ability of the program to limit Government purchases of milk products to 6,000,000,000 pounds (milk equivalent, total milk solids basis) in a calendar year.

The CCC price support purchase program is continued, but at a reduced level of $6.60 per hundredweight. Purchases are expected to exceed the baseline and 6 billion pounds in all years since the minimum established domestic price is $13.10 per hundredweight, $3.00 higher than under the baseline. Government purchases are expected to average 21 billion pounds annually, 14.4 billion pounds above the baseline.

(B) The speed and effectiveness of reducing excess milk production.

Producer returns increase under this option compared to the baseline, and therefore, producers increase marketings by an average of 8.8 billion pounds even though the value of Class IV is expected to be well below production costs. This occurs because producers receive a blend price for all milk including milk sold as Class IV.

(C) The effectiveness in sustaining reduced milk production for at least a 5-year period with and without the continuation of the program.

This option is ineffective in sustaining reduced surplus milk production. Farmers would alter marketings to reflect their new blend price which includes Class IV milk, and their production costs. There would be no authority to limit marketings under this option.

(D) The regional impact on milk prices, producer revenue, and milk supplies.

See chapter X for a discussion of the implication of inventory management programs on regional milk prices, producer revenue and milk supplies.

(E) The impact on national producer income and Government expenditures.

Farm cash receipts averaged $21.7 billion per year for the analysis period, $3.7 billion higher than under the baseline. The effects minimum domestic price $3.00 higher than under the baseline more than offset reduced domestic consumption and the effects of the lower Class IV price. Resulting effective milk prices were $1.67 above the baseline and milk marketings averaged 8.8 billion pounds higher per year.

Government expenditures, CCC costs and FNS costs, averaged $1.3 billion for the analysis period, $736 million higher than the baseline. The impact of Class IV prices on producer blend prices did not check milk marketings which exceed commercial use by more than 20 billion pounds in 5 of the 6 years in the analysis period. For the analysis period, government costs totaled $7.5 billion, more than double the baseline.

This option can result in significant increases in Food Assistance Program costs. Food Stamp Program costs increase an average of $240 million during Fiscal Years 1993–97. Child Nutrition Program costs could rise by about $100 million. The WIC program would require an additional $40 million annually to maintain participation. Without this increase in funding, approximately 75,000 fewer at-risk participants would be served each month.

(F) The impact on the rural economy and maintaining family farms.

See chapter XI for a discussion of the implications of inventory management for the rural economy and maintaining family farms.

(G) The impact on the availability of wholesome dairy products for domestic and foreign nutrition and food assistance programs.

This option provides for a CCC purchase program for Class IV products priced at international price levels (about $6.60 per hundredweight). These purchases could be made available to food assistance programs. This option would result in CCC purchases (21 billion pounds of ME per year) greatly in excess of normal food assistance program needs. Even if food program needs were met with available food program funds, utilization of dairy products would be significant due to the favorable acquisition price.

Retail milk prices under this option are about $2.60 per hundredweight higher than projected prices under current programs. Therefore, food assistance programs would face substantially higher prices for dairy products not acquired through the CCC Class IV purchase program.

(H) Technological innovations.

See chapter XII for discussion of the impact of inventory management programs on the adoption of technology.

(I) The effectiveness in reducing butter fat production and increasing protein content in milk.

This program relies upon CCC in establishing minimum domestic prices for butter and nonfat dry milk to send price signals to dairy farmers concerning the value of milkfat and nonfat solids (protein). CCC policy is to continuously monitor purchases of surplus butter and nonfat dry milk. As necessary, with consideration of CCC purchase costs, market impact and prices stability, CCC will make purchase price adjustments to move its purchases of butter and nonfat dry milk in the direction of alignment with their yields from whole milk.

(J) The impact of temporary increases and decreases of milk production.

A higher Class III price would not greatly affect the impact of an unforeseen increase (decrease) in milk production. For example, for this option, an additional 2 percent increase in milk production in FY 1992 would result in about a 1 percent decrease in the average price to farmers, but no corresponding decrease in the average retail value. Farm cash receipts would increase about 1 percent as a result of the increase in marketings. Government expenditures would increase about $0.2 billion. (See chapter XVI, Tables 11 and 12 for summary information.)

(K) The impact on the United States livestock industry.

The re-classification program with minimum domestic prices at $13.10 with a purchase program at the international price has little impact on the livestock industry. However, year-to-year changes are important. See appendix C for more details.

(L)(1) The consistency of the program with international obligations and the impacts on international trade.

The much higher production and lower domestic use anticipated with the $13.10 Class III price indicate that U.S. dairy products, rather than being exported, will flow into CCC storage, albeit at the reduced world price, in volumes far in excess of their level under the existing surplus purchase program or under other Class IV reclassification-type proposals. Import protection would be needed to prevent the domestic price from being undercut by imports.

The large available exportable su plus and competitive Class IV prices would allow the United States to be a

formidable factor on world dairy product markets if a means can be developed to encourage export sales instead of having the CCC continue as the alternative buyer of surplus dairy products. However, for this to occur, both the world market for dairy products and the U.S. share of that market will have to substantially increase, and world prices will probably decline precipitously. Serious questions exist on whether the world market could absorb such surpluses.

Uruguay Round. Under a Uruguay Round agreement similar to the U.S. proposal, this option would yield an AMS that is much higher than the AMS for the current dairy program because the administered support price is higher and the quantity receiving support is larger. With respect to market access commitments, since domestic prices are projected to rise substantially above the baseline and since the United States would have a large surplus potentially available for world markets, potentially depressing world prices, the level of import protection needed with this option is much higher than with the current program. Therefore, the support program would be undermined if we meet our proposed Uruguay Round commitment to convert existing import restrictions to tariffs and to reduce them. As long as the CCC does not dump its surplus on the world market (as assumed in this option), meeting our proposed export subsidy reduction commitments would be no different than with the current dairy program.

Since all milk prices average about $2.60 per hundredweight higher than current baseline for the analysis period, substantially higher retail prices would significantly affect consumers. Domestic (commercial) use of dairy products would decline nearly 4 percent under this option relative to the current program. A larger portion of U.S. dairy marketings would be sold to foreign users or to food assistance programs at, in effect, highly subsidized prices while domestic consumers paid more. Low-income consumers would be disadvantaged particularly to the extent that food program assistance is not expanded to compensate for higher milk costs. However, large surplus stocks potentially available to food assistance programs will be generated by this program.

(L)(3) The effect on long term economic efficiency of the U.S. dairy industry, as well as competitiveness with non-dairy products.

See chapter XV for a discussion of the long-run implications of milk inventory management programs.

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Table 4: Comparison of reclassification (class IV) programs with baseline

Item	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995	FY 1996	FY 1997	FY 1992-97 Cum.	FY 1992-97 Avg.
Support price (average)			(dol. / cwt)						
Baseline	10.10	10.10	10.10	10.10	10.10	10.10	10.10	NA	10.10
RECLASS-1050	10.50	10.50	10.50	10.50	10.50	10.50	10.50	NA	10.50
RECLASS-1050-PPWP	10.50	10.50	10.50	10.50	10.50	10.50	10.50	NA	10.50
RECLASS-1310-PPWP	13.10	13.10	13.10	13.10	13.10	13.10	13.10	NA	13.10
All Milk Price			(dol. / cwt)						
Baseline	11.60	11.55	11.50	11.45	11.55	11.65	11.70	NA	11.57
RECLASS-1050	11.60	11.80	11.75	11.75	11.90	12.05	12.10	NA	11.89
RECLASS-1050-PPWP	11.60	11.80	11.75	11.75	11.90	12.05	12.10	NA	11.89
RECLASS-1310-PPWP	11.60	14.20	14.20	14.20	14.20	14.20	14.20	NA	14.20
Effective All Milk Price			(dol. / cwt)						
Baseline	11.56	11.45	11.35	11.28	11.42	11.62	11.70	NA	11.47
RECLASS-1050	11.56	11.42	11.33	11.31	11.49	11.79	11.88	NA	11.54
RECLASS-1050-PPWP	11.56	11.43	11.35	11.33	11.50	11.77	11.87	NA	11.54
RECLASS-1310-PPWP	11.56	13.30	13.11	13.00	13.00	13.18	13.24	NA	13.14
Assessment on Marketings 1/			(dol. / cwt)						
Baseline	0.0375	0.0969	0.1125	0.1125	0.1125	0.0281	0.0000	NA	0.0771
			0.037	0.054	0.013			NA	0.0173
RECLASS-1050, blend reduction	0.04	0.38	0.42	0.44	0.41	0.26	0.22	NA	0.36
RECLASS-1050-PPWP, blnd. redn.	0.04	0.37	0.40	0.42	0.40	0.28	0.23	NA	0.35
RECLASS-1310-PPWP. blnd. redn.	0.04	0.90	1.09	1.20	1.20	1.02	0.96	NA	1.06
Retail Value			(dol. / cwt)						
Baseline	34.10	33.55	33.50	34.45	35.65	36.95	38.20	NA	35.38
RECLASS-1050	34.10	33.80	33.75	34.75	36.00	37.35	38.60	NA	35.71
RECLASS-1050-PPWP	34.10	33.80	33.75	34.75	36.00	37.35	38.60	NA	35.71
RECLASS-1310-PPWP	34.10	36.20	36.20	37.20	38.30	39.50	40.70	NA	38.02
Milk Production			(billion pounds)						
Baseline	150.0	151.4	153.9	156.9	158.5	159.9	161.0	941.6	156.9
RECLASS-1050	150.0	151.3	153.9	157.0	158.6	160.2	161.4	942.4	157.1
RECLASS-1050-PPWP	150.0	151.3	153.9	157.0	158.7	160.2	161.3	942.4	157.1
RECLASS-1310-PPWP	150.0	155.1	161.1	166.4	169.4	170.6	171.6	994.2	165.7
Commercial Use			(billion pounds)						
Baseline	140.5	144.9	146.8	149.5	152.0	154.9	156.5	904.6	150.8
RECLASS-1050	140.5	144.4	146.3	148.9	151.3	154.1	155.7	900.7	150.1
RECLASS-1050-PPWP	140.5	143.9	145.8	148.4	150.8	153.6	155.2	897.7	149.6
RECLASS-1310-PPWP	140.5	139.4	141.1	143.6	146.3	149.3	151.0	870.7	145.1

Table 4 (cont.): Comparison of reclassification (class IV) programs with baseline

Item	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995	FY 1996	FY 1997	FY 1992-97 Cum.	FY 1992-97 Avg.
Class IV Price			(dol. / cwt)						
RECLASS-1050	6.60	5.32	5.19	5.02	5.16	5.40	5.48	NA	5.26
RECLASS-1050-PPWP	6.60	6.60	6.60	6.50	6.50	6.50	6.50	NA	6.53
RECLASS-1310-PPWP	6.60	6.60	6.60	6.50	6.50	6.50	6.50	NA	6.53
Exportable Surplus			(billion pounds)						
RECLASS-1050	0.0	6.4	7.0	7.4	6.8	5.6	5.2	38.4	6.4
Govt. Purchases M.E. Milkfat			(billion pounds)						
Baseline	9.8	7.0	7.6	7.9	7.0	5.5	5.0	40.0	6.7
RECLASS-1050	9.8	1.0	1.0	1.0	1.0	1.0	1.0	6.0	1.0
RECLASS-1050-PPWP	9.8	7.9	8.6	9.1	8.3	7.1	6.6	47.6	7.9
RECLASS-1310-PPWP	9.8	16.2	20.4	23.3	23.7	21.8	21.1	126.5	21.1
CCC plus FNS Expenditures			(million dollars)						
Baseline	982.2	514.2	522.2	543.2	511.2	526.2	513.2	3,130.2	521.7
RECLASS-1050	982.2	(8.2)	(45.3)	(48.8)	(50.7)	81.0	125.4	53.4	8.9
RECLASS-1050-PPWP	982.2	381.5	400.8	422.0	379.6	417.0	423.6	2,424.5	404.1
RECLASS-1310-PPWP	982.2	913.2	1,183.5	1,345.0	1,386.6	1,366.5	1,346.1	7,540.9	1,256.8
CCC Receipts from Assessments			(million dollars)						
Baseline	55.0	144.7	226.9	257.7	196.3	44.0	0.0	869.6	144.9
RECLASS-1050	55.0	144.6	170.7	174.2	176.1	44.4	0.0	710.0	118.3
RECLASS-1050-PPWP	55.0	144.6	170.8	174.3	176.1	44.4	0.0	710.2	118.4
RECLASS-1310-PPWP	55.0	148.2	178.8	184.9	188.2	47.3	0.0	747.4	124.6
Farm Cash Receipts 2/			(million dollars)						
Baseline	17,250	17,250	17,380	17,620	18,020	18,500	18,750	107,520	17,920
RECLASS-1050	17,250	17,200	17,352	17,668	18,148	18,792	19,089	108,249	18,042
RECLASS-1050-PPWP	17,250	17,204	17,375	17,704	18,160	18,771	19,056	108,270	18,045
RECLASS-1310-PPWP	17,250	20,498	21,000	21,518	21,918	22,370	22,613	129,917	21,653
Retail Cost			(million dollars)						
Baseline	47,920	48,610	49,190	51,490	54,180	57,230	59,770	320,470	53,412
RECLASS-1050	47,920	48,817	49,383	51,747	54,471	57,557	60,099	322,074	53,679
RECLASS-1050-PPWP	47,920	48,648	49,215	51,573	54,291	57,370	59,906	321,003	53,501
RECLASS-1310-PPWP	47,920	50,468	51,089	53,424	56,021	58,979	61,450	331,431	55,239

KEY: RECLASS, Reclassification (Class IV) program; PPWP, Purchase Program at international price of $6.60 per cwt.; 1050 and 1310, minimum domestic prices of $10.50 or $13.10 per cwt.

1/ First assessment: $.05 per cwt. for CY91, $.1125 per cwt., Jan. 92-Dec. 1995.
Second assessment: Amount necessary to reduce purchase cost below cost of purchasing 7 billion pounds.

2/ Farm cash receipts net of assessments.

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VIII. Two-Tier Pricing Programs

General Structure

- Two-tier pricing programs provide for a separate reduced price received by each producer for milk marketed in excess of that producer's quota which is supported at a higher price.
- Unlike Re-classification (Class IV) programs, market prices are not reduced for excess milk.
- Individual producers do not receive a blend price.

Elements of Submitted Proposals

Support Price for Quota Marketings

- Proposed support prices ranged from near the current $10.10 per cwt. of 3.67% milkfat manufacturing milk up to 75 percent of parity (about $18.50 per cwt. as of December 1990). Most proposed levels range from $10.60 to $15.00 per cwt.
- Some proposals would adjust support prices annually for inflation or cost of production changes or by a schedule of fixed increments. One would adjust support prices based on changes in prior year market prices for all milk. Many proposals would not adjust support levels over the life of the Farm Bill.

Effective Price for Excess Milk

- *Assessments* would be made on excess milk to reduce the effective price received in nearly all proposals. Specified rates ranged from $4 or less up to $10 per cwt. Alternatives proposed include determination of assessments as needed to set excess milk price at international market price levels or at levels to cover CCC purchase costs for removals in excess of a designated level such as 5 billion lbs. M.E. One proposal would set the assessment so as to reduce effective price for excess milk below the variable cost of production for the most efficient regions. Another provides a graduated scale of assessments up to 100 percent of the support price depending on the extent to which a producer's marketing exceeded his/her base.
- Other proposals not reliant on assessments include export market based prices for excess milk either through provisions similar to a base—excess program under a marketing order or through long term contracts with CCC.

Additional Assessments

- Additional across the board assessments on all milk marketed at rates up to $.50 per cwt. are proposed by some to defray administrative or other excess costs.
- Some propose refunds of excess assessments collected under various conditions.

Marketing Histories-Bases-Quotas

- All but one proposal require individual producer bases (and/or quotas) tied to individual marketing (or production) history.
- Proposals regarding determination of marketing histories, transfer of bases, etc. vary widely.
- Quota levels are determined by adjusting base amounts derived from marketing histories for anticipated commercial use levels and specified targets for CCC removals for market stabilization and/or other purposes (4.0 billion lbs. to 6.0 billion lbs. M.E.).
- One proposal would assess a portion of each individual producer's marketings using a uniform national percentage excess rate. This omits individual base setting using marketing history but precludes producers from avoiding price reductions by cutting marketings. And producer returns per cwt. become in effect much like a blend price received under a Re-classification (Class IV) program.

Purchase Program

- Nearly all proposals would continue the purchase program. Some would preclude use of producer assessments remitted to CCC for purchase of dairy products for food assistance programs.
- Elimination of CCC purchases with provisions to export surplus dairy products was suggested by, at least, one proposal.

Cost Objectives

- Several proposals would attempt to limit taxpayer costs to levels such as $300 to $700 million per year or to the cost of CCC purchases up to specified levels such as 4 to 7 billion lbs. M.E.

Program Implementation/Termination

- Alternatives range from permanent two-tier pricing programs conducted each year to programs triggered on and off on an annual or semi-annual basis by projected levels of CCC removals in relation to specified trigger levels, such as 4 to 7 billion lbs. M.E.
- Variations include use of relationships between market prices and support prices for mid-year determinations to implement or terminate two-tier pricing. Also producer referenda were suggested as another vehicle to deciding whether to conduct the program.

Program Administration

- Some proposals suggest use of a dairy farmer elected board or commission to oversee administration of the program including determination of support prices and assessment rates and management of surplus dairy product stocks acquired with funds from producer assessments.

Two-Tier Programs Analyzed

This study reports the impacts of three two-tier pricing program options. The first option, TT1010–Q+1+4–ASSMT1000, determined the impacts at the current level of price support, with an assessment of $10.00 per hundredweight on over-quota marketings. Quota marketing levels were determined by commercial use, minus imports, plus Government purchases.

The second option, TT1310–Q+0+4–ASSMT1000, raised the support level to $13.10 per hundredweight to enhance farm cash receipts. A severe assessment was maintained to contain government costs. FNS purchased no product for distribution. CCC planned purchases of 4.0 billion pounds.

The third option, TT1310–Q+0–LGAP, raised the support price to $13.10 per hundredweight to enhance farm cash receipts. No planned Government purchases were assumed in quota calculations. A variable assessment was applied to over-quota marketings to contain government costs.

See Table 5 at the end of this chapter for a summary of results.

TT1010–Q+1+4–ASSMT1000

Market Support Price Milk.	$10.10 per hundredweight for manufacturing grade milk.
National Quota	Estimated commercial use—imports + 5.0 billion pounds of government purchases (1.0 for FNS, 4.0 surplus).
Assessment on Excess Milk.	$10.00 per cwt. of milk marketed in excess of an individual's quota.

Estimation of Impacts

(A) The ability of the program to limit Government purchases of milk products to 6,000,000,000 pounds (milk equivalent, total milk solids basis) in a calendar year.

It is assumed that the national milk quota would be set so that the projected level of Government purchases of milk products would be below 6 billion pounds. The $10.00 assessment on over-quota milk is expected to be large enough to virtually prevent marketings of over-quota milk. Under these assumptions, it is very likely

Government purchases would not exceed 6 billion pounds in any year unless the Government overestimates the consumption of milk products or marketings in excess of quota for the forthcoming year.

(B) The speed and effectiveness of reducing excess milk production.

The assessment on over-quota milk is expected to be large enough to almost immediately prevent substantial marketings of over-quota milk. A high assessment on over-quota would be the most effective way of reducing excess milk production among the options considered. Milk marketings are expected to average 1.9 billion pounds lower under this option compared to the baseline.

(C) The effectiveness in sustaining reduced milk production for at least a 5-year period with and without the continuation of the program.

This program continued in effect for the entire analysis period.

(D) The regional impact on milk prices, producer revenue, and milk supplies.

See chapter X for a discussion of the implications of two-tier pricing for regional milk prices, producer revenue, and milk supplies.

(E) The impact on national producer income and Government expenditures.

Farm cash receipts averaged $17.9 billion per year for the analysis period, virtually the same as under the baseline. Although marketings of milk were reduced by the high second-tier assessment, the higher first-tier price on quota milk offset the reduced marketings. The quota milk price averaged $11.62 per hundredweight, about 1 percent higher than the baseline effective price for all milk.

Government expenditures, CCC costs and FNS costs, averaged $360 million for the analysis period. This compares with average government expenditures of $522 million under the baseline. Government expenditures under the option were lower in every year under this option as a result of virtually eliminating any surplus marketings above the predesignated level of 4.0 billion pounds, M.E.

This option would result in minor increases in Food Assistance Program costs. Food Stamp Program costs would increase about $10 million on average annually. Child Nutrition Program costs could rise by $5 million and the WIC Program would need an additional $2 million, on average, to maintain services to the same number of participants.

(F) The impact on the rural economy and maintaining family farms.

See chapter XI for a discussion of the implications of inventory management for the rural economy and maintaining the family farm.

(G) The impact on the availability of wholesome dairy products for domestic and foreign nutrition and food assistance programs.

The two-tier pricing program would include a CCC price support purchase program to help ensure maintenance of the support for quota milk. Purchase levels likely could be maintained at levels sufficient to support normal food assistance program needs. The level at which the quota is set and the effective price for over-quota milk would affect the level of CCC purchases which could be made available.

A support price for quota milk at the current level of $10.10 with a very low effective price for excess milk market price could still result in CCC purchases adequate to meet food program needs. However, little over-quota milk would be produced and CCC net removals would likely remain near target levels (5 billion lbs. M.E. in this case) incorporated in the quota determination. Therefore, little or no excess inventories of dairy products would be available for additional donations beyond the 5 billion pounds, M.E. Actual availability of stocks through CCC purchases could vary if market demand deviates from levels estimated at the time quota levels are determined.

The volume of dairy products utilized by food assistance programs need not change significantly from baseline levels.

Dairy product prices would be increased about 10 to 20 cents from baseline levels as the lower effective price for excess milk induces slightly reduced production. This could result in a higher cost for food assistance and nutrition programs which do not involve direct government purchase and distribution of commodities.

(H) Technological innovations.

See chapter XII for discussion on implications of inventory management on the adoption of technology.

(I) The effectiveness in reducing butter fat production and increasing protein content in milk.

This program relies upon CCC in establishing purchase prices for butter and nonfat dry milk to send price signals to dairy farmers concerning the value of milkfat and nonfat solids (protein). CCC policy is to continuously monitor purchases of surplus butter and nonfat dry milk. As necessary, with consideration of CCC costs, market impact and prices stability, CCC will make purchase price adjustments to move its purchases of butter and nonfat dry milk in the direction of alignment with their yields from whole milk.

(J) The impact of temporary increases and decreases of milk production.

An unforeseen increase (decrease) in milk production would result in an increase (decrease) in over-quota (quota) marketings. For example, an additional 2 percent increase in milk production in FY 1992 would result in about a 1 percent decrease in the average price to farmers and a corresponding decrease of about 0.3 percent in the average retail value. Farm cash receipts would increase about 1.3 percent as a result of the increased marketings. Government expenditures would decrease slightly due to additional revenue from more milk being assessed under current law. (See chapter XVI, Tables 11 and 12 for summary information.)

(K) The impact on the United States livestock industry.

The Two-Tier program with a purchase program at $10.10 per cwt and assessment of $10.00 per cwt on over-quota milk has little impact on the livestock industry. However, year-to-year changes are important. See appendix C for more details.

(L)(1) The consistency of the program with international obligations and the impacts on international trade.

With milk production quotas established on the basis of expected domestic commercial use, two-tier pricing is one of the least export-oriented of any of the types of proposals presented for study. Import protection would be needed to prevent the domestic price from being undercut by imports. With all-milk prices no more competitive than under the current program and supply availabilities limited, two-tier pricing would limit the ability of the United States to take greater advantage of current or future dairy product export opportunities.

A first-tier milk price of $10.10 and severe assessment on over-quota milk results in an average $11.70 all-milk price and little incentive to produce a supply of dairy products for export markets. CCC surplus purchases that might potentially be available for export are similarly limited. Consequently, whether by commercial interests or by government, the United States will be only minimally competitive on world dairy product markets under this proposal.

Uruguay Round. Under a Uruguay Round agreement similar to the U.S. proposal, this option would yield an AMS that is about the same as the AMS for the current dairy program because the administered support level would be the same and the quantity supported about the same. However, since

domestic prices are projected to rise under this option as compared to the baseline, we would be somewhat less able to meet our proposed Uruguay Round commitments to convert existing import restrictions to tariffs and to reduce them because imports could undercut the domestic price. Meeting our proposed export subsidy reduction commitments would be no different than with the current dairy program. With modestly higher domestic prices, the United States would be slightly less competitive on world markets than under the baseline scenario.

(L)(2) The impact on consumers and the consumption of milk and milk products, including consumer costs.

Retail prices averaged 10 to 20 cents above baseline and reduced commercial use an average of 0.3 billion pounds, annually. In total, consumer expenditures for dairy products would rise about $100 million or slightly more per year.

(L)(3) The effect on long term economic efficiency of the U.S. dairy industry, as well as competitiveness with non-dairy products.

See chapter XV for a discussion of the long-run implication of milk inventory management programs.

TT1310-Q+0+4-ASSMT1000

Market support price milk	$13.10 per hundredweight for manufacturing grade milk.
National quota	Estimated commercial use—imports + 4.0 billion lbs. government surplus purchases only. FNS purchases no product.
Assessment on excess milk.	$10.00 per cwt. of milk marketed in excess of an individual's quota.

Estimation of Impacts

(A) The ability of the program to limit Government purchases of milk products to 6,000,000,000 pounds (milk equivalent, total milk solids basis) in a calendar year.

It is assumed that the national milk quota would be set so that the projected level of Government purchases of milk products would be below 6 billion pounds. The assessment on over-quota milk is expected to be large enough to prevent substantial marketings of over-quota milk. Under these assumptions, it is very unlikely Government purchases would exceed 6 billion pounds in any year unless the Government overestimates the consumption of milk products for the forthcoming year.

(B) The speed and effectiveness of reducing excess milk production.

The assessment on over-quota milk is expected to be large enough to almost immediately prevent substantial marketings of over-quota milk. A high assessment on over-quota would be the most effective way of reducing excess milk production among the option considered. Milk marketings are expected to average over 9 billion pounds below the baseline under this option.

(C) The effectiveness in sustaining reduced milk production for at least a 5-year period with and without the continuation of the program.

This program continued in effect during the entire analysis period.

(D) The regional impact on milk prices, producer revenue, and milk supplies.

See chapter X for a discussion of the implications of two-tier pricing for regional milk prices, producer revenue, and milk supplies.

(E) The impact on national producer income and Government expenditures.

Farm cash receipts averaged $21.9 billion per year for the analysis period, nearly $4 billion above the baseline average. Although milk marketings average 9 billion pounds less under this option than under the baseline, the average farm price per hundredweight was nearly $3.50 higher. Higher prices were the result of the restricted marketings and the CCC purchase program removing surplus from the market at the equivalent of $13.10 per hundredweight.

Government expenditures averaged $365 million for the analysis period. This compares with average government expenditures of $522 million under the baseline. The lower volume of government removals of surplus dairy products more than offset the higher cost per hundredweight.

This option can result in significant increases in Food Assistance Program costs. Annual Food Stamp Program costs increase an average of $310 million during fiscal years 1993–97. Child Nutrition Program costs could rise by about $125 million annually. The WIC program would require an additional $55 million annually to maintain participation. Without this increase in funding, approximately 100,000 fewer at-risk participants would be served each month.

(F) The impact on the rural economy and maintaining family farms.

See chapter XI for a discussion of the implications of inventory management for the rural economy and maintaining the family farm.

(G) The impact on the availability of wholesome dairy products for domestic and foreign nutrition and food assistance programs.

No CCC purchases in excess of planned levels of 4 billion lbs. incorporated in the quota would be expected.

(H) Technological innovations.

See chapter XII for discussion on implications of inventory management on the adoption of technology.

(I) The effectiveness in reducing butter fat production and increasing protein content in milk.

This program relies upon CCC in establishing purchase prices for butter and nonfat dry milk to send price signals to dairy farmers concerning the value of milkfat and nonfat solids (protein). CCC policy is to continuously monitor purchases of surplus butter and nonfat dry milk. As necessary, with consideration of CCC costs, market impact and price stability, CCC will make purchase price adjustments to move its purchases of butter and nonfat dry milk in the direction of alignment with their yields from whole milk.

(J) The impact of temporary increases and decreases of milk production.

For this option, an unforeseen additional increase in milk production of 2 percent in fiscal year 1992 would result in about a 1.5 percent decrease in the average price to farmers and a corresponding decrease of about 0.5 percent in the average retail value. Farm cash receipts would increase about 1 percent. Government expenditures would decrease slightly due to additional revenue from more milk being assessed under current law.

An unforeseen 2 percent decrease in marketings in fiscal year 1992 would result in a 70 percent decrease in CCC purchases. (See chapter XVI, Tables 11 and 12 for summary information.)

(K) The impact on the United States livestock industry.

The two-tier program with a purchase program at $13.10 per cwt and assessment of $10.00 per cwt on over-quota milk has little impact on the livestock industry. However, year-to-year changes are important. See appendix C for more details.

(L)(1) The consistency of the program with international obligations and the impacts on international trade.

With milk production quotas established on the basis of expected domestic commercial use, two-tier pricing is one of the least export-oriented of any of the types of proposals studied. Import protection would be needed to prevent the domestic price from being undercut by imports.

Uruguay Round. Under a Uruguay Round agreement similar to the U.S.

proposal, this option would yield an AMS that is much higher than the AMS for the current dairy program because the administered support level would be substantially higher even though the quantity supported is somewhat lower. With respect to market access commitments, since domestic prices are projected to rise substantially above the baseline, the level of import protection needed with this option is much higher than with the current program. Therefore, the support program would be undermined if we meet our proposed Uruguay Round commitment to convert existing import restrictions to tariffs and to reduce them. Meeting our proposed export subsidy reduction commitments would be no different than with the current dairy program. With high domestic prices, the United States would be extremely noncompetitive in world markets.

(L)(2) The impact on consumers and the consumption of milk and milk products, including consumer costs.

Prices under this option averaged about $3.45 per cwt. above current program levels. Consumption would be reduced by over 4 percent. Total consumer expenditures would be about $2.6 billion per year higher than with the current baseline. Low income consumers would be especially disadvantaged, particularly to the extent that food program assistance is not expanded to compensate for higher milk prices.

(L)(3) The effect on long-term economic efficiency of the U.S. dairy industry, as well as competitiveness with non-dairy products.

See chapter XV for a discussion of the long-run implication of milk inventory management programs.

TT1310–Q–0–LGAP

Market Support Price Milk.	$13.10 per hundredweight for manufacturing grade milk.
National Quota	Estimated commercial use – imports + 0 Government purchases of dairy products.
Assessment on Excess Milk.	Assessment rate varied on over quota marketings to keep program costs equal to current program baseline.

Estimation of Impacts

(A) The ability of the program to limit Government purchases of milk products to 6,000,000,000 pounds (milk equivalent, total milk solids basis) in a calendar year.

The assessment on over-quota milk is expected to result in substantial marketings of over-quota milk. CCC purchases are expected to average 9.0 billion pounds per year and total 13.9 billion pounds above the baseline.

(B) The speed and effectiveness of reducing excess milk production.

The assessment is not considered large enough to prevent substantial marketings of over-quota milk. In areas, and for producers with low costs of production, it is possible that expansion of production could continue, although at a slower pace.

(C) The effectiveness in sustaining reduced milk production for at least a 5-year period with and without the continuation of the program.

The program continued in effect for the entire analysis period. Assessments on over-quota milk that are low enough for some producers in some areas to continue to expand. The assessments, if not increased over time, would allow the production of additional surplus as efficiencies in production increases. An increasing assessment, over time, should be able to limit surplus marketings of milk and government costs.

(D) The regional impact on milk prices, producer revenue, and milk supplies.

See chapter X for a discussion of the implications of two-tier pricing for regional milk prices, producer revenue, and milk supplies.

(E) The impact on national producer income and Government expenditures.

Farm cash receipts averaged $22.2 billion per year for the analysis period, more than $4 billion above the baseline average. Although milk marketings average 3.1 billion pounds less than under the baseline, the higher quota milk price resulted in a strong increase in cash receipts.

Government expenditures averaged $500 million for the analysis period, about equal to the baseline. Government expenditures under the option were held in check by the receipt of assessments averaging $580 million per year from dairy farmers who could continue to market milk at the second-tier price.

This option can result in significant increases in Food Assistance Program costs. Food Stamp Program costs increase an average of $270 million annually during Fiscal Years 1993–97. Child Nutrition Program costs could rise by about $110 million annually. The WIC program would require an additional $50 million annually to maintain participation. Without this increase in funding, approximately 90,000 fewer at-risk participants would be served each month.

(F) The impact on the rural economy and maintaining family farms.

See chapter XI for a discussion of the implications of inventory management for the rural economy and maintaining the family farm.

(G) The impact on the availability of wholesome dairy products for domestic and foreign nutrition and food assistance programs.

With quota milk supported at $13.10 and an effective price of excess milk near $9.40 for all milk, the two-tier program would result in adequate CCC stocks to meet food program needs.

Moderate to substantial amounts of over quota milk would be produced and CCC net removals would likely remain at significant levels. Average CCC net removals were estimated at about 9.0 billion lbs. per year. Therefore, excess inventories of dairy products may be available for additional donations beyond planned levels. FNS would eliminate purchases at this price level.

Market prices for all milk sold to plants over the 1992–97 period would average nearly $3.00 per cwt. above current baseline levels and retail prices would be higher by similar magnitudes. This would substantially increase acquisition costs of food assistance programs which utilize dairy products as well as those with benefit levels determined by food price indexes influenced by dairy product prices. Programs utilizing dairy products would need to reduce utilization of dairy products or reduce the number of participants served unless increased funding is provided or CCC acquired stocks are donated.

(H) Technological innovations.

See chapter XII for discussion on implications of inventory management on the adoption of technology.

(I) The effectiveness in reducing butter fat production and increasing protein content in milk.

This program relies upon CCC in establishing purchase prices for butter and nonfat dry milk to send price signals to dairy farmers concerning the value of milkfat and nonfat solids (protein). CCC policy is to continuously monitor purchases of surplus butter and nonfat dry milk. As necessary, with consideration of CCC costs, market impact and prices stability, CCC will make purchase price adjustments to move its purchases of butter and nonfat dry milk in the direction of alignment with their yields from whole milk.

(J) The impact of temporary increases and decreases of milk production.

With a decrease in the assessment on the second tier price, an unforeseen increase (decrease) in milk production

results in an increase (decrease) in Government expenditures. For example, an additional 2 percent increase in milk production in FY 1992 would result in about a 1.5 percent decrease in the average price to farmers and a corresponding decrease of about 0.5 percent in the average retail value. Farm cash receipts would increase about 0.5 percent. Government expenditures would increase about $0.2 billion. (See chapter XVI, Tables 11 and 12 for summary information.)

(K) The impact on the United States livestock industry.

The Two-Tier program with a purchase program at $13.10 per cwt and a variable assessment to equate program expenditures with the baseline has little impact on the livestock industry. However, year-to-year changes are important. See appendix C for more details.

(L)(1) The consistency of the program with international obligations and the impacts on international trade.

The reduced penalty on over-quota milk is expected to result in higher production and CCC purchases under this proposal. Although the CCC may be more important as a dairy product exporter, the high all milk price anticipated under this proposal will probably make it much more difficult for private sector exporters to compete on world dairy product markets. Import protection would be needed to prevent the domestic price from being undercut by imports.

Uruguay Round. Under a Uruguay Round agreement similar to the U.S. proposal, this option would yield an AMS that is much higher than the AMS for the current dairy program because the administered support level would be substantially higher even though the quantity supported is somewhat lower. With respect to market access commitments, since domestic prices are projected to rise substantially above the baseline, the level of import protection needed with this option is much higher than with the current program. Therefore, the support program would be undermined if we meet our proposed Uruguay Round commitment to convert existing import restrictions to tariffs and to reduce them. Meeting our proposed export subsidy reduction commitments would be no different than with the current dairy program. With high domestic prices, the United States would be extremely non-competitive on world markets.

(L)(2) The impact on consumers and the consumption of milk and milk products, including consumer costs.

Milk prices averaging about $3.00 per cwt. above current projections for the next 6 years would represent an increase in retail prices of nearly 8.6 percent. Domestic consumption would be reduced by more than 3 percent from projected levels under the current program. However, consumers would spend about $2.5 billion a year more for dairy products. Low income consumers would be especially disadvantaged, particularly to the extent that food program assistance is not expanded to compensate for higher milk prices.

(L)(3) The effect on long term economic efficiency of the U.S. dairy industry, as well as competitiveness with non-dairy products.

See chapter XV for a discussion of the long-run implication of milk inventory management programs.

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Table 5: Comparison of two-tier pricing programs with baseline

Item	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995	FY 1996	FY 1997	FY 1992-97 Cum.	FY 1992-97 Avg.
Support price (average)			(dol. / cwt)						
Baseline	10.10	10.10	10.10	10.10	10.10	10.10	10.10	NA	10.10
TT1010-Q+1+4-ASSMT1000	10.10	10.10	10.10	10.10	10.10	10.10	10.10	NA	10.10
TT1310-Q+0+4-ASSMT1000	10.10	13.10	13.10	13.10	13.10	13.10	13.10	NA	13.10
TT1310-Q+0-LGAP	10.10	13.10	13.10	13.10	13.10	13.10	13.10	NA	13.10
All Milk Price			(dol. / cwt)						
Baseline	11.60	11.55	11.50	11.45	11.55	11.65	11.70	NA	11.57
TT1010-Q+1+4-ASSMT1000	11.60	11.70	11.70	11.70	11.70	11.70	11.70	NA	11.70
TT1310-Q+0+4-ASSMT1000	11.60	15.00	15.00	15.00	15.00	15.00	15.00	NA	15.00
TT1310-Q+0-LGAP	11.60	14.60	14.60	14.60	14.60	14.60	14.60	NA	14.60
Effective All Milk Price on quota milk			(dol. / cwt)						
Baseline	11.56	11.45	11.35	11.28	11.42	11.62	11.70	NA	11.47
TT1010-Q+1+4-ASSMT1000	11.56	11.60	11.59	11.59	11.59	11.67	11.70	NA	11.62
TT1310-Q+0+4-ASSMT1000	11.56	14.90	14.89	14.89	14.89	14.97	15.00	NA	14.92
TT1310-Q+0-LGAP	11.56	14.50	14.49	14.49	14.49	14.57	14.60	NA	14.52
Effective All Milk Price on over-quota milk									
TT1010-Q+1+4-ASSMT1000	NA	1.70	1.70	1.70	1.70	1.70	1.70	NA	1.70
TT1310-Q+0+4-ASSMT1000	NA	5.00	5.00	5.00	5.00	5.00	5.00	NA	5.00
TT1310-Q+0-LGAP	NA	9.87	9.47	9.34	9.35	9.15	9.17	NA	9.39
Assessment on Marketings 1/			(dol. / cwt)						
Baseline	0.0375	0.0969	0.1125	0.1125	0.1125	0.0281	0.0000	NA	0.0771
			0.0370	0.0540	0.0130			NA	
Second Tier Assessment									
TT1010-Q+1+4-ASSMT1000	NA	10.00	10.00	10.00	10.00	10.00	10.00	NA	10.00
TT1310-Q+0+4-ASSMT1000	NA	10.00	10.00	10.00	10.00	10.00	10.00	NA	10.00
TT1310-Q+0-LGAP	NA	4.73	5.13	5.26	5.25	5.45	5.43	NA	5.21
Retail Value			(dol. / cwt)						
Baseline	34.10	33.55	33.50	34.45	35.65	36.95	38.20	NA	35.38
TT1010-Q+1+4-ASSMT1000	34.10	33.70	33.70	34.70	35.80	37.00	38.20	NA	35.52
TT1310-Q+0+4-ASSMT1000	34.10	37.00	37.00	38.00	39.10	40.30	41.50	NA	38.82
TT1310-Q+0-LGAP	34.10	36.60	36.60	37.60	38.70	39.90	41.10	NA	38.42
Milk Production			(billion pounds)						
Baseline	150.0	151.4	153.9	156.9	158.5	159.9	161.0	941.6	156.9
TT1010-Q+1+4-ASSMT1000	150.0	149.1	150.9	153.5	156.2	159.3	161.0	930.0	155.0
TT1310-Q+0+4-ASSMT1000	150.0	141.9	143.6	146.0	148.7	151.7	153.4	885.3	147.6
TT1310-Q+0-LGAP	150.0	147.8	151.2	152.7	156.1	156.8	158.2	922.8	153.8

Table 5 (cont.): Comparison of two-tier pricing programs with baseline

Item	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995	FY 1996	FY 1997	FY 1992-97 Cum.	FY 1992-97 Avg.
Commercial Use			(billion pounds)						
Baseline	140.5	144.9	146.8	149.5	152.0	154.9	156.5	904.6	150.8
TT1010-Q+1+4-ASSMT1000	140.5	144.6	146.4	149.0	151.7	154.8	156.5	903.0	150.5
TT1310-Q+0+4-ASSMT1000	140.5	138.4	140.1	142.5	145.2	148.2	149.9	864.3	144.1
TT1310-Q+0-LGAP	140.5	139.7	141.4	143.8	146.5	149.5	151.2	872.1	145.4
Govt. Purchases M.E. Milkfat			(billion pounds)						
Baseline	9.8	7.0	7.6	7.9	7.0	5.5	5.0	40.0	6.7
TT1010-Q+1+4-ASSMT1000	9.8	5.0	5.0	5.0	5.0	5.0	5.0	30.0	5.0
TT1310-Q+0+4-ASSMT1000	9.8	4.0	4.0	4.0	4.0	4.0	4.0	24.0	4.0
TT1310-Q+0-LGAP	9.8	8.7	10.3	9.4	10.1	7.8	7.6	53.9	9.0
CCC plus FNS Expenditures			(million dollars)						
Baseline	982.2	514.2	522.2	543.2	511.2	526.2	513.2	3,130.2	521.7
TT1010-Q+1+4-ASSMT1000	982.2	334.4	301.9	310.7	306.3	442.4	474.4	2,170.1	361.7
TT1310-Q+0+4-ASSMT1000	982.2	346.3	315.1	312.3	309.3	432.2	474.2	2,189.4	364.9
TT1310-Q+0-LGAP	982.2	481.4	526.1	479.5	522.3	489.9	495.9	2,995.1	499.2
CCC Receipts from Assessments			(million dollars)						
Baseline	55.5	144.7	226.9	257.7	196.3	44.0	0.0	869.6	144.9
TT1010-Q+1+4-ASSMT1000	55.5	142.5	167.4	170.3	173.4	44.2	0.0	697.8	116.3
TT1310-Q+0+4-ASSMT1000	55.5	135.5	159.2	161.9	164.9	42.0	0.0	663.5	110.6
TT1310-Q+0-LGAP	55.5	551.8	697.4	665.0	705.4	468.2	411.1	3,498.9	583.2
Farm Cash Receipts 2/			(million dollars)						
Baseline	17,250	17,250	17,380	17,620	18,020	18,500	18,750	107,520	17,920
TT1010-Q+1+4-ASSMT1000	17,250	17,206	17,393	17,696	18,011	18,505	18,750	107,561	17,927
TT1310-Q+0+4-ASSMT1000	17,250	20,975	21,207	21,574	21,970	22,550	22,843	131,119	21,853
TT1310-Q+0-LGAP	17,250	21,284	21,748	21,976	22,466	22,699	22,954	133,127	22,188
Retail Cost			(million dollars)						
Baseline	47,920	48,610	49,190	51,490	54,180	57,230	59,770	320,470	53,412
TT1010-Q+1+4-ASSMT1000	47,920	48,736	49,343	51,707	54,310	57,276	59,783	321,155	53,526
TT1310-Q+0+4-ASSMT1000	47,920	51,211	51,836	54,168	56,769	59,732	62,200	335,916	55,986
TT1310-Q+0-LGAP	47,920	51,116	51,739	54,080	56,687	59,657	62,136	335,415	55,903

KEY: TT, Two-tier pricing program; Q+x+x, Quota equals commercial use, plus FNS,plus CCC surplus.
ASSMT1000, Second tier assessment of $10.00 per cwt.
GAP, Second tier assessment equal to the support price minus the international price.
LGAP, Second tier assessment set at level to equalize Gov't cost with baseline.
1010 and 1310 equals first tier support levels of $10.10 and $13.10 per cwt.

1/ First assessment: $.05 per cwt. for CY91, $.1125 per cwt., Jan. 92-Dec. 1995.
Second assessment: Amount necessary to reduce purchase cost below cost of purchasing 7 billion pounds.

2/ Farm cash receipts plus diversion or deficiency payments net of assessments.

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IX. Milk Marketing Diversion Programs

General Structure

- A milk diversion program provides payments to dairy producers in return for voluntary reductions in production.
- The payments are not necessarily dependent on market prices; they may be administratively determined. The receipt of payments does depend on reductions in production.
- The reductions would be determined by establishing producer bases from which the reductions would be taken. The base is most often defined as producer marketings during some specified period of time. In this study, the base was FY 1990. Provisions for new entrants and reinstatement of base for producers who may have dropped out of the program, but wish to enter again would be established, as would rules regarding the transfer of base.
- The voluntary nature of the diversion program implies that reductions would be made on a bid basis. All producers reducing production by the same amount would receive the same per unit diversion payment.
- The program would be triggered if projected purchases by the CCC were above a predetermined level (in this study 6 billion pounds, M.E. total solids).
- The program is to be operated concurrently with continued purchases of manufactured dairy products by the Government through CCC to support the milk price, although such a linkage is not absolutely necessary. The support price could be the current $10.10 per hundredweight level of the FACT ACT such as is in Option MD–1010, but other support prices were considered; a $13.10 support price program alternative is included in this report (MD–1310–ASSMT).
- The cost of the diversion program could be funded by producer assessments made on all producers or only on nonparticipants. The assessment could be adjustable to obtain the dollars needed to pay the support while reducing production to levels consistent with desired CCC purchase levels. If control of Government outlays is a goal of the program, assessments would be necessary.

Elements of Submitted Proposals

Support Price

The support price in half of the submitted proposals was the current $10.10 per hundredweight. Other proposals offered were: unspecified, but above $10.10 (in 2 proposals), and $13.10 (1 proposal).

Payment to Participants

- Payments depend on the percentage reductions of a base marketing level taken by producers. Reductions in base of between 5 and 10 percent were proposed. The base reductions were generally to be on a bid basis. To limit the production lost in any one area, reduction limits could be imposed on an area by area basis. Alternatively, no area by area quota would need to be introduced, but certain communities could be adversely affected.
- Proposed payments to producers ranged from $0.50 to $3.90 per hundredweight on marketings, depending on the percentage reduction of milk marketing base taken.
- One proposal called for payments based on the difference between a target price and the support price. The same proposal suggested yearly adjustment of the target price by the same indices used to adjust Federal salaries.
- Payments were based on an even payment schedule per unit of reduction and a declining payment schedule per unit of production. Payment schemes could be developed to include increasing payment schedules or schemes with payment schedules increasing to a certain percent reduction in milk production and then decreasing.
- One proposal suggested a combination of assessment and refunds, where applicable, plus a lump sum payment of $10,000 to participant producers. This proposal required participants to hold production to 101 percent or less of the previous year's production.

Assessments

- All but one proposal included producer assessments. Some required assessments of everyone with program participants receiving a refund for meeting program requirements. Others required assessments to be paid only by nonparticipants. Proposed assessment levels, where specified, ranged up to $0.55 per hundredweight.
- Several proposals assumed the assessment would be adjustable to obtain the dollars needed to pay the support or target price and reduce production to levels consistent with desired CCC purchase levels.
- One proposal called for handlers and/or government to pay the assessment to a superpool from which diversion program participants would receive payments. If the handlers pay the assessment to the superpool, then consumers pay higher milk prices. If the government pays the assessment, then taxpayers ultimately fund the program. The proponents of this proposal suggested that the program begin with the government paying most of the assessment in the first year, and by the end of 5 years, the handler paying all of the assessment so consumers would not as readily notice the rising price of milk.

Bases-Marketing History

- Four options were proposed: the most recent 12-month period (1990); the most recent 12-month period or the average of the last two years; the average of 1986–90 or of the most recent years, if not in operation in 1986; and selection of one year: 1985, 1986, or 1987.
- One proposal defined rules for new entrants and reinstitution of base for past participants: i. Two years marketings for new participants, and ii. Either original base or last two years for past participants.
- Of those proposals mentioning transfers of base, only one would permit transferability of base under some conditions.
- One proposal permitting base transfer suggested that base should remain within the region in which it has been established, unless no one in the region is willing to acquire it.

Purchase Program

- All proposals called for continuing the purchase program. One proposal called for limiting purchases to 4–6 billion pounds M.E., milkfat basis; another set the limit at 1 billion pounds M.E., milkfat basis. Others left program purchase decisions as stated in the FACT ACT.

Cost Objectives

- Unspecified in most proposals, although one proposal did suggest limiting government outlays to $725 million. One proposal stated that assessments should cover the cost of the diversion payments.

Milk Marketing Diversion Program Analyzed

Two milk marketing diversion program options were studied. The first option, MD1010, determined the impacts at the current level of price support, $10.10 per hundredweight of milk. MD1010 assumed a 5 percent reduction was required for $0.55 per hundredweight diversion payment. No assessment was required in MD1010.

The second milk diversion program option, MD1310–ASSMT, provided income enhancement with a support price of $13.10 per hundredweight. MD1310–ASSMT assumed a 10 percent reduction for a $1.10 diversion payment. A variable assessment was incorporated to maintain baseline government costs.

See table 6 at the end of this chapter for a summary of results.

MD1010

Support price	$10.10 per hundredweight for manufacturing grade milk.
Purchase program	CCC and FNS purchase program continued at baseline rates.
Diversion payment	$0.55 per hundredweight of milk marketings.
Minimum marketing reduction.	5% reduction from base required.
Additional assessments	None.

Estimation of Impacts

(A) The ability of the program to limit Government purchases of milk products to 6,000,000,000 pounds (milk equivalent, total milk solids basis) in a calendar year.

Government purchases are projected to be below 6.0 billion pounds in all years averaging 4.9 billion over the analysis period, or 1.8 billion pounds below the baseline. However, the ability of the program to limit government purchases depends on many highly uncertain factors, such as the level of program participation, projections of milk marketings and commercial use in the absence of the program, and the extent to which participating farmers base reflect marketings that would have occurred had they not been in the program.

(B) The speed and effectiveness of reducing excess milk production.

About 20 percent of producers are expected to reduce marketings by 5 percent below their 1989/90 base marketings for the 1991/92 through 1994/95 marketing years. No diversion program is assumed for the 1995/96 and 1996/97 marketing years, since CCC removals are projected to be below 6.0 billion pounds for those marketing years. Milk production is expected to average 2.0 billion pounds lower compared to the baseline over the six year period and 3.1 billion pounds lower for the four years that the diversion program is triggered.

(C) The effectiveness in sustaining reduced milk production for at least a 5-year period with and without the continuation of the program.

The program continues in operation for the first 4 years of the analysis period. Although not reflected in the analysis, those farmers that have reduced production or are planning to do so are the most likely to participate in a milk diversion program. Thus, some farmers will receive diversion payments for making little, if any, adjustment in their actual marketing plans. If milk prices rise, the incentive to participate in the program is reduced moderately.

(D) The regional impact on milk prices, producer revenue, and milk supplies.

See chapter X for a discussion of the implications of milk inventory management programs on the regional milk prices, producer revenue, and milk supplies.

(E) The impact on national producer income and Government expenditures.

Farm cash receipts averaged $18.0 billion per year for the analysis period, slightly higher than under the baseline. A diversion payment of $0.55 per hundredweight on all milk marketings of producers who reduced marketings by five percent added $151 million per year to cash receipts in four of the six years in the analysis period. During FY 1996 and FY 1997 there was no diversion program in effect and therefore no payments. Diversion payments offset loses in cash receipts due to lower marketings in four years.

Government expenditures, CCC costs and FNS costs, averaged $470 million for the analysis period, slightly below baseline. Savings came from reduced CCC purchase costs which more than offset the cost of the diversion payments.

This option would result in minor increases in Food Assistance Program costs. Food Stamp Program costs would increase about $15 million on average annually. Child Nutrition Program costs could rise by $10 million and the WIC program would need an additional $5 million on average to maintain services to the same number of participants.

(F) The impact on the rural economy and maintaining family farms.

See chapter XI for a discussion of the implications of inventory management programs on the rural economy and maintaining family farms.

(G) The impact on the availability of wholesome dairy products for domestic and foreign nutrition and food assistance programs.

With support prices at $10.10 per hundredweight, the diversion program with moderate payments and reduction requirements would result in market prices only 10 to 20 cents per hundredweight above current program levels.

(H) Technological innovations.

See chapter XII for additional discussion of the impact of inventory management programs on the adoption of technology.

(I) The effectiveness in reducing butter fat production and increasing protein content in milk.

This program relies upon CCC in establishing purchase prices for butter and nonfat dry milk to send price signals to dairy farmers concerning the value of milkfat and nonfat solids (protein). CCC policy is to continuously monitor purchases of surplus butter and nonfat dry milk. As necessary, with consideration of CCC purchase costs, market impact and prices stability, CCC will make purchase price adjustments to move its purchases of butter and nonfat dry milk in the direction of alignment with their yields from whole milk.

(J) The impact of temporary increases and decreases of milk production.

An unforeseen increase (decrease) in milk production by nonparticipating producers which raised milk production an additional 2 percent in FY 1992 would result in about a 2 percent decline in the average price to farmers and a corresponding decrease of about 0.6 percent in the average retail value. Total farm cash receipts would increase about 0.2 percent, but would benefit only nonparticipants. Government expenditures would increase about $0.2 billion. (See chapter XVI, Tables 11 and 12 for summary information.)

(K) The impact on the United States livestock industry.

The Milk Diversion program with a purchase program at $10.10 per hundredweight and no additional assessment has little impact on the livestock industry over the period of the study. However, year-to-year changes are important. See appendix C for more details.

(L)(1) The consistency of the program with international obligations and the impacts on international trade.

By either controlling production to more nearly meet domestic market needs (at the $10.10 support price) or, alternatively, raising the effective all milk price to relatively high levels (at the $13.10 support price), the milk diversion programs studied are not export market oriented. Import protection would be needed to prevent the domestic price from being undercut by imports. Continuation of the CCC surplus dairy product purchase program would possibly leave CCC with the occasional need to dispose of its accumulation of excess dairy products through overseas sales.

A $10.10 support price restrains the all milk price level, and the excess available for export will be minimal. Conversely, at the $13.10 support price, a large excess is potentially available for export. However, the much higher effective all milk price will largely preclude private sector export sales opportunities for the increased milk output. An export program of accumulated dairy product inventories

by CCC may be necessary under this proposal.

Uruguay Round. Under a Uruguay Round agreement similar to the U.S. proposal, this option would yield an AMS that is about the same as the AMS for the current dairy program because the administered support level would be the same and the quantity supported about the same. However, since domestic prices are projected to rise under this option as compared to the baseline, we would be somewhat less able to meet our proposed Uruguay Round commitments to convert existing import restrictions to tariffs and to reduce them because imports would undercut the domestic price. Meeting our proposed export subsidy reduction commitments would be no different than with the current dairy program. With modestly higher domestic prices, the United States would be slightly less competitive on world markets than under the baseline scenario.

(L)(2) The impact on consumers and the consumption of milk and milk products, including consumer costs.

Consumers would not be significantly affected by a diversion program with $10.10 support prices and modest diversion payments/requirements. Dairy product prices would remain about 10 to 20 cents per hundredweight above current program baseline levels. Consumption of dairy products would be lower than with the current program. Total consumer expenditures for dairy products would be roughly $100 to $150 million per year higher than projected levels for the current program.

(L)(3) The effect on long term economic efficiency of the U.S. dairy industry, as well as competitiveness with non-dairy products.

See chapter XV for a discussion of the long-run implications of milk inventory management programs.

MD1310–ASSMT

Support price	$13.10 per hundredweight for manufacturing grade milk.
Purchase program	CCC purchase program continued at baseline rates. FNS buys no product.
Diversion payment	$1.10 per hundredweight of milk marketings.
Minimum marketing reduction.	10% reduction required from base.
Additional assessments	Variable on all milk marketings to maintain program cost at current baseline.

Estimation of Impacts

(A) The ability of the program to limit Government purchases of milk products to 6,000,000,000 pounds (milk equivalent, total milk solids basis) in a calendar year.

Government purchases averaged more than 13 billion pounds a year for the study period.

(B) The speed and effectiveness of reducing excess milk production.

This program option did not cause a reduction in excess milk marketings. Compared to the baseline, Government purchases averaged more than 7 billion pounds higher each year.

(C) The effectiveness in sustaining reduced milk production for at least a 5-year period with and without the continuation of the program.

This program was in effect for the full 6-year study period.

(D) The regional impact on milk prices, producer revenue, and milk supplies.

See chapter X for a discussion of the impacts of milk inventory management programs on the regional milk prices, producer revenue, and milk supplies.

(E) The impact on national producer income and Government expenditures.

Farm cash receipts averaged $20.8 billion per year for the analysis period, $2.9 billion higher than under the baseline. A diversion payment of $1.10 per hundredweight on all milk marketings of producers who reduced marketings by 10 percent added $215 million per year to cash receipts each year. The larger contributor to cash receipts, however, was the higher market price resulting from the $13.10 support level which also resulted in milk marketings that averaged 3.3 billion pounds per year higher. These additions more than offset the cost of the assessment on dairy farmers which averaged $1.4 billion per year.

Government expenditures averaged $500.2 million, after assessment, for the analysis period, about the same as the baseline.

This option can result in significant increases in Food Assistance Program costs. Food Stamp Program costs increase an average of $200 million annually during Fiscal Years 1993–97. Child Nutrition Program costs could rise by about $80 million. The WIC program would require an additional $35 million annually to maintain participation. Without this increase in funding, approximately 65,000 fewer at-risk participants would be served each month.

(F) The impact on the rural economy and maintaining family farms.

See chapter XI for a discussion of the implications of milk inventory management programs on the rural economy and maintaining family farms.

(G) The impact on the availability of wholesome dairy products for domestic and foreign nutrition and food assistance programs.

With a continued CCC Purchase program at $13.10 per hundredweight anticipated diversion reductions would be insufficient to prevent large CCC surplus removals averaging nearly 14 billion lbs. M.E. per year. Dairy products would be available for possible donation to food assistance programs in quantities significantly in excess of normal program needs. FNS would expend no funds at this support price level.

Market prices averaging about $2.25 per hundredweight above current program baseline levels would substantially increase costs for food assistance programs affected by retail dairy product prices. Programs utilizing dairy products would need to reduce utilization of dairy products or reduce the number of participants served unless increased funding is provided or excess CCC stocks were donated.

(H) Technological innovations.

See chapter XII for discussion of the impact of milk inventory management programs on the adoption of technology.

(I) The effectiveness in reducing butter fat production and increasing protein content in milk.

This program relies upon CCC in establishing purchase prices for butter and nonfat dry milk to send price signals to dairy farmers concerning the value of milkfat and nonfat solids (protein). CCC policy is to continuously monitor purchases of surplus butter and nonfat dry milk. As necessary, with consideration of CCC purchase costs, market impact and prices stability, CCC will make purchase price adjustments to move its purchases of butter and nonfat dry milk in the direction of alignment with their yields from whole milk.

(J) The impact of temporary increases and decreases of milk production.

An unforeseen increase (decrease) in milk production results in a i.5 percent decrease in the effective farm price, but raises farm receipts by $0.2 billion and Government expenditures by $0.3 billion. The average retail value falls about 0.3 percent. (See chapter XVI, tables 11 and 12 for summary information.)

(K) The impact on the United States livestock industry.

The Milk Diversion program with a purchase program at $13.10 per hundredweight and a variable

assessment has little impact on the livestock industry. However, year-to-year changes are important. See appendix C for more details.

(L)(1) The consistency of the program with international obligations and the impacts on international trade.

See previous comments on the international competitiveness aspects of milk diversion programs.

Uruguay Round. Under a Uruguay Round agreement similar to the U.S. proposal, this option would yield an AMS that is much higher than the AMS for the current dairy program because the administered support level would be significantly higher even though the quantity supported is somewhat lower. With respect to market access commitments, since domestic prices are projected to rise significantly above the baseline, the level of import protection needed with this option is higher than with the current program. Therefore, the support program would occasionally be undermined if we meet our proposed Uruguay Round commitment to convert existing import restrictions to tariffs and to reduce them. If CCC increases sales on world markets, our proposed export subsidy reduction commitments would be problematic. With the high U.S. prices, the United States would be less competitive on world markets than under the baseline scenario.

(L)(2) The impact on consumers and the consumption of milk and milk products, including consumer costs.

Substantially higher retail prices would adversely affect consumers. Milk prices averaging about $2.20 per hundredweight above current projections for the next several years would represent an increase in retail prices of over 6 percent. Domestic consumption would be 2 to 3 percent below baseline levels. However, consumer expenditures for dairy products would be about $1.9 billion per year greater than with the current program. Low income consumers would be especially disadvantaged, particularly if food program assistance is not expanded to compensate for the higher prices.

(L)(3) The effect on long term economic efficiency of the U.S. dairy industry, as well as competitiveness with non-dairy products.

See chapter XV for a discussion of the long-run implications of milk inventory management programs.

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Table 6: Comparison of milk marketing diversion programs with baseline

Item	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995	FY 1996	FY 1997	FY 1992-97 Cum.	FY 1992-97 Avg.
Support price (average)			(dol. / cwt)						
Baseline	10.10	10.10	10.10	10.10	10.10	10.10	10.10	NA	10.10
MD1010	10.10	10.10	10.10	10.10	10.10	10.10	10.10	NA	10.10
MD1310-ASSMT	10.10	13.10	13.10	13.10	13.10	13.10	13.10	NA	13.10
All Milk Price			(dol. / cwt)						
Baseline	11.60	11.55	11.50	11.45	11.55	11.65	11.70	NA	11.57
MD1010	11.60	11.70	11.70	11.70	11.90	11.65	11.70	NA	11.73
MD1310-ASSMT	11.60	13.80	13.80	13.80	13.80	13.80	13.80	NA	13.80
Effective All Milk Price			(dol. / cwt)						
Baseline	11.56	11.45	11.35	11.28	11.42	11.62	11.70	NA	11.47
MD1010	11.56	11.60	11.59	11.59	11.79	11.62	11.70	NA	11.65
MD1310-ASSMT	11.56	13.10	12.89	12.79	12.79	12.97	13.05	NA	12.93
Assessment on Marketings 1/			(dol. / cwt)						
Baseline	0.0375	0.0969	0.1125	0.1125	0.1125	0.0281	0.0000	NA	0.0771
			0.0370	0.0540	0.0130			NA	0.0173
MD1010	0.0375	0.0969	0.1125	0.1125	0.1125	0.0281	0.0000	NA	0.0771
MD1310-ASSMT	0.0400	0.7000	0.9100	1.0100	1.0100	0.8300	0.7500	NA	0.8683
Retail Value			(dol. / cwt)						
Baseline	34.10	33.55	33.50	34.45	35.65	36.95	38.20	NA	35.38
MD1010	34.10	33.70	33.70	34.70	36.00	36.95	38.20	NA	35.54
MD1310-ASSMT	34.10	35.80	35.80	36.80	37.90	39.10	40.30	NA	37.62
Milk Production			(billion pounds)						
Baseline	150.0	151.4	153.9	156.9	158.5	159.9	161.0	941.6	156.9
MD1010	150.0	149.1	151.1	153.5	154.8	159.9	161.0	929.4	154.9
MD1310-ASSMT	150.0	151.5	156.4	160.9	163.1	164.1	165.0	961.0	160.2
Commercial Use			(billion pounds)						
Baseline	140.5	144.9	146.8	149.5	152.0	154.9	156.5	904.6	150.8
MD1010	140.5	144.6	146.4	149.0	151.3	154.9	156.5	902.7	150.5
MD1310-ASSMT	140.5	141.2	142.9	145.4	148.1	151.1	152.8	881.5	146.9

Table 6 (con't): Comparison of milk marketing diversion programs with baseline

Item	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995	FY 1996	FY 1997	FY 1992-97 Cum.	FY 1992-97 Avg.
Govt. Purchases M.E. Milkfat			(billion pounds)						
Baseline	9.8	7.0	7.6	7.9	7.0	5.5	5.0	40.0	6.7
MD1010	9.8	4.9	5.2	5.0	3.9	5.5	5.0	29.5	4.9
MD1310-ASSMT	9.8	10.9	14.0	16.0	15.6	13.5	12.7	82.7	13.8
CCC plus FNS Expenditures			(million dollars)						
Baseline	982.2	514.2	522.2	543.2	511.2	526.2	513.2	3,130.2	521.7
MD1010	982.2	482.9	483.4	463.5	363.2	526.2	513.2	2,832.4	472.1
MD1310-ASSMT	982.2	473.5	507.8	541.1	498.5	490.0	490.1	3,001.0	500.2
CCC Receipts from Assessments			(million dollars)						
Baseline	55.0	144.7	226.9	257.7	196.3	44.0	0.0	869.6	144.9
MD1010	55.0	142.4	167.5	170.2	171.7	44.3	0.0	696.1	116.0
MD1310-ASSMT	55.0	1,041.4	1,407.9	1,607.4	1,630.4	1,341.5	1,221.8	8,250.4	1,375.1
Diversion payments 2/			(million dollars)						
Baseline	NA	NA	NA	NA	NA	NA	NA	NA	NA
MD1010	NA	151	151	151	151	0	0	604.0	100.7
MD1310-ASSMT	NA	215	215	215	215	215	215	1,290.0	215.0
Farm Cash Receipts 2/			(million dollars)						
Baseline	17,250	17,250	17,380	17,620	18,020	18,500	18,750	107,520	17,920
MD1010	17,250	17,349	17,416	17,700	18,146	18,500	18,750	107,861	17,977
MD1310-ASSMT	17,250	19,945	20,253	20,674	20,968	21,392	21,637	124,869	20,812
Retail Cost			(million dollars)						
Baseline	47,920	48,610	49,190	51,490	54,180	57,230	59,770	320,470	53,412
MD1010	47,920	48,736	49,343	51,707	54,471	57,236	59,783	321,276	53,546
MD1310-ASSMT	47,920	50,537	51,157	53,506	56,114	59,085	61,573	331,972	55,329

KEY: MD, Milk marketing diversion program; ASSMT, Assessment on all milk marketings.
1010 and 1310 equals support levels of $10.10 and $13.10 per cwt.

1/ First assessment: $.05 per cwt. for CY91, $.1125 per cwt., Jan. 92-Dec. 1995.
Second assessment: Amount necessary to reduce purchase cost below cost of purchasing 7 billion pounds.

2/ Farm cash receipts plus diversion or deficiency payments net of assessments.

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X. Regional Impacts of Milk Inventory Management Programs

Study continues on the regional impacts of milk inventory management programs and program options. Additional information will be included in the final report. A preliminary analysis follows.

Overview

A shift in milk production from the traditional dairy areas of the Upper Midwest and Northeast to the West and Southwest began about three decades ago and has accelerated in the last 20 years (Table 7). Given the shift in the location of the U.S. dairy industry, any program requiring the establishment of producer bases could have substantial regional effects. In general, establishing base favors milk producers in regions with stable or declining milk production and adversely affects producers in regions growing in milk production relative to the U.S. average. The magnitude of the overall and regional effects would depend on:

- Whether bases are fixed or periodically adjusted;
- Whether or not the bases are transferable;
- Whether bases are owned by the producer or the government;
- Criteria used in transferring bases if owned by either the government or the producer;
- Numerous other considerations and problems associated with bases.

Experiences with adjustable bases (Class I base plans) in some Federal milk marketing orders in the late 1960's and early 1970's showed that because of the "race for base phenomenon" milk production in markets having these programs tended to expand more rapidly than in the absence of bases. Experience with base programs such as those existing in California, Canada, and the European Community (EC) shows that bases tend to take on substantial value. Once capitalization of base in farm assets becomes a fact, it is very difficult to abandon or modify the program. The tobacco and peanut programs are prime U.S. examples.

Regional Effects

Target Price/Deficiency Payment

Eligibility for payments may require producers to reduce marketings, in which case, individual milk marketing bases would be required. Deficiency payment rates would not be known until the end of the year, but would be the same for all producers. Regional participation may vary greatly since the program is voluntary and all producers receive the same payment rate for given cuts in marketings, regardless of location. This could have an adverse effect on both the fluid and the manufactured dairy processing industries.

The participation in and the effects of target price/deficiency programs would be expected to be greatest in areas of large numbers of farmers or greatest production. Current (1990) regional production shares are shown in Table 8. Participation might be expected to be greatest in the Lake States and the Northeast, followed by the Southwest. A review of the milk diversion program of 1984 (MDP) may provide some insight into participation in a target price/deficiency program. On the basis of farmer sign-up, the Lake States and Prairie were the regions with the largest participation in the MDP; the Western and Southeast regions had the lowest rate. On the basis of milk production diverted, the Lake States and the Prairie also led the rankings but states in the Western regions, the Pacific Northwest and the Southwest moved to third place (California, Washington, and Oregon).

Regional effects of the program will also hinge on the issues related to bases noted in the overview and perceptions of producers (and others) as to "where the surplus problem" exists. The surplus issue can be examined by a study of data on regional percentages of production expansion (or contraction). That data suggests that the Western regions will be under pressure to participate. However, percentage data can be misleading—the data on volume changes is more telling. Many of the states exhibiting large percentage gains produce relatively small quantities of milk.

The regional effects of the base issues can make or break the program. If base is not transferable or is only transferable within regions, a system is established that could prevent movement of milk production to areas of comparative advantage. Production patterns are relatively locked into those in place when the program is implemented. Regions experiencing growth are not likely to favor this type of program.

Re-classification (Class IV)

Regional blend prices follow a general pattern of low to high moving from the Northern and Western regions toward the Southeast (Table 9). The addition of a Class IV category for milk used in manufactured dairy products for export will result in lower blend prices in all regions. Equalizing export costs through a national pool results in regions with small or no export sales subsidizing the sale of exports from regions with large export sales. If there was not a national pool for equalizing export costs, then regions with high blend prices would face greater reductions than those with low blend prices.

Regions expected to benefit are those which have large pools of milk for manufacturing, i.e., those with low fluid utilization rates. As Table 9 indicates, the two North Central regions and the Pacific Northwest have the lowest fluid use, followed by the Mountain and Northeastern regions. The benefits in these regions are tempered somewhat by the fact that some have large groups of Grade B producers who do not gain direct benefits from classified pricing in the first place, notably the Lake States (Table 7). Regions with higher fluid use will likely oppose such a plan.

A major difference between this and the current dairy programs is the addition of the international market to the pricing of U.S. milk production. International buyers of dairy products become the residual market for U.S. producers, not the CCC. Thus, U.S. producers will likely be faced with more price volatility given that international markets are affected by many more "players" and other factors than CCC purchasing policy. States like California and Washington with expanding milk production and substantial capacity for manufacturing butter and nonfat dry milk may be favored by this alternative.

The regional effects of the reclassification program are not dependent on base issues. In effect, this is a mandatory program—producers cannot decide whether to accept or reject the blend price they face, a price which includes an international component.

Two-Tier Pricing

In general, two-tier pricing programs require the establishment of individual producer milk marketing bases and quotas. The quotas vary depending upon estimates of market needs. Producers receive the market price for marketings covered by quota and a separate reduced price for milk marketed in excess of quota. The lower, over-quota price is determined by subtracting an assessment, which may or may not be linked to the international price, from the market price. Since the assessment is the same on all over-quota milk, the effective price received for over-quota marketings will vary by region and by producer.

The base issues are important considerations for the regional implications of the two-tier pricing plan. If the assessment is linked to the international price, the variability of

international prices becomes a factor, although not as directly as in the case of reclassification programs. Farmers in all regions may prefer assessments that determine the second tier price not be linked to the international price.

Milk Marketing Diversion

Eligibility for diversion payments would be similar to the target price/deficiency payment programs, except the payment rate and required reduction are known at the beginning of the year. Thus program costs can be determined with some accuracy. Regional participation rates may vary substantially, which could have an adverse effect on both the fluid and the manufactured dairy processing industries.

The participation in and the effects of diversion programs would be expected to be greatest in areas of large numbers of farmers or greatest production. A review of the milk diversion program of 1984 (MDP) offers a test of that hypothesis. On the basis of farmer sign-up, the Lake States and the Prairie were the regions with the largest participation in the MDP; the Western and Southern regions had the lowest participation rates. The Lake States and the Prairie also led the rankings on the basis of milk diverted but Western regions moved to third place.

The regional effects will also hinge on the issues related to bases noted in the overview and perceptions of producers (and others) as to "where the surplus problem" exists, as in the case of the target price/deficiency program. As with the target price/deficiency program, the Western regions will be under pressure to participate. The regional effects of the base issues can make or break the program, again as with the target price/deficiency program.

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Table 7: New Regional Groupings for the Milk Inventory Management program evaluation

Selected Years	1965	1970	1975	1980	1985	1990	1990 Grade B 1/	Regional Grade B 2/
State and region			Million pounds					percent
Maine	660	619	629	665	673	614	0	
New Hampshire	394	356	336	347	364	303	0	
Vermont	2055	1970	2009	2289	2410	2368	0	
Massachusetts	790	658	601	570	596	461	0	
Rhode Island	103	75	63	47	44	34	0	
Connecticut	713	661	608	612	620	515	0	
New York	11033	10341	9964	10974	11732	11102	0	
New Jersey	1034	730	528	494	487	353	0	
Pennsylvania	7206	7124	7140	8496	9983	9933	99	
Delaware	156	130	127	125	147	122	0	
Maryland	1559	1560	1550	1520	1625	1366	0	
Northeast	25703	24224	23555	26139	28681	27171	99	0.4
Michigan	5528	4602	4411	4970	5568	5233	105	
Wisconsin	18848	18435	18900	22380	24700	24400	4148	
Minnesota	10731	9636	8946	9535	10835	10006	2602	
Iowa	5945	4670	3893	3994	4058	4330	1082	
Lake States	41052	37343	36150	40879	45161	43969	7937	18.1
Ohio	5200	4420	4259	4310	4870	4495	360	
Indiana	2954	2382	2210	2210	2358	2276	228	
Illinois	3844	2850	2446	2540	2721	2820	367	
Prairie	11998	9652	8915	9060	9949	9591	955	10.0
Colorado	832	856	845	858	1105	1323	0	
Montana	378	326	278	314	349	338	7	
Nebraska	1821	1566	1431	1315	1340	1345	350	
North Dakota	1467	1065	917	939	1120	1103	485	
South Dakota	1580	1578	1556	1669	1744	1716	807	
Wyoming	175	140	110	132	134	123	38	
Northern Plains	6253	5531	5137	5227	5792	5948	1687	28.4
Arkansas	722	685	707	740	848	817	25	
Kansas	1749	1740	1392	1330	1285	1245	124	
Missouri	3243	3012	2840	2826	2870	3040	334	
Oklahoma	1314	1250	1060	1110	1183	1245	50	
Ozarks	7028	6687	5999	6006	6186	6347	533	8.4
Virginia	1829	1749	1755	1974	2102	2004	60	
West Virginia	500	374	350	350	382	270	5	
North Carolina	1502	1485	1498	1631	1748	1522	46	
Kentucky	2568	2471	2319	2219	2222	2255	180	
Tennessee	2171	2123	2031	2241	2235	2197	154	
South Carolina	518	512	512	541	576	446	0	
Georgia	991	1182	1221	1367	1300	1440	0	
Florida	1390	1641	1956	2028	2038	2528	0	
Alabama	838	816	686	610	547	526	0	
Mississippi	1136	1049	876	817	876	749	15	
South	13443	13402	13204	13778	14026	13937	460	3.3
Louisiana	1002	1089	1054	1012	911	940	0	
New Mexico	292	304	366	602	1078	1524	0	
Texas	2973	3065	3206	3625	3968	5539	0	
South Central	4267	4458	4626	5239	5957	8003	0	0.0
Arizona	529	585	840	1031	1348	1640	0	
California	8480	9457	10853	13577	16762	20953	419	
Utah	736	819	919	1028	1135	1267	228	
Nevada	134	142	168	219	242	332	0	
Southwest	9879	11003	12780	15855	19487	24192	647	2.7
Washington	1932	2091	2322	2942	3750	4398	0	
Oregon	980	970	990	1169	1438	1611	32	
Idaho	1475	1490	1555	1947	2421	2949	826	
Pacific Northwest	4387	4551	4867	6058	7609	8958	858	9.6
Alaska	21	19	17	13	22	17	0	
Hawaii	149	137	146	152	142	151	0	
Far Away	170	156	163	165	164	168	0	0.0
UNITED STATES	124180	117007	115396	128406	143012	148284	13176	8.9

1/ Grade B milk production.
2/ Grade B production as percent of total regional production.

Table 8: Regional shares of U.S. production 1/

Selected Years	1965	1970	1975	1980	1985	1990	1990 Grade B 2/
Region	Percent of U.S. total						
Northeast	20.7	20.7	20.4	20.4	20.1	18.3	0.8
Lake States	33.1	31.9	31.3	31.8	31.6	29.7	60.2
Prairie	9.7	8.2	7.7	7.1	7.0	6.5	7.2
Northern Plains	5.0	4.7	4.5	4.1	4.1	4.0	12.8
Ozarks	5.7	5.7	5.2	4.7	4.3	4.3	4.0
South	10.8	11.5	11.4	10.7	9.8	9.4	3.5
South Central	3.4	3.8	4.0	4.1	4.2	5.4	0.0
Southwest	8.0	9.4	11.1	12.3	13.6	16.3	4.9
Pacific Northwest	3.5	3.9	4.2	4.7	5.3	6.0	6.5
"Far Away" 3/	0.1	0.1	0.1	0.1	0.1	0.1	0.0
U.S. 4/							8.9

1/ See Table 1 for states included in the regions.
2/ Regional Grade B production as percent of total U.S. Grade B production.
3/ Alaska and Hawaii
4/ 1990 Grade B production as percent of 1990 U.S. total production.

Table 9: Class I Price, Blend Price, and Class I Utilization by Federal Market Order Regions, 1989 and 1990.

Region	Class I Price		Blend Price		Class I Util.	
	1989 $/cwt	1990 $/cwt	1989 $/cwt	1990 $/cwt	1989 pct	1990 pct
North Atlantic	15.09	16.11	13.76	14.22	47.8	47.1
South Atlantic	15.63	16.66	15.17	16.05	85.4	84.7
East North Central	13.76	14.79	12.82	13.26	39.4	33.9
West North Central	13.44	14.45	12.37	12.91	25.9	25.1
East South Central	14.48	15.49	13.99	14.83	77.4	79.5
West South Central	15.12	16.14	14.01	14.49	56.5	53.7
Mountain	14.28	15.31	13.31	13.71	47.4	44.1
Pacific Northwest	13.84	14.87	12.95	13.31	37.5	35.8
All-Market Average	14.51	15.54	13.30	13.78	45.2	42.7

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XI. Rural Impacts of Milk Inventory Management Programs

Study continues on the impacts of milk inventory management programs and program options on the rural economy. Results will be provided in the final report.

XII. Milk Inventory Management Programs and Technological Innovations

Technological advances (broadly defined to include management) likely to affect the dairy industry are not exhausted. Improvements of traditional "physical" technologies, e.g. milking machines and bulk tanks, are likely to generate only marginal output increases or input cost reductions in the future. However, biotechnology and improved management could lead to significant input cost reductions and milk production increases.

Implementing of any one type of inventory management program will not necessarily slow technology development. Lower farm-level production input costs and increased output per cow are results of technological developments that producers generally desire. However, dairy farmers may alter technology adoption plans if it is not possible to realize the full benefits of the technology.

Incentives to adopt new technology or make better use of current technology are reduced under systems which constrain individual producer's supply of milk at a given price. The producer can adopt output-increasing technology only by reducing cow numbers. Fewer cows may imply lower costs, but fixed costs per unit of output do not change unless the physical plant is also reduced. Within the context of a fixed physical plant, fewer cows implies excess capacity, and its efficiency effects, which affect the financial position of the producer.

If the marketing base is transferrable, individual producers are in a position to take advantage of technological advances by obtaining base necessary to cover marketing increases due to technology. However, the capitalized cost of the acquired base needs to be considered by the producer in those cases where base is allowed to take on value. The redistribution of base among producers and or regions is a sensitive issue which would be exacerbated by technology considerations.

Processors gain from technologies that reduce the cost of their input, milk, but face a problem similar to producers. Full realization of cost savings associated with technology tends to foster expanded capacity which cannot be fully utilized since supplies of milk are steady or fixed under supply management type programs with individual producer bases. If milk inventory management programs do slow the shift of milk production from traditional dairy regions to the West and Southwest, then the expansion of the processing industry in those areas would be slowed as well. Capacity in declining milk production areas would be more fully utilized than under more market-oriented systems that allows the shift of milk production to areas of comparative advantage. However, total capacity utilization would be greater under a more market-oriented system because milk production and use would be higher.

XIII. Issues and Problems Associated With Bases and Quotas

Overview

Target price/deficiency programs, the diversion programs, and the two-tier pricing plans generally make reference to establishing producer bases. Base/quota plans are not new to the U.S. dairy industry, Class I base plans and quota systems were considered in some U.S. markets in the 1960's and early 1970's. However, base plans in U.S. markets generally have not been intended as supply control measures, unlike such plans in Canada and the European Community.

A base/quota plan gives producers who supplied a market during some designated period a "right" or "franchise" to continue supplying that market. Two primary uses of base plans are: (1) to affect the distribution of market revenues and (2) to control milk supplies. In order to control supplies, specific provisions must be included for limiting entry of new producers, limiting base revisions, and transferring bases.

Base or quota plans can range from relatively open supply adjustment plans, where producers can earn additional base by producing more than their base, to tightly closed plans where the total base is fixed. In tightly closed plans where base is owned by the producers, producers wishing to expand can obtain additional base only by purchasing it from its current owners or by receiving the base of exiting producers through a reassignment procedure. Such bases immediately have a monetary value.

A fairly closed base or quota system is necessary to an effective supply control plan. The supply control plan must also price milk produced over base or outside of quota low enough to make such production economically infeasible. A closed base plan might have a much different result in a high-cost, deficit region than in a low-cost, surplus region—even though the fundamental operation of the plans is the same.

A shift in milk production from the traditional dairy areas of the Upper Midwest and Northeast to the West and Southwest began about three decades ago and has accelerated in the last 20 years. Given the shift in the location of the U.S. dairy industry and the increasing size of the average dairy farm, any program requiring the establishment of producer bases could have substantial regional, state, and individual farm effects.

In general, establishing base favors milk producers with stable or declining milk production and adversely affects producers increasing milk production relative to the U.S. average. The magnitude of the overall effects on individual producers and on regional effects would depend on:

- Whether bases are fixed or periodically adjusted.

Fixed bases would be more restrictive on milk production expansion by individual producers.

- Whether or not the bases are transferable.

Depending on transfer rules, there is the question of whether bases could be transferred across states and regions to allow for regional adjustment.

- Who "owns" the base, the individual producer or the government.

If the government owns the base, it could limit availability of base to new producers and decide who is eligible to receive base by farm and region. Also if the government owns the base, there would be little likelihood that its value would be capitalized into production costs.

- The criteria used in transferring bases, if owned by either the government or the producer.

Transfer of base could be market-oriented as in Canada where base could likely gravitate to expanding regions and to large efficient producers. Government owned base could be shifted under more restrictive transfer rules.

- The period selected for calculations of bases.

The period would affect individual producers and regions depending on whether they were expanding, stable or contracting milk production.

- Monitoring and enforcement for noncompliance.

Base/quota programs would require substantial resources to enforce complaints.

- Numerous other considerations.

An example would be addressing the numerous "hardship" cases that are likely to be filed.

Experiences with adjustable bases (Class I base plans) in some Federal milk marketing orders in the late 1960's and early 1970's showed that the "race for base" phenomenon tended to lead to more rapidly expanding milk production in markets having these programs than in markets without the base plan. Analysis of base programs existing in California, Canada, and the European Community shows that bases tend to take on substantial value. Once capitalization of base in farm assets becomes a fact, it is very difficult to abandon or modify the program.

Strict supply management programs that do not allow milk production to shift to areas of comparative advantage raise the overall cost of milk production and will make the U.S. dairy industry less competitive in international markets than a more market-oriented pricing system. This phenomenon has been clearly demonstrated in both Canada and the European Community. Likewise, supply management programs that raise milk and dairy product prices to consumers also make milk and dairy products less competitive with other foods domestically.

Summary

Base or quota plans that allocate a given market among producers can range between the relatively open supply adjustment plans and tightly restricted supply control plans. To control supplies effectively if prices are maintained above market-clearing levels, there must be specific provisions for limiting entry of new producers, limiting base and quota revisions, and transferring bases and quotas.

The California quota plan was designed more as a way of preserving the Class I market for existing producers than as a supply control mechanism. In fact, milk supplies have grown faster in California in recent years than in most areas of the country even though the marginal value of milk is the Class IV (manufacturing milk or overbase) price. The overall impact on the system of California milk supplies is unclear.

In Canada, quotas on fluid and industrial milk deliveries have been reasonably successful in balancing milk supplies and demand, but large direct and indirect costs in the form of capitalized quota values, increased milk production costs, restricted resource adjustments, and income transfers from consumers to producers have been generated. The quota system which has been in effect in the European Community since 1984 has had the same general overall effects.

An important tradeoff occurs between use of supply control provisions that are effective at curtailing market supplies and capitalization of base or quota values. The amount of capitalization is directly related to the extent to which milk prices are supported above levels warranted by supply-demand conditions.

XIV. Self-Help Programs

There are two dimensions to the concept of self-help programs. The first is program administration and the second is program financing.

In terms of program administration, the question of autonomy is significant. Proponents of the self-help approach often note that since producer money pays for the program that producers also should have the authority to manage the program. Such an arrangement would be entirely possible in the setting of (1) no government involvement in the market place (with the exception of purchasing dairy products actually needed for assistance programs) and (2) producers contributing voluntarily to fund programs to enhance their positions.

The Capper-Volstead Act enables producers of agricultural commodities to voluntarily join together to market their products for the purpose of enhancing their income. Under this authority, and without any other government intervention, dairy farmers could join together and manage, without oversight, any of the programs considered in this report.

However, if the industry requires additional government intervention, either in the form of market intercession or legislative authority to enforce the collection of funds from dairy farmers to fund programs, then any industry administration of programs would have to be subject to government oversight.

Any government intercession which increases prices to consumers, by way of establishing minimum prices paid for milk, by enforcing product price discrimination, by purchasing surplus products, or by any other means, is a transfer of money from consumers to dairy farmers. This negates the argument that the industry should manage the program since it is funded with "dairy farmer" money.

Legislative authority compelling dairy farmers to contribute to the funding of programs requires government oversight even if such programs are designed for the sole benefit of dairy farmers. Whether specified of not, such legislation places a fiduciary responsibility upon the government.

Realizing the constraints noted above, the administration of any of the programs considered in this study likely would change little whether administered by the industry, with government oversight, or solely by the government.

The second dimension, program funding, does not clearly define the concept of "self-help," either. The current program requires assessment of producers to fund all costs over those associated with the purchases of 7.0 billion pounds, M.E. (total solids) of surplus dairy products during any year. This program, then, actually fits into the "self-help" concept, however, few of those espousing the self-help concept would advance the current program as a means of self-help. In actuality, each of the assessments on dairy farmers since the first 50-cent assessment of 1983, has been "self-help" in some degree. Without the periodic implementations of such assessments since that time, the dairy program likely would have taken a form that would have provided less benefits to dairy farmers.

XV. Long-Run Implications of Milk Inventory Management Programs

Earlier sections of the report contain discussions that are pertinent to the discussion of long-run effects of the various programs examined. In these cases, the long-run effects are magnified by fuller adjustment as the new policy environment affects investment decisions for land, technology development and adoption, and buildings. The effects would potentially be felt in trade relations, the structure of dairy farms and the dairy processing industry, and the location of milk production and the dairy processing industry.

If the United States adopts a program that leads to artificially higher producer and consumer prices, there would be long-term disadvantages for both producers and consumers. In the case of high consumer prices, there would be an incentive to develop high-quality substitute products to replace dairy products. Higher dairy products prices would lead to further searching for other beverages than milk, other spreads than butter, and so on. An analogous case is the U.S. sugar program, under which the high consumer prices led to development of high fructose corn syrup and low-calorie sweeteners that have severely eroded sugar's share of the U.S. sweetener market.

Programs that raise producer prices artificially ultimately lead to either higher production or supply controls. If production increases when markets are

already oversupplied at existing prices, the transfer to farmers must be paid by either consumers or the federal treasury. If consumers pay, demand will contract, adding further to surplus disposal costs. With prospects for further federal budget tightening in the future, the latter might be unsustainable.

Moreover, supply control (quota or base) arrangements can be problematical on at least two grounds: (1) They usually limit natural developments in regional comparative advantage nationally and internationally (see also the discussion of regional effects), and (2) quota rents become capitalized, leaving younger producers or future owners of quotas no better off and new entrants to the industry much worse off than under current policy. For the first generation, there is a windfall profit when the quotas are allocated. The key is what legal provisions are involved in the transfer of the quotas to future owners. Quotas have effects on farm structure. Small farms would be further disadvantaged by the increased capital requirements needed to grow. The westward and southwestward regional shifts that have been underway for decades would likely slow or stop depending on base and quota transfer rules. Generally high cost dairy operations would be maintained in business at the expense of low cost operations.

XVI. Summary of Analytical Results

Table 10 summarizes the analytical results of the supply and utilization analyses of the four types of milk inventory management programs (12 options) studied in this report. From left to right, this table presents impacts on the milk production industry, consumers and government.

Tables 11 and 12 present summaries of the impacts that might occur if the forecast of supply and demand conditions should be in error under each program option. Table 11 shows the impacts on producers, consumers and Government should an unforeseen event lead to milk marketings in FY 1992 being 2 percent greater than predicted. Table 13 shows similar impacts for milk marketings 2 percent less than predicted.

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Table 10: Summary of 6-year average impacts for programs studied

Program	Production	Effective All Milk Price	Farm Receipts 1/	Commercial use	Retail Value	Retail Cost	CCC Purchases	Government Expenditures
	Billion Pounds	$/Cwt.	Mil. $	Billion Pounds	$/Cwt.	Mil. $	Billion Pounds	Mil. $
Baseline	156.9	11.47	17,920	150.8	35.38	53,412	6.7	522
TP1120-NQ	156.3	9.04	17,253	155.8	32.93	51,388	1.0	3,158
TP1220-Q-PP1010	153.3	11.77	18,152	150.2	35.66	53,644	3.6	489
TP1320-Q	148.9	12.43	18,944	149.2	36.33	54,257	0.3	518
TP1420-Q	146.9	13.46	20,215	147.4	37.36	55,132	0.0	521
RECLASS-1050	157.1	11.54	18,042	150.1	35.71	53,679	1.0	8.9
RECLASS-1050-PPWP	157.1	11.54	18,045	149.6	35.71	53,501	7.9	404.1
RECLASS-1310-PPWP	165.7	13.14	21,653	145.1	38.02	55,239	21.1	1,256.8
TT1010-Q+1+4-ASSMT1000	155.0	11.62	17,927	150.5	35.52	53,526	5.0	361.7
TT1310-Q+0+4-ASSMT1000	147.6	14.92	21,853	144.1	38.82	55,986	4.0	364.9
TT1310-Q+0-LGAP	153.8	14.52	22,188	145.4	38.42	55,903	9.0	499.2
MD1010	154.9	11.65	17,977	150.5	35.54	53,546	4.9	472.1
MD1310-ASSMT	160.2	12.93	20,812	146.9	37.62	55,329	13.8	500.2

KEY: TP, Target price/deficiency payment program, 1120, 1220, 1320, and 1420 are equal to target prices of $11.20, $12.20, $13.20, and $14.20 per cwt. PP1010 signifies a milk purchase price level of $10.10 per cwt. NQ signifies no quota required, Q signifies quota required.

RECLASS, Reclassification (Class IV) program; PPWP, Purchase Program at international price of $6.60 per cwt.; 1050 and 1310, minimum domestic prices of $10.50, or $13.30 per cwt.

TT, Two-tier pricing program; Q+x+x, Quota equals commercial use, plus FNS,plus CCC surplus.
ASSMT1000, Second tier assessment of $10.00 per cwt.
GAP, Second tier assessment equal to the support price minus the international price.
LGAP, Second tier assessment set at level to equalize Gov't cost with baseline.
1010 and 1310 equals first tier support levels of $10.10 and $13.10 per cwt.

MD, Milk marketing diversion program; ASSMT, Assessment on all milk marketings.
1010 and 1310 equals support levels of $10.10 and $13.10 per cwt.

1/ Farm cash receipts plus diversion or deficiency payments net of assessments.

Table 11: Summary table of the impacts of an unforeseen, additional (2-percent) increase in milk production in FY 1992 on programs in the study

Program 1/	Milk Production	Effective All Milk Price	Farm Receipts 2/	Commercial Use	Retail Value	Retail Cost	CCC Purchases	Government Expenditures
	(Bil. lb.)	(Dol./cwt.)	(Mil. dol.)	(Bil. lbs.)	(Dol./cwt.)	(Mil. dol.)	(Bil. lbs.)	(Mil. dol.)
TP1120-NQ	3.0	-1.42	337	3.0	-1.41	-1,238	0	2,202.1
TP1220-Q-PP1010	2.8	- .21	179	0.4	- .21	- 365	2.4	383.9
TP1320-Q	2.2	-1.18	-283	2.2	-1.17	- 931	0	1,123.6
TP1420-Q	2.5	-1.31	2	2.5	-1.32	-1,007	0	1,520.6
RECLASS-1050	3.2	- .16	107	0	0	0	0	-3.1
RECLASS-1050-PPWP	3.0	- .10	197	0	0	0	3.0	191.1
RECLASS-1310-PPWP	3.1	- .14	207	0	0	0	3.1	200.9
TT1010-Q+1+4-ASSMT1000	3.2	- .10	221	0.2	- .10	- 81	3.0	-3.1
TT1310-Q+0+4-ASSMT1000	3.2	- .20	198	0.4	- .20	- 138	2.8	-3.2
TT1310-Q+0-LGAP	3.0	- .21	121	0.4	- .21	- 150	2.6	178.2
MD1010	2.9	- .21	34	0.4	- .21	- 171	2.6	239.8
MD1310-ASSMT	2.9	- .21	207	0.2	- .21	- 81	2.6	291.9

1/ TP = target price/deficiency payment program. 1120, 1220, and 1420 = target price. PP1010 = milk purchase price level of $10.10 per cwt. NQ = no quota required. Q = quota required.

RECLASS = reclassification (Class IV) program. PPWP = purchase program at international price of $6.60 per cwt. 1050 and 1310 = minimum domestic price of $10.50 or $13.10 per cwt.

TT = two-tier pricing program. Q+x+x = quota equal to commercial use plus FNS plus CCC surplus. ASSMT1000 = second tier assessment of $10.00 per cwt. GAP = second tier assessment equal to support price minus the international price. LGAP = second tier assessment set at a level to equalize Government cost with baseline. 1010 and 1310 = first tier support levels of $10.10 and $13.10 per cwt.

MD = milk marketing diversion program. ASSMT = Assessment on milk marketings. 1010 and 1310 = support levels of $10.10 and $13.10 per cwt.

2/ Farm cash + diversion payments net of assessments.

Table 12: Summary table of the impacts of an unforeseen, additional (2-percent) decrease in milk production in FY 1992 on programs in the study

Program 1/	Milk Production	Effective All Milk Price	Farm Receipts 2/	Commercial Use	Retail Value	Retail Cost	CCC Purchases	Government Expenditures
	(Bil. lb.)	(Dol./cwt.)	(Mil. dol.)	(Bil. lbs.)	(Dol./cwt.)	(Mil. dol.)	(Bil. lbs.)	(Mil. dol.)
TP1120-NQ	-3.0	1.47	- 337	-3.0	1.47	1,236	0	-2,200.2
TP1220-Q-PP1010	-3.0	.21	- 212	-0.5	.21	304	-2.5	- 400.9
TP1320-Q	-2.9	1.51	1,119	-2.9	1.51	1,137	0	- 610.9
TP1420-Q	-2.8	1.49	1,007	-2.8	1.49	1,064	0	- 636.7
RECLASS-1050	-3.0	.15	- 142	-3.0	0	0	0	2.9
RECLASS-1050-PPWP	-2.9	.10	- 197	0	0	0	-3.0	- 191.2
RECLASS-1310-PPWP	-3.2	.14	- 207	0	0	0	-3.2	- 200.9
TT1010-Q+1+4-ASSMT1000	-3.1	.10	- 227	-0.2	.10	81	-3.0	- 274.5
TT1310-Q+0+4-ASSMT1000	-3.2	.20	- 207	-0.4	.20	137	-2.8	- 330.1
TT1310-Q+0-LGAP	-2.9	.20	- 148	-0.4	.20	141	-2.6	- 179.5
MD1010	-3.0	.20	- 61	-0.4	.20	162	-2.6	- 241.6
MD1310-ASSMT	-2.7	.20	- 61	-0.4	.20	147	-2.3	- 255.5

1/ TP = target price/deficiency payment program. 1120, 1220, and 1420 = target price. PP1010 = milk purchase price level of $10.10 per cwt. NQ = no quota required. Q = quota required.

RECLASS = reclassification (Class IV) program. PPWP = purchase program at international price of $6.60 per cwt. 1050 and 1310 = minimum domestic price of $10.50 or $13.10 per cwt.

TT = two-tier pricing program. Q+x+x = quota equal to commercial use plus FNS plus CCC surplus. ASSMT1000 = second tier assessment of $10.00 per cwt. GAP = second tier assessment equal to support price minus the international price. LGAP = second tier assessment set at a level to equalize Government cost with baseline. 1010 and 1310 = first tier support levels of $10.10 and $13.10 per cwt.

MD = milk marketing diversion program. ASSMT = Assessment on milk marketings. 1010 and 1310 = support levels of $10.10 and $13.10 per cwt,

2/ Farm cash + diversion payments net of assessments.

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Appendix A—Analyses of Additional Target Price-Deficiency Payment Options

Several additional target price-deficiency payment options were analyzed beyond those presented in this study. The following table summarizes some of the information from these options. The table indicates target price-deficiency options that yield the same budgetary cost (average of $0.5 billion for FY1992–97) as the baseline used in this study.

Given a particular target price and purchase program the table indicates the assessment level, portion of marketings receiving payments, or voluntary reduction below baseline marketings by program participants that is required for the program to be budget neutral relative to the baseline. The assessment is assumed to apply to all marketings and all producers. The portion of marketings eligible for payments also applies to all producers, while the voluntary reduction would apply only to those participating and eligible for deficiency payments.

Let's assume the target price is set at $13.00 per hundredweight and the support price is $9.60 per hundredweight. There are at least three ways in which this program can be made to be budget neutral relative to the baseline. First, all producers could pay on average an annual $1.71 per hundredweight assessment. Second, they could receive payments on 23 percent of marketings and pay the budget reduction assessment which averages $0.08 per hundredweight per year. Third, participants would be required to reduce marketings below baseline levels by 7–10 percent each year and all producers would pay the budget reduction assessment averaging $0.08 per hundredweight per year.

Target price-deficiency payment programs that would require participants to voluntarily reduce marketings raise market prices. By raising market prices, budget exposure is reduced. Higher market prices would raise farm income, but leave consumers worse off. The extent to which market prices are increased depends on many highly uncertain factors since such a program is new to dairy. Therefore, a range for the reduction requirement is presented in the table.

Target price-deficiency payment programs that solely rely on assessments or payments on a portion of marketings cannot raise farm income while at the same time being budget neutral relative to the baseline. For example, one could moderately reduce the support price and use the savings for deficiency payments. However, the reduction in the support price would lower market prices to the extent that any budgetary savings would be less than the loss in farm income. Thus, because of the drop in market prices, farmers would be worse off even though dairy program outlays would be unchanged.

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Budget neutral target price options for milk, FY 1992-97 1/

Target Price $/Cwt.	Assessment $/Cwt.	Reduction Requirement Percent	Marketings Eligible for Payment Percent	Total Outlays Bil. $	Gross Income Bil. $
		Purchases of 1.0 billion pounds			
11.20	.47	0	100	.5	16.4
11.60	.87	0	100	.5	16.4
13.00	2.27	0	100	.5	16.4
14.20	3.47	0	100	.5	16.4
11.20	.08	0	77	.5	16.8
11.60	.08	0	44	.5	16.8
13.00	.08	0	27	.5	16.8
14.20	.08	0	12	.5	16.8
11.20	.08	1	100	.5	16.8
11.60	.08	2	100	.5	17.2
13.00	.08	7-10	100	.5	18.9
14.20	.08	15-20	100	.5	19.9
		$9.10 CCC Purchase Price			
11.20	.08	0	100	.5	17.1
11.60	.49	0	100	.5	17.1
13.00	1.89	0	100	.5	17.1
14.20	3.09	0	100	.5	17.1
11.20	.08	0	100	.5	17.1
11.60	.08	0	50	.5	17.2
13.00	.08	0	25	.5	17.2
14.20	.08	0	9	.5	17.2
11.20	.08	0	100	.5	17.1
11.60	.08	1	100	.5	17.4
13.00	.08	7-10	100	.5	18.9
14.20	.08	15-20	100	.5	19.9
		$9.60 CCC Purchase Price			
11.35	.08	0	100	.5	17.5
11.60	.31	0	100	.5	17.5
13.00	1.71	0	100	.5	17.5
14.20	2.91	0	100	.5	17.5
11.20	.08	0	103	.5	17.5
11.60	.08	0	45	.5	17.6
13.00	.08	0	23	.5	17.6
14.20	.08	0	5	.5	17.6
11.20	.08	0	103	.5	17.5
11.60	.08	1	100	.5	17.7

13.00	.08	7-10	100	.5	18.9
14.20	.08	15-20	100	.5	19.9

Budget neutral target price options for milk, FY 1992-97 1/

Target Price $/Cwt.	Assessment $/Cwt.	Reduction Requirement Percent	Marketings Eligible for Payment Percent	Total Outlays Bil. $	Gross Income Bil. $
		$10.10 CCC Purchase Price			
11.45	.09	0	100	.5	17.9
11.60	.15	0	100	.5	17.9
13.00	1.53	0	100	.5	17.9
14.20	2.73	0	100	.5	17.9
11.45	.09	0	0	.5	17.9
11.60	.09	0	0	.5	17.9
13.00	.09	0	0	.5	17.9
14.20	.09	0	0	.5	17.9
11.45	.09	0	100	.5	17.9
11.60	.08	1	100	.5	18.1
13.00	.08	7-10	100	.5	18.9
14.20	.08	15-20	100	.5	19.9

1/Numbers in table denote averages for FY 1992-97.

APPENDIX B—INDIVIDUAL SUPPLY AND UTILIZATION TABLES FOR OPTIONS STUDIED

Table B.1: Target price/deficiency, no quota required, target price at $11.20 per cwt. TP1120-NQ

	Units	1990/91	1991/92	1992/93	1993/94	1994/95	1995/96	1996/97
Milk Cows	Thous.	10,081	9,967	9,879	9,776	9,670	9,548	9,477
Milk Per Cow	Pounds	14,880	15,140	15,540	16,020	16,340	16,655	16,880
Milk production	Bil.lb.	150.0	150.9	153.5	156.6	158.0	159.0	160.0
Farm use	Bil.lb.	2.1	2.1	2.1	2.1	2.1	2.1	2.1
Marketings	Bil.lb.	147.9	148.8	151.4	154.5	155.9	156.9	157.9
Beginning commercial stocks	Bil.lb.	5.1	5.3	5.3	5.3	5.3	5.3	5.3
Imports	Bil.lb.	2.6	2.6	2.6	2.6	2.6	2.6	2.6
Commercial supply	Bil.lb.	155.6	156.7	159.3	162.4	163.8	164.8	165.8
Commercial Use	Bil.lb.	140.5	145.6	147.4	150.0	152.7	155.8	157.5
Surplus purchased by consumers	Bil.lb.	N/A	4.8	5.6	6.1	4.8	2.7	2.0
Ending commercial stocks	Bil.lb.	5.3	5.3	5.3	5.3	5.3	5.3	5.3
Total utilization	Bil.lb.	145.8	155.7	158.3	161.4	162.8	163.8	164.8
Net Removals	Bil.lb.	9.8	1.0	1.0	1.0	1.0	1.0	1.0
Government purchases	Mil.$	1049.0	90.1	86.6	84.9	91.3	101.2	104.9
Outlays	Mil.$	916.0	74.2	73.1	71.4	77.9	84.2	85.7
Deductions	Mil.$	55.5	144.2	170.3	173.8	175.4	44.1	0.0
Deficiency payments	Mil.$	0.0	3551.4	4144.1	4497.6	3536.5	2006.5	1443.2
Buyout payments	Mil.$	100.0	11.0	0.0	0.0	0.0	0.0	0.0
Net government costs	Mil.$	960.5	3492.5	4046.9	4395.2	3439.1	2046.6	1528.9
Prices								
Target Price	$US/cwt	11.60	11.20	11.20	11.20	11.20	11.20	11.20
All milk price to plants	$US/cwt	11.60	8.81	8.46	8.29	8.93	9.92	10.29
All milk price to producers	$US/cwt	11.56	8.72	8.35	8.18	8.82	9.89	10.29
Deficiency payment	$US/cwt	N/A	2.39	2.74	2.91	2.27	1.28	0.91
Net Milk Receipts	Mil.$	17,190	13,063	12,739	12,731	13,847	15,624	16,337
Total deficiency payment	Mil.$	N/A	3,551	4,144	4,498	3,537	2,007	1,443
Farm Cash Receipts *	Mil.$	17,190	16,614	16,883	17,228	17,384	17,630	17,780
Margin	$/cwt	22.50	22.00	22.00	23.00	24.10	25.30	26.50
Retail Value	$/cwt	34.10	30.81	30.46	31.29	33.03	35.22	36.79
Retail Cost	Mil.$	47,911	46,343	46,615	48,847	52,027	55,836	58,662

* Farm cash receipts plus deficiency payments net of assessments.

Table B.2: Target price/deficiency, required reductions by participants, target price at $12.20 per cwt, purchase program at $10.10 per cwt. TP1220-0-PP1010

	Units	1990/91	1991/92	1992/93	1993/94	1994/95	1995/96	1996/97
Milk Cows	Thous.	10,081	9,741	9,635	9,513	9,470	9,424	9,381
Milk Per Cow	Pounds	14,880	15,140	15,540	16,020	16,340	16,655	16,880
Milk production	Bil.lb.	150.0	147.5	149.7	152.4	154.7	157.0	158.3
Farm use	Bil.lb.	2.1	2.1	2.1	2.1	2.1	2.1	2.1
Marketings	Bil.lb.	147.9	145.4	147.6	150.3	152.6	154.9	156.2
Beginning commercial stocks	Bil.lb.	5.1	5.3	5.3	5.3	5.3	5.3	5.3
Imports	Bil.lb.	2.6	2.6	2.6	2.6	2.6	2.6	2.6
Commercial supply	Bil.lb.	155.6	153.3	155.5	158.2	160.5	162.8	164.1
Commercial Use	Bil.lb.	140.5	143.7	145.5	148.0	150.7	153.8	155.5
Surplus purchased by consumers	Bil.lb.	N/A	0.7	0.7	0.8	0.7	0.6	0.6
Ending commercial stocks	Bil.lb.	5.3	5.3	5.3	5.3	5.3	5.3	5.3
Total utilization	Bil.lb.	145.8	149.7	151.5	154.1	156.7	159.7	161.4
Net Removals	Bil.lb.	9.8	3.6	4.0	4.1	3.8	3.0	2.8
Government Purchases	Mil.$	1049.0	413.9	458.3	467.8	432.9	344.0	313.9
Outlays	Mil.$	916.0	340.8	386.8	393.6	369.5	286.3	256.5
Deductions	Mil.$	55.5	140.9	166.1	169.1	171.7	43.5	0.0
Deficiency payments	Mil.$	0.0	280.0	275.6	283.2	274.0	238.9	227.3
Buyout payments	Mil.$	100.0	11.0	0.0	0.0	0.0	0.0	0.0
Net government costs	Mil.$	960.0	490.9	496.3	507.7	471.8	481.7	483.8
Prices								
Target Price	$US/cwt	11.60	12.20	12.20	12.20	12.20	12.20	12.20
All milk price to plants	$US/cwt	11.60	11.84	11.81	11.81	11.83	11.88	11.90
All milk price to producers	$US/cwt	11.56	11.74	11.70	11.69	11.72	11.86	11.90
Deficiency payment	$US/cwt	N/A	0.36	0.39	0.39	0.37	0.32	0.30
Net Milk Receipts	Mil.$	17,190	17,165	17,365	17,671	17,980	18,456	18,696
Total deficiency payment	Mil.$	N/A	280	276	283	274	239	227
Farm Cash Receipts *	Mil.$	17,190	17,444	17,640	17,954	18,254	18,695	18,924
Margin	$/cwt	22.50	22.00	22.00	23.00	24.10	25.30	26.50
Retail Value	$/cwt	34.10	33.84	33.81	34.81	35.93	37.18	38.40
Retail Cost	Mil.$	47,911	48,850	49,435	51,793	54,414	57,425	59,945
Assumed percentage participating			55	50	50	50	50	50
Percent reduction in base required for payment			2.2	1.7	0.5	-1.9	-4.5	-5.8

* Farm cash receipts plus deficiency payment net of assessment.

Table 8.3: Target price/deficiency, required reductions by participants, target price at $13.20 per cwt. TP1320-Q

	Units	1990/91	1991/92	1992/93	1993/94	1994/95	1995/96	1996/97
Milk Cows	Thous.	10,081	9,445	9,326	9,217	9,196	9,191	9,159
Milk Per Cow	Pounds	14,880	15,140	15,540	16,020	16,340	16,655	16,880
Milk production	Bil.lb.	150.0	143.0	144.9	147.6	150.3	153.1	154.6
Farm use	Bil.lb.	2.1	2.1	2.1	2.1	2.1	2.1	2.1
Marketings	Bil.lb.	147.9	140.9	142.8	145.5	148.2	151.0	152.5
Beginning commercial stocks	Bil.lb.	5.1	5.3	5.3	5.3	5.3	5.3	5.3
Imports	Bil.lb.	2.6	2.6	2.6	2.6	2.6	2.6	2.6
Commercial supply	Bil.lb.	155.6	148.8	150.7	153.4	156.1	158.9	160.4
Commercial Use	Bil.lb.	140.5	142.0	143.5	146.1	148.7	151.8	153.5
Surplus purchased by consumers	Bil.lb.	N/A	1.2	1.6	1.8	1.8	1.5	1.4
Ending commercial stocks	Bil.lb.	5.3	5.3	5.3	5.3	5.3	5.3	5.3
Total utilization	Bil.lb.	145.8	148.5	150.5	153.2	155.8	158.6	160.2
Net Removals	Bil.lb.	9.8	0.3	0.3	0.3	0.3	0.3	0.3
Government Purchases	Mil.$	1049.0	28.5	28.5	28.5	28.5	28.5	28.5
Outlays	Mil.$	916.0	31.4	31.4	31.4	31.4	31.4	31.4
Deductions	Mil.$	55.5	136.5	160.7	163.7	166.7	42.4	0.0
Deficiency payments	Mil.$	0.0	613.7	636.4	658.1	638.9	547.4	484.0
Buyout payments	Mil.$	100.0	11.0	0.0	0.0	0.0	0.0	0.0
Net government costs	Mil.$	960.0	519.5	507.1	525.7	503.5	536.3	515.4
Prices								
Target Price	$US/cwt	11.60	13.20	13.20	13.20	13.20	13.20	13.20
All milk price to plants	$US/cwt	11.60	12.56	12.48	12.39	12.43	12.56	12.64
All milk price to producers	$US/cwt	11.56	12.46	12.37	12.28	12.32	12.53	12.64
Deficiency payment	$US/cwt	N/A	0.64	0.72	0.81	0.77	0.64	0.56
Net Milk Receipts	Mil.$	17,190	17,644	17,750	17,964	18,342	19,012	19,371
Total deficiency payment	Mil.$	N/A	614	636	658	639	547	484
Farm Cash Receipts *	Mil.$	17,190	18,258	18,386	18,622	18,981	19,560	19,855
Margin **	$/cwt	22.50	22.00	22.00	23.00	24.10	25.30	26.50
Retail Value	$/cwt	34.10	34.56	34.48	35.39	36.53	37.86	39.14
Retail Cost	Mil.$	47,911	49,503	50,052	52,344	54,980	58,049	60,611
Assumed percentage participating			70	65	60	60	60	60
Percent reduction in base required for payment			5.9	6.4	6.3	4.5	1.9	0.7

* Farm cash receipts plus deficiency payment net of assessments.
** The margin with large changes in consumer prices underestimates the total cost to the processing sector.

Table B.4: Target price/deficiency, required reductions by participants, target price at $14.20 per cwt. TP1420-Q

	Units	1990/91	1991/92	1992/93	1993/94	1994/95	1995/96	1996/97
Milk Cows	Thous.	10,081	9,309	9,196	9,088	9,078	9,068	9,040
Milk Per Cow	Pounds	14,880	15,140	15,540	16,020	16,340	16,655	16,880
Milk production	Bil.lb.	150.0	140.9	142.9	145.6	148.3	151.0	152.6
Farm use	Bil.lb.	2.1	2.1	2.1	2.1	2.1	2.1	2.1
Marketings	Bil.lb.	147.9	138.8	140.8	143.5	146.2	148.9	150.5
Beginning commercial stocks	Bil.lb.	5.1	5.3	5.3	5.3	5.3	5.3	5.3
Imports	Bil.lb.	2.6	2.6	2.6	2.6	2.6	2.6	2.6
Commercial supply	Bil.lb.	155.6	146.7	148.7	151.4	154.1	156.8	158.4
Commercial Use	Bil.lb.	140.5	140.4	142.1	144.6	147.3	150.3	152.0
Surplus purchased by consumers	Bil.lb.	N/A	1.0	1.3	1.5	1.6	1.2	1.1
Ending commercial stocks	Bil.lb.	5.3	5.3	5.3	5.3	5.3	5.3	5.3
Total utilization	Bil.lb.	145.8	146.7	148.7	151.4	154.1	156.8	158.4
Net Removals	Bil.lb.	9.8	0.0	0.0	0.0	0.0	0.0	0.0
Government Purchases	Mil.$	1049.0	0.0	0.0	0.0	0.0	0.0	0.0
Outlays	Mil.$	916.0	0.0	0.0	0.0	0.0	0.0	0.0
Deductions	Mil.$	55.5	134.5	158.4	161.4	164.5	41.8	0.0
Deficiency payments	Mil.$	0.0	639.5	678.5	708.6	694.5	545.5	506.3
Buyout payments	Mil.$	100.0	11.0	0.0	0.0	0.0	0.0	0.0
Net government costs	Mil.$	960.0	515.9	520.1	547.2	530.0	503.7	506.3
Prices								
Target Price	$US/cwt	11.60	14.20	14.20	14.20	14.20	14.20	14.20
All milk price to plants	$US/cwt	11.60	13.65	13.53	13.44	13.40	13.59	13.64
All milk price to producers	$US/cwt	11.56	13.55	13.41	13.33	13.29	13.56	13.64
Deficiency payment	$US/cwt	N/A	0.55	0.67	0.76	0.80	0.61	0.56
Net Milk Receipts	Mil.$	17,190	18,901	18,975	19,216	19,522	20,285	20,619
Total deficiency payment	Mil.$	N/A	639	678	709	695	546	506
Farm Cash Receipts *	Mil.$	17,190	19,540	19,654	19,924	20,217	20,830	21,125
Margin **	$/cwt	22.50	22.00	22.00	23.00	24.10	25.30	26.50
Retail Value	$/cwt	34.10	35.65	35.53	36.44	37.50	38.89	40.14
Retail Cost	Mil.$	47,911	50,420	50,947	53,237	55,813	58,923	61,451
Assumed percentage participating			85	75	70	65	65	65
Percent reduction in base required for payment			6.0	7.4	7.8	7.9	5.6	4.4

* Farm cash receipts plus deficiency payment net of assessments.
** The margin with large changes in consumer prices underestimates the total cost to the processing sector.

Table B.5: Reclassification (Class IV), $10.50 Class III minimum price RECLASS-1050

	Units	1990/91	1991/92	1992/93	1993/94	1994/95	1995/96	1996/97
Milk cows	Thous.	10,081	9,996	9,901	9,797	9,709	9,621	9,560
Milk per cow	Pounds	14,880	15,140	15,540	16,020	16,340	16,655	16,880
Milk production	Bil.lb.	150.0	151.3	153.9	157.0	158.6	160.2	161.4
Farm use	Bil.lb.	2.1	2.1	2.1	2.1	2.1	2.1	2.1
Marketings	Bil.lb.	147.9	149.2	151.8	154.9	156.5	158.1	159.3
Beginning commercial stocks	Bil.lb.	5.1	5.3	5.3	5.3	5.3	5.3	5.3
Imports	Bil.lb.	2.6	2.6	2.6	2.6	2.6	2.6	2.6
Commercial supply	Bil.lb.	155.6	157.1	159.7	162.8	164.4	166.0	167.2
Commercial use	Bil.lb.	140.5	144.4	146.3	148.9	151.3	154.1	155.7
Exportable surplus	Bil.lb.		6.4	7.0	7.5	6.8	5.6	5.2
Ending commercial stocks	Bil.lb.	5.3	5.3	5.3	5.3	5.3	5.3	5.3
Total utilization	Bil.lb.	145.8	156.1	158.7	161.8	163.4	165.0	166.2
Net removals	Bil.lb.	9.8	1.0	1.0	1.0	1.0	1.0	1.0
Government purchases	Mil.$	1049.0	114.0	114.0	114.0	114.0	114.0	114.0
Outlays	Mil.$	916.0	125.4	125.4	125.4	125.4	125.4	125.4
Deductions	Mil.$	55.5	144.6	170.7	174.2	176.1	44.4	0.0
Diversion payments	Mil.$	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Buyout payments	Mil.$	100.0	11.0	0.0	0.0	0.0	0.0	0.0
Net government costs	Mil.$	960.0	-8.2	-45.3	-48.8	-50.7	81.0	125.4
Prices								
All milk price to plants	$US/cwt	11.60	11.80	11.75	11.75	11.90	12.05	12.10
Effective all milk price	$US/cwt	11.56	11.42	11.33	11.31	11.49	11.79	11.88
International price	$US/cwt	6.60	5.32	5.19	5.02	5.16	5.40	5.48
Farm cash receipts *	Mil.$	17,250	17,200	17,352	17,668	18,148	18,792	19,089
Margin	$/cwt	22.50	22.00	22.00	23.00	24.10	25.30	26.50
Retail value	$/cwt	34.10	33.80	33.75	34.75	36.00	37.35	38.60
Retail cost	Mil.$	47,920	48,817	49,383	51,747	54,471	57,557	60,099

* Farm cash receipts equal milk receipts net of assessments.

Table B.6: Reclassification (Class IV), $10.50 Class III minimum price, purchase program at world price

RECLASS-1050-PPWP

	Units	1990/91	1991/92	1992/93	1993/94	1994/95	1995/96	1996/97
Milk cows	Thous.	10,081	9,997	9,903	9,800	9,710	9,619	9,558
Milk per cow	Pounds	14,880	15,140	15,540	16,020	16,340	16,655	16,880
Milk production	Bil.lb.	150.0	151.3	153.9	157.0	158.7	160.2	161.3
Farm use	Bil.lb.	2.1	2.1	2.1	2.1	2.1	2.1	2.1
Marketings	Bil.lb.	147.9	149.2	151.8	154.9	156.6	158.1	159.2
Beginning commercial stocks	Bil.lb.	5.1	5.3	5.3	5.3	5.3	5.3	5.3
Imports	Bil.lb.	2.6	2.6	2.6	2.6	2.6	2.6	2.6
Commercial supply	Bil.lb.	155.6	157.1	159.7	162.8	164.5	166.0	167.1
Commercial use	Bil.lb.	140.5	143.9	145.8	148.4	150.8	153.6	155.2
Ending commercial stocks	Bil.lb.	5.3	5.3	5.3	5.3	5.3	5.3	5.3
Total utilization	Bil.lb.	145.8	149.2	151.1	153.7	156.1	158.9	160.5
Net removals	Bil.lb.	9.8	7.9	8.6	9.1	8.3	7.1	6.6
Government purchases	Mil.$	1,049.0	625.6	677.2	708.5	651.1	554.4	518.4
Outlays	Mil.$	916.0	515.1	571.5	596.2	555.7	461.4	423.6
Deductions	Mil.$	55.5	144.6	170.8	174.3	176.1	44.4	0.0
Diversion payments	Mil.$	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Buyout payments	Mil.$	100.0	11.0	0.0	0.0	0.0	0.0	0.0
Net government costs	Mil.$	960.0	381.5	400.8	422.0	379.6	417.0	423.6
Prices								
All milk price to plants	$US/cwt	11.60	11.80	11.75	11.75	11.90	12.05	12.10
Effective all milk price	$US/cwt	11.56	11.43	11.35	11.33	11.50	11.77	11.87
International price	$US/cwt	6.60	6.60	6.60	6.50	6.50	6.50	6.50
Farm cash receipts	Mil.$	17,250	17,204	17,375	17,704	18,160	18,771	19,056
Margin	$/cwt	22.50	22.00	22.00	23.00	24.10	25.30	26.50
Retail value	$/cwt	34.10	33.80	33.75	34.75	36.00	37.35	38.60
Retail cost	Mil.$	47,920	48,648	49,215	51,573	54,291	57,370	59,906

* Farm cash receipts equal milk receipts net of assessments.

Table B.7: Reclassification (Class IV), $13.10 Class III minimum price, purchase program at world price RECLASS-1310-PPWP

	Units	1990/91	1991/92	1992/93	1993/94	1994/95	1995/96	1996/97
Milk cows	Thous.	10,081	10,242	10,364	10,388	10,369	10,243	10,166
Milk per cow	Pounds	14,880	15,140	15,540	16,020	16,340	16,655	16,880
Milk production	Bil.lb.	150.0	155.1	161.1	166.4	169.4	170.6	171.6
Farm use	Bil.lb.	2.1	2.1	2.1	2.1	2.1	2.1	2.1
Marketings	Bil.lb.	147.9	153.0	159.0	164.3	167.3	168.5	169.5
Beginning commercial stocks	Bil.lb.	5.1	5.3	5.3	5.3	5.3	5.3	5.3
Imports	Bil.lb.	2.6	2.6	2.6	2.6	2.6	2.6	2.6
Commercial supply	Bil.lb.	155.6	160.9	166.9	172.2	175.2	176.4	177.4
Commercial use	Bil.lb.	140.5	139.4	141.1	143.6	146.3	149.3	151.0
Ending commercial stocks	Bil.lb.	5.3	5.3	5.3	5.3	5.3	5.3	5.3
Total utilization	Bil.lb.	145.8	144.7	146.4	148.9	151.6	154.6	156.3
Net removals	Bil.lb.	9.8	16.2	20.4	23.3	23.7	21.8	21.1
Government purchases	Mil.$	1,049.0	1,275.9	1,614.1	1,818.0	1,845.0	1,698.9	1,647.1
Outlays	Mil.$	916.0	1,050.5	1,362.3	1,529.9	1,574.8	1,413.8	1,346.1
Deductions	Mil.$	55.5	148.2	178.8	184.9	188.2	47.3	0.0
Diversion payments	Mil.$	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Buyout payments	Mil.$	100.0	11.0	0.0	0.0	0.0	0.0	0.0
Net government costs	Mil.$	960.0	913.2	1,183.5	1,345.0	1,386.6	1,366.5	1,346.1
Prices								
All milk price to plants	$US/cwt	11.60	14.20	14.20	14.20	14.20	14.20	14.20
Effective all milk price	$US/cwt	11.56	13.30	13.11	13.00	13.00	13.18	13.24
International price	$US/cwt	6.60	6.60	6.60	6.50	6.50	6.50	6.50
Farm cash receipts *	Mil.$	17,250	20,498	21,000	21,518	21,918	22,370	22,613
Margin **	$/cwt	22.50	22.00	22.00	23.00	24.10	25.30	26.50
Retail value	$/cwt	34.10	36.20	36.20	37.20	38.30	39.50	40.70
Retail cost	Mil.$	47,920	50,468	51,089	53,424	56,021	58,979	61,450

* Farm cash receipts equal milk receipts net of assessments.
** The margin with large changes in consumer prices underestimates the cost to the processing sector.

Table B.8: Two-tier pricing program, $10.10 per cwt support program, $10.00 per cwt assessment on over-quota milk, net removals at 5 billion pounds, M.E. TT1010-Q+1+4-ASSMT1000

	Units	1990/91	1991/92	1992/93	1993/94	1994/95	1995/96	1996/97
Milk cows	Thous.	10,081	9,849	9,712	9,582	9,560	9,565	9,538
Milk per cow	Pounds	14,880	15,140	15,540	16,020	16,340	16,655	16,880
Milk production	Bil.lb.	150.0	149.1	150.9	153.5	156.2	159.3	161.0
Farm use	Bil.lb.	2.1	2.1	2.1	2.1	2.1	2.1	2.1
Marketings	Bil.lb.	147.9	147.0	148.8	151.4	154.1	157.2	158.9
Beginning commercial stocks	Bil.lb.	5.1	5.3	5.3	5.3	5.3	5.3	5.3
Imports	Bil.lb.	2.6	2.6	2.6	2.6	2.6	2.6	2.6
Commercial supply	Bil.lb.	155.6	154.9	156.7	159.3	162.0	165.1	166.8
Commercial use	Bil.lb.	140.5	144.6	146.4	149.0	151.7	154.8	156.5
Ending commercial stocks	Bil.lb.	5.3	5.3	5.3	5.3	5.3	5.3	5.3
Total utilization	Bil.lb.	145.8	149.9	151.7	154.3	157.0	160.1	161.8
Milk marketing quota	Bil.lb.	NA	147.0	148.8	151.4	154.1	157.2	158.9
Over-quota marketings	Bil.lb.	NA	0.0	0.0	0.0	0.0	0.0	0.0
Net removals	Bil.lb.	9.8	5.0	5.0	5.0	5.0	5.0	5.0
Government purchases	Mil.$	1,049.0	570.0	570.0	570.0	570.0	570.0	570.0
Outlays	Mil.$	916.0	465.8	469.3	481.1	479.7	486.5	474.4
Deductions	Mil.$	55.5	142.5	167.4	170.3	173.4	44.2	0.0
Over-quota milk assessments	Mil.$	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Buyout payments	Mil.$	100.0	11.0	0.0	0.0	0.0	0.0	0.0
Net government costs	Mil.$	960.0	334.4	301.9	310.7	306.3	442.4	474.4
Prices								
All milk price to plants	$US/cwt	11.60	11.70	11.70	11.70	11.70	11.70	11.70
Effective all milk price	$US/cwt	11.56	11.60	11.59	11.59	11.59	11.67	11.70
Farm cash receipts *	Mil.$	17,249	17,206	17,393	17,696	18,011	18,505	18,750
Margin	$/cwt	22.50	22.00	22.00	23.00	24.10	25.30	26.50
Retail value	$/cwt	34.10	33.70	33.70	34.70	35.80	37.00	38.20
Retail cost	Mil.$	47,911	48,736	49,343	51,707	54,310	57,276	59,783

* Farm cash receipts equal milk receipts net of assessments.

Table B.9: Two-tier pricing program, $13.10 per cwt support program, $10.00 per cwt assessment on over-quota milk, net removals at 4 billion pounds, M.E. TT1310-0+0+4-ASSMT1000

	Units	1990/91	1991/92	1992/93	1993/94	1994/95	1995/96	1996/97
Milk cows	Thous.	10,081	9,373	9,241	9,117	9,100	9,109	9,086
Milk per cow	Pounds	14,880	15,140	15,540	16,020	16,340	16,655	16,880
Milk production	Bil.lb.	150.0	141.9	143.6	146.0	148.7	151.7	153.4
Farm use	Bil.lb.	2.1	2.1	2.1	2.1	2.1	2.1	2.1
Marketings	Bil.lb.	147.9	139.8	141.5	143.9	146.6	149.6	151.3
Beginning commercial stocks	Bil.lb.	5.1	5.3	5.3	5.3	5.3	5.3	5.3
Imports	Bil.lb.	2.6	2.6	2.6	2.6	2.6	2.6	2.6
Commercial supply	Bil.lb.	155.6	147.7	149.4	151.8	154.5	157.5	159.2
Commercial use	Bil.lb.	140.5	138.4	140.1	142.5	145.2	148.2	149.9
Ending commercial stocks	Bil.lb.	5.3	5.3	5.3	5.3	5.3	5.3	5.3
Total utilization	Bil.lb.	145.8	143.7	145.4	147.8	150.5	153.5	155.2
Milk marketing quota	Bil.lb.	NA	139.8	141.5	143.9	146.6	149.6	151.3
Over-quota marketings	Bil.lb.	NA	0.0	0.0	0.0	0.0	0.0	0.0
Net removals	Bil.lb.	9.8	4.0	4.0	4.0	4.0	4.0	4.0
Government purchases	Mil.$	1,049.0	576.0	576.0	576.0	576.0	576.0	576.0
Outlays	Mil.$	916.0	470.7	474.2	474.2	474.2	474.2	474.2
Deductions	Mil.$	55.5	135.5	159.2	161.9	164.9	42.0	0.0
Over-quota milk assessments	Mil.$	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Buyout payments	Mil.$	100.0	11.0	0.0	0.0	0.0	0.0	0.0
Net government costs	Mil.$	960.0	346.3	315.1	312.3	309.3	432.2	474.2
Prices								
All milk price to plants	$US/cwt	11.60	15.00	15.00	15.00	15.00	15.00	15.00
Effective all milk price	$US/cwt	11.56	14.90	14.89	14.89	14.89	14.97	15.00
Farm cash receipts *	Mil.$	17,249	20,975	21,207	21,574	21,970	22,550	22,843
Margin **	$/cwt	22.50	22.00	22.00	23.00	24.10	25.30	26.50
Retail value	$/cwt	34.10	37.00	37.00	38.00	39.10	40.30	41.50
Retail cost	Mil.$	47,911	51,211	51,836	54,168	56,769	59,732	62,200

* Farm cash receipts equal milk receipts net of assessments.
** The margin with large changes in consumer prices underestimates the cost to the processing sector.

Table B.10: Two-tier pricing program, $13.10 per cwt support, Assessment on over-quota milk necessary to achieve budget neutrality

TT1310-Q+O-LGAP

	Units	1990/91	1991/92	1992/93	1993/94	1994/95	1995/96	1996/97
Milk cows	Thous.	10,081	9,765	9,729	9,535	9,554	9,415	9,375
Milk per cow	Pounds	14,880	15,140	15,540	16,020	16,340	16,655	16,880
Milk production	Bil.lb.	150.0	147.8	151.2	152.7	156.1	156.8	158.2
Farm use	Bil.lb.	2.1	2.1	2.1	2.1	2.1	2.1	2.1
Marketings	Bil.lb.	147.9	145.7	149.1	150.6	154.0	154.7	156.1
Beginning commercial stocks	Bil.lb.	5.1	5.3	5.3	5.3	5.3	5.3	5.3
Imports	Bil.lb.	2.6	2.6	2.6	2.6	2.6	2.6	2.6
Commercial supply	Bil.lb.	155.6	153.6	157.0	158.5	161.9	162.6	164.0
Commercial use	Bil.lb.	140.5	139.7	141.4	143.8	146.5	149.5	151.2
Ending commercial stocks	Bil.lb.	5.3	5.3	5.3	5.3	5.3	5.3	5.3
Total utilization	Bil.lb.	145.8	145.0	146.7	149.1	151.8	154.8	156.5
Milk marketing quota	Bil.lb.	NA	137.1	138.8	141.2	143.9	146.9	148.6
Over-quota marketings	Bil.lb.	NA	8.7	10.3	9.4	10.1	7.8	7.6
Net removals	Bil.lb.	9.8	8.7	10.3	9.4	10.1	7.8	7.6
Government purchases	Mil.$	1,049.0	1,250.9	1,486.0	1,356.1	1,458.8	1,122.4	1,089.8
Outlays	Mil.$	916.0	1,022.2	1,223.5	1,144.5	1,227.6	958.0	906.9
Deductions	Mil.$	55.5	141.2	167.7	169.5	173.3	43.5	0.0
Over-quota milk assessments	Mil.$	0.0	410.6	529.7	495.5	532.1	424.7	411.1
Buyout payments	Mil.$	100.0	11.0	0.0	0.0	0.0	0.0	0.0
Net government costs	Mil.$	960.0	481.4	526.1	479.5	522.3	489.9	495.9
Prices								
All milk price to plants	$US/cwt	11.60	14.60	14.60	14.60	14.60	14.60	14.60
Effective all milk price	$US/cwt	11.56	14.50	14.49	14.49	14.49	14.57	14.60
Over-quota milk price	$US/cwt	NA	9.87	9.47	9.34	9.35	9.15	9.17
Farm cash receipts *	Mil.$	17,190	21,284	21,748	21,976	22,466	22,699	22,954
Margin **	$/cwt	22.50	22.00	22.00	23.00	24.10	25.30	26.50
Retail Value	$/cwt	34.10	36.60	36.60	37.60	38.70	39.90	41.10
Retail Cost	Mil.$	47,911	51,116	51,739	54,080	56,687	59,657	62,136

* Farm cash receipts equal milk receipts net of assessments.
** The margin with large changes in consumer prices underestimates the cost to the processing sector.

Table B.11: Diversion program, $10.10 support price, no assessment, 20 percent of production participating, $0.55 per cwt. diversion payment, MD-1010

	Units	1990/91	1991/92	1992/93	1993/94	1994/95	1995/96	1996/97
Milk Cows	Thous.	10,081	9,845	9,724	9,854	9,471	9,601	9,538
Milk Per Cow	Pounds	14,880	15,140	15,540	16,020	16,340	16,655	16,880
Milk production	Bil.lb.	150.0	149.1	151.1	153.5	154.8	159.9	161.0
Farm use	Bil.lb.	2.1	2.1	2.1	2.1	2.1	2.1	2.1
Marketings	Bil.lb.	147.9	147.0	149.0	151.4	152.7	157.8	158.9
Beginning commercial stocks	Bil.lb.	5.1	5.3	5.3	5.3	5.3	5.3	5.3
Imports	Bil.lb.	2.6	2.6	2.6	2.6	2.6	2.6	2.6
Commercial supply	Bil.lb.	155.6	154.9	156.9	159.3	160.6	165.7	166.8
Commercial Use	Bil.lb.	140.5	144.6	146.4	149.0	151.3	154.9	156.5
Ending commercial stocks	Bil.lb.	5.3	5.3	5.3	5.3	5.3	5.3	5.3
Total utilization	Bil.lb.	145.8	149.9	151.7	154.3	156.6	160.2	161.8
Net Removals	Bil.lb.	9.8	4.9	5.2	5.0	3.9	5.5	5.0
Government Purchases	Mil.$	1049.0	562.3	592.1	573.4	449.5	642.0	590.0
Outlays	Mil.$	916.0	462.9	499.7	482.5	383.6	548.0	491.0
Deductions	Mil.$	55.5	142.4	167.6	170.4	171.7	44.3	0.0
Diversion payments	Mil.$	0.0	151.3	151.3	151.3	151.3	0.0	0.0
Buyout payments	Mil.$	100.0	11.0	0.0	0.0	0.0	0.0	0.0
Net Government Costs	Mil.$	960.5	482.9	483.4	463.5	363.2	503.7	491.0
Prices								
All milk price to plants	$US/cwt	11.60	11.70	11.70	11.70	11.90	11.65	11.70
Effective all milk price	$US/cwt	11.56	11.60	11.59	11.59	11.79	11.62	11.70
Diversion Payments	Mil.$	0	151	151	151	151	0	0
Net Milk Receipts	Mil.$	17,249	17,198	17,416	17,700	18,146	18,497	18,750
Farm Cash Receipts *	Mil.$	17,249	17,349	17,567	17,851	18,298	18,497	18,750
Margin	$/cwt	22.50	22.00	22.00	23.00	24.10	25.30	26.50
Retail Value	$/cwt	34.10	33.70	33.70	34.70	36.00	36.95	38.20
Retail Cost	Mil.$	47,911	48,736	49,343	51,707	54,471	57,236	59,783
Percent of Marketings Participating			20.0	20.0	20.0	20.0	0.0	0.0
Percent reduction from base required			5.0	5.0	5.0	5.0	0.0	0.0

* Farm cash receipts plus diversion payment net of assessments.

Table B.12: Diversion program, $13.10 support price, 15 percent of production participating, 10 percent reduction required, $1.10 per cwt. diversion payment, variable assessment MD1310-ASSMT

	Units	1990/91	1991/92	1992/93	1993/94	1994/95	1995/96	1996/97
Milk Cows	Thous.	10,081	10,009	10,064	10,041	9,984	9,853	9,775
Milk Per Cow	Pounds	14,880	15,140	15,540	16,020	16,340	16,655	16,880
Milk production	Bil.lb.	150.0	151.5	156.4	160.9	163.1	164.1	165.0
Farm use	Bil.lb.	2.1	2.1	2.1	2.1	2.1	2.1	2.1
Marketings	Bil.lb.	147.9	149.4	154.3	158.8	161.0	162.0	162.9
Beginning commercial stocks	Bil.lb.	5.1	5.3	5.3	5.3	5.3	5.3	5.3
Imports	Bil.lb.	2.6	2.6	2.6	2.6	2.6	2.6	2.6
Commercial supply	Bil.lb.	155.6	157.3	162.2	166.7	168.9	169.9	170.8
Commercial Use	Bil.lb.	140.5	141.2	142.9	145.4	148.1	151.1	152.8
Ending commercial stocks	Bil.lb.	5.3	5.3	5.3	5.3	5.3	5.3	5.3
Total utilization	Bil.lb.	145.8	146.5	148.2	150.7	153.4	156.4	158.1
Net Removals (TSB)	Bil.lb.	9.8	10.9	14.0	16.0	15.6	13.5	12.7
Government Purchases	Mil.$	1049.0	1565.8	2015.3	2297.8	2242.4	1942.7	1831.8
Outlays	Mil.$	916.0	1289.2	1700.9	1933.7	1914.1	1616.8	1497.0
Deductions	Mil.$	55.5	1041.4	1407.9	1607.4	1630.4	1341.5	1221.8
Diversion payments	Mil.$	0.0	214.8	214.8	214.8	214.8	214.8	214.8
Buyout payments	Mil.$	100.0	11.0	0.0	0.0	0.0	0.0	0.0
Net Government Costs	Mil.$	960.5	473.5	507.8	541.1	498.5	490.0	490.1
Prices								
All milk price to plants	$US/cwt	11.60	13.80	13.80	13.80	13.80	13.80	13.80
Effective all milk price	$US/cwt	11.56	13.10	12.89	12.79	12.79	12.97	13.05
Diversion Payment	Mil.$	0	215	215	215	215	215	215
Net Milk Receipts	Mil.$	17,250	19,731	20,039	20,459	20,753	21,177	21,422
Farm Cash Receipts *	Mil.$	17,250	19,945	20,253	20,674	20,968	21,392	21,637
Margin **	$/cwt	22.50	22.00	22.00	23.00	24.10	25.30	26.50
Retail Value	$/cwt	34.10	35.80	35.80	36.80	37.90	39.10	40.30
Retail Cost	Mil.$	47,911	50,537	51,157	53,506	56,114	59,085	61,573
Percent of Marketings Participating			15.0	15.0	15.0	15.0	15.0	15.0
Percent Reduction required from base			10	10	10	10	10	10
Additional Assessment ($/cwt)			0.60	0.80	0.90	0.90	0.80	0.75

* Farm cash receipts plus diversion payments net of assessment.
** The margin with large changes in consumer prices underestimates the total cost to the processing sector.

APPENDIX C—IMPACTS ON THE LIVESTOCK INDUSTRY

Table C-1. Impacts on the livestock sector from dairy policy options, reported as changes from USDA baseline. 1/

Option	Year	1991	1992	1993	1994	1995	1996	1997	Average
OPTION TP1120-NQ									
Beef Production	million pounds	13.4	71.9	-10.8	-54.3	-31.5	-13.5	-15.7	-5.8
Other Meat Production	million pounds	-0.2	-4.2	-16.4	-6.7	11.4	12.6	4.6	0.2
Beef Cow Inventory	thousand head	0.0	0.0	0.5	-54.1	-43.3	-10.4	-1.1	-15.5
Dairy Cow Inventory	thousand head	0.0	-46.0	-41.0	-33.0	-44.0	-55.0	-63.0	-40.3
Dairy Cow Slaughter	thousand head	46.0	-17.9	-19.1	1.4	-1.3	-7.4	-17.4	-2.3
Beef Cow Slaughter	thousand head	0.0	-0.2	17.0	-9.7	-15.3	-3.5	1.3	-1.5
Other Meat Receipts	million $	-11.1	-52.1	40.9	60.2	-2.1	-23.1	-2.8	1.4
Cattle Receipts	million $	-15.2	-89.2	4.2	37.1	-8.3	-19.6	-25.6	-16.7
Total Meat Expenditures	million $	-34.0	-153.2	23.7	100.8	16.0	-31.2	-13.3	-13.0
OPTION TP1220-Q-PP1010									
Beef Production	million pounds	75.5	417.2	18.3	-249.0	-444.5	-405.7	-196.6	-112.1
Other Meat Production	million pounds	-1.4	-23.5	-96.3	-57.6	45.1	121.6	124.6	16.1
Beef Cow Inventory	thousand head	0.0	0.0	0.7	-312.3	-296.5	-180.4	37.8	-107.2
Dairy Cow Inventory	thousand head	0.0	-259.0	-270.0	-282.0	-230.0	-176.0	-159.0	-196.6
Dairy Cow Slaughter	thousand head	259.0	-61.5	-63.2	-131.4	-118.4	-66.3	-44.3	-32.3
Beef Cow Slaughter	thousand head	0.0	-0.2	94.8	-40.3	-69.7	-82.9	-39.1	-19.6
Other Meat Receipts	million $	-62.7	-302.1	163.0	323.6	284.8	60.0	-150.2	45.2
Cattle Receipts	million $	-83.2	-484.0	-19.2	-20.2	86.9	91.5	-44.2	-67.5
Total Meat Expenditures	million $	-192.1	-898.7	-67.7	420.8	709.5	471.7	-10.1	61.9
OPTION TP1320-Q									
Beef Production	million pounds	153.0	848.1	29.7	-532.5	-850.4	-830.4	-417.4	-228.6
Other Meat Production	million pounds	-2.7	-47.7	-195.4	-119.2	90.6	232.6	240.9	28.4
Beef Cow Inventory	thousand head	0.0	0.0	-3.2	-655.3	-639.2	-398.8	-17.3	-244.8
Dairy Cow Inventory	thousand head	0.0	-525.0	-549.0	-548.0	-476.0	-379.0	-352.0	-404.1
Dairy Cow Slaughter	thousand head	525.0	-123.0	-154.3	-225.8	-230.3	-233.1	-98.4	-77.1
Beef Cow Slaughter	thousand head	0.0	1.0	191.3	-78.8	-148.9	-155.0	-78.0	-38.3
Other Meat Receipts	million $	-127.1	-611.0	318.2	666.8	511.7	143.1	-287.4	87.7
Cattle Receipts	million $	-169.2	-1006.8	-96.5	-10.5	56.3	-8.9	-138.7	-196.3
Total Meat Expenditures	million $	-391.2	-1850.7	-236.3	772.9	1168.6	849.3	-143.6	24.2
OPTION TP1420-Q									
Beef Production	million pounds	201.3	1113.7	15.5	-696.1	-1082.0	-985.4	-568.5	-285.9
Other Meat Production	million pounds	-3.6	-62.7	-256.2	-155.2	115.2	290.6	284.6	30.4
Beef Cow Inventory	thousand head	0.0	0.0	-7.8	-881.4	-857.7	-560.7	-84.5	-341.7
Dairy Cow Inventory	thousand head	0.0	-691.0	-709.0	-707.0	-622.0	-532.0	-500.0	-537.3
Dairy Cow Slaughter	thousand head	691.0	-175.5	-200.1	-283.4	-261.2	-181.0	-139.8	-78.6
Beef Cow Slaughter	thousand head	0.0	2.5	251.3	-106.6	-192.0	-201.6	-96.6	-49.0
Other Meat Receipts	million $	-167.3	-799.6	420.8	854.1	632.7	99.6	-304.8	105.1
Cattle Receipts	million $	-231.0	-1359.6	-134.6	-46.0	72.1	47.5	-205.8	-265.3
Total Meat Expenditures	million $	-516.2	-2449.3	-360.4	894.6	1344.8	751.9	-235.4	-81.4

see footnotes at end of table

Table C-1. Impacts on the livestock sector from dairy policy options, reported as changes from USDA baseline. (continued) 1/

Option	Year	1991	1992	1993	1994	1995	1996	1997	Average
OPTION RECLASS-1050									
Beef Production	million pounds	-0.9	-2.7	11.7	2.7	-17.4	-36.6	-4.3	-6.8
Other Meat Production	million pounds	0.0	0.2	0.5	-2.0	-1.6	3.8	9.7	1.5
Beef Cow Inventory	thousand head	0.0	0.0	0.0	3.7	-4.1	-5.7	1.6	-0.7
Dairy Cow Inventory	thousand head	0.0	3.0	-4.0	-5.0	0.0	18.0	20.0	4.6
Dairy Cow Slaughter	thousand head	-3.0	7.8	0.3	-6.8	-18.0	3.0	5.8	-1.5
Beef Cow Slaughter	thousand head	0.0	0.0	-1.2	3.0	0.1	-2.7	-7.1	-1.1
Other Meat Receipts	million $	0.7	1.8	-10.9	2.2	20.5	26.6	-17.7	3.3
Cattle Receipts	million $	1.3	10.6	-11.4	-6.6	-9.9	42.3	2.2	4.1
Total Meat Expenditures	million $	2.2	5.8	-23.6	-1.9	44.9	83.2	1.9	16.1
OPTION RECLASS-1050-PPWP									
Beef Production	million pounds	-0.9	-3.3	8.5	3.0	-12.7	74.1	-106.8	-5.4
Other Meat Production	million pounds	0.0	0.2	0.7	-1.3	-1.4	0.9	-11.1	-1.7
Beef Cow Inventory	thousand head	0.0	0.0	0.0	3.7	-2.0	-4.0	1.1	-0.2
Dairy Cow Inventory	thousand head	0.0	3.0	-2.0	-3.0	1.0	-42.0	20.0	-3.3
Dairy Cow Slaughter	thousand head	-3.0	5.8	0.8	-5.2	-14.7	2.5	5.2	-1.2
Beef Cow Slaughter	thousand head	0.0	0.0	-1.2	2.3	0.4	-1.9	15.5	2.2
Other Meat Receipts	million $	0.7	2.3	-8.5	0.3	15.5	-74.6	126.3	8.9
Cattle Receipts	million $	1.3	9.2	-7.9	-6.0	-8.9	-87.2	154.4	7.8
Total Meat Expenditures	million $	2.2	7.0	-17.2	-3.5	34.0	-185.7	239.2	10.8
OPTION RECLASS-1310-PPWP									
Beef Production	million pounds	-23.6	-415.1	-380.3	-0.7	409.3	706.0	647.5	134.7
Other Meat Production	million pounds	0.4	12.2	94.4	130.1	43.6	-95.8	-200.3	-2.2
Beef Cow Inventory	thousand head	0.0	0.0	-1.3	271.6	459.7	414.9	162.9	186.8
Dairy Cow Inventory	thousand head	0.0	242.0	459.0	594.0	670.0	644.0	626.0	462.1
Dairy Cow Slaughter	thousand head	-81.0	-27.2	18.9	89.9	213.6	198.3	175.5	84.0
Beef Cow Slaughter	thousand head	0.0	0.4	-87.6	-33.3	63.7	113.6	123.0	25.7
Other Meat Receipts	million $	19.6	323.0	136.7	-280.7	-482.6	-437.0	-158.3	-125.6
Cattle Receipts	million $	33.4	363.2	277.0	51.0	-17.8	-282.6	-190.2	33.4
Total Meat Expenditures	million $	59.7	855.7	702.2	-155.7	-999.8	-1483.9	-1250.3	-324.6

see footnotes at end of table

Table C-1. Impacts on the livestock sector from dairy policy options, reported as changes from USDA baseline. (continued)

Option	Year	1991	1992	1993	1994	1995	1996	1997	Average
OPTION TT1010-Q+1+4-ASSMT1000									
Beef Production	million pounds	44.0	254.6	71.6	-140.4	-384.4	-418.5	-157.1	-104.3
Other Meat Production	million pounds	-0.8	-13.9	-59.5	-46.8	20.8	99.5	126.7	18.0
Beef Cow Inventory	thousand head	0.0	0.0	1.0	-178.0	-203.8	-142.1	55.6	-66.8
Dairy Cow Inventory	thousand head	0.0	-151.0	-193.0	-212.0	-140.0	-35.0	-2.0	-104.7
Dairy Cow Slaughter	thousand head	151.0	2.7	-34.6	-131.8	-139.2	-42.8	-0.4	-27.9
Beef Cow Slaughter	thousand head	0.0	-0.3	54.9	-11.3	-42.0	-73.2	-51.4	-17.6
Other Meat Receipts	million $	-36.6	-185.6	52.5	215.2	301.0	145.7	-171.1	45.9
Cattle Receipts	million $	-50.8	-249.8	-59.4	-63.9	75.2	211.1	9.6	-18.3
Total Meat Expenditures	million $	-111.8	-545.5	-144.1	267.2	728.0	674.0	29.8	128.2
OPTION TT1310-Q+0+4-ASSMT1000									
Beef Production	million pounds	182.7	1016.2	52.5	-607.9	-1008.3	-976.0	-560.2	-271.6
Other Meat Production	million pounds	-3.3	-57.0	-234.2	-148.3	97.6	270.0	282.1	29.6
Beef Cow Inventory	thousand head	0.0	0.0	-5.9	-792.2	-786.6	-522.9	-72.3	-311.4
Dairy Cow Inventory	thousand head	0.0	-627.0	-664.0	-678.0	-600.0	-491.0	-454.0	-502.0
Dairy Cow Slaughter	thousand head	627.0	-138.6	-171.5	-268.2	-268.0	-174.5	-126.9	-74.4
Beef Cow Slaughter	thousand head	0.0	1.8	227.9	-90.5	-172.7	-189.7	-105.0	-46.9
Other Meat Receipts	million $	-151.8	-731.0	359.5	775.3	622.8	166.1	-278.2	109.0
Cattle Receipts	million $	-201.4	-1207.4	-133.6	-54.8	59.7	127.0	-153.8	-223.5
Total Meat Expenditures	million $	-467.9	-2228.7	-362.3	814.4	1340.3	927.9	-81.3	-8.2
OPTION TT1310-Q+0-LGAP									
Beef Production	million pounds	68.5	357.7	-70.9	-120.7	-416.2	-221.2	-137.5	-77.2
Other Meat Production	million pounds	-1.2	-21.0	-81.8	-33.8	30.7	98.7	83.7	10.7
Beef Cow Inventory	thousand head	0.0	0.0	0.9	-285.6	-198.7	-186.8	79.3	-84.4
Dairy Cow Inventory	thousand head	0.0	-235.0	-176.0	-260.0	-146.0	-185.0	-165.0	-166.7
Dairy Cow Slaughter	thousand head	235.0	-124.8	35.1	-168.2	-1.9	-71.8	-45.8	-20.3
Beef Cow Slaughter	thousand head	0.0	-0.3	87.0	-61.2	-23.5	-99.4	3.2	-13.5
Other Meat Receipts	million $	-56.9	-257.6	211.0	158.4	299.9	-60.9	-107.4	26.6
Cattle Receipts	million $	-74.2	-493.3	150.7	-222.0	359.4	-143.0	-20.7	-63.3
Total Meat Expenditures	million $	-174.3	-769.4	109.5	142.9	722.3	101.2	-64.2	9.7

see footnotes at end of table

Table C-1. Impacts on the livestock sector from dairy policy options, reported as changes from USDA baseline. (continued) 1/

Option	Year	1991	1992	1993	1994	1995	1996	1997	Average
OPTION MD1010									
Beef Production	million pounds	45.2	257.7	63.1	-95.0	-248.0	-628.7	-198.2	-114.9
Other Meat Production	million pounds	-0.8	-14.2	-60.2	-46.3	10.3	70.1	152.5	15.9
Beef Cow Inventory	thousand head	0.0	0.0	1.0	-183.2	-199.9	-147.7	-50.7	-82.9
Dairy Cow Inventory	thousand head	0.0	-155.0	-189.0	-222.0	-232.0	1.0	-2.0	-114.1
Dairy Cow Slaughter	thousand head	155.0	-9.4	-19.5	-52.6	-165.0	3.3	-0.4	-12.6
Beef Cow Slaughter	thousand head	0.0	-0.3	56.5	-15.0	-38.3	-43.2	-120.4	-23.0
Other Meat Receipts	million $	-37.5	-187.5	60.8	173.0	195.0	429.4	-185.1	64.0
Cattle Receipts	million $	-46.5	-265.7	-35.6	-11.7	-119.6	591.1	-67.9	6.3
Total Meat Expenditures	million $	-114.7	-552.3	-128.2	171.5	435.2	1263.6	117.2	170.3
OPTION MD1310-ASSMT									
Beef Production	million pounds	-2.6	-43.0	-267.8	-141.3	110.5	340.8	331.3	46.8
Other Meat Production	million pounds	0.0	1.3	13.5	61.7	59.1	-11.2	-90.7	4.8
Beef Cow Inventory	thousand head	0.0	0.0	-0.1	7.2	160.4	217.1	132.9	73.9
Dairy Cow Inventory	thousand head	0.0	9.0	159.0	246.0	284.0	253.0	235.0	169.4
Dairy Cow Slaughter	thousand head	-9.0	-92.5	-42.1	30.5	110.5	88.8	66.3	21.8
Beef Cow Slaughter	thousand head	0.0	0.0	-2.3	-51.0	-1.2	46.9	74.2	9.5
Other Meat Receipts	million $	2.2	33.3	201.9	-8.7	-247.8	-306.9	-124.2	-64.3
Cattle Receipts	million $	2.8	-54.1	197.4	99.7	26.9	-188.5	-138.8	-7.8
Total Meat Expenditures	million $	6.6	90.1	529.0	206.6	-395.9	-845.1	-728.6	-162.5

1/ Results are reported on a calendar year basis from adjusted fiscal year dairy cow inventories.

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May 15, 1991

Part III

Department of Health and Human Services

Office of Family Assistance

Economic Empowerment Demonstration Program; Request for Applications; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Family Assistance

[Program Announcement No. 91-1]

Request for Applications Under the Office of Family Assistance Economic Empowerment Demonstration Program

AGENCY: Office of Family Assistance (OFA), Administration for Children and Families (ACF), HHS

ACTION: Request for applications under the Economic Empowerment Demonstration Program.

SUMMARY: Announcement of the availability of funds from the Community Development Block Grant (CDBG) Technical Assistance Program, waivers, and exemptions and a request for demonstration project applications under the HUD/HHS Economic Empowerment Initiative for Public and Indian Housing Residents. The initiative was established through a Memorandum of Understanding (MOU) signed on January 24, 1990, by Secretaries Kemp and Sullivan. In the MOU, the Secretaries pledged to develop and implement joint initiatives with the goal of more effectively helping low-income families and individuals move toward independent living and economic self-sufficiency.

In addition to applying for participation, the public is invited to submit comments. Section 470 of the Housing and Urban Housing and Urban Development provide a 30 day comment period for a demonstration of this type. Comments are due by Jun 14, 1991. HUD will review comments received and, if necessary, will publish a Notice announcing any revisions to the program as a result of the public comments.

Interested persons are invited to submit comments regarding this notice to the Office of the General Counsel, Rules Docket Clerk, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, SW., Washington, DC 20410. Communications should refer to the above Progam Announcement Number. A copy of each communication submitted will be available for public inspection and copying during regular business hours (7:30 a.m.–5:30 p.m. Eastern Time) at the above address. As a convenience to persons interested in providing comments, the Rules Docket Clerk will accept brief public comments transmitted by facsimile ("FAX") machine. The telephone number of the FAX receiver is (202) 708–4337. (This is not a toll free number.) Only public comments of six or fewer total pages will be accepted via FAX transmittal. This limitation is necessary to assure reasonable access to the equipment. Comments sent by FAX in excess of six pages will *not* be accepted. Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Rules Docket Clerk (202) 708–2084 or, for the hearing and speech-impaired, (202) 708–4337.

OPIH/ORI/OCPD/HUD and OFA/ACF/HHS announce jointly that competing applications will be accepted for three-year demonstrations to test strategies for implementing comprehensive and coordinated programs to assist public and Indian housing residents in moving into the social and economic mainstream of employment, business, and homeownership. HUD CDBG Technical Assistance funds will be provided to eligible communities to increase the effective use of CDBG funded activities undertaken at the demonstration sites. This announcement has nine parts:

Part I describes briefly the background and goals of the proposed demonstrations.

Part II specifies who may apply for grants, waivers, and exemptions to undertake projects.

Part III spells out the minimum requirements for project design and operation.

Part IV discusses Federal, State, and local funding and third-party in-kind contributions, as well as waivers and exemptions, to support the projects.

Part V describes the plan to evaluate the demonstrations and grantee reporting requirements.

Part VI specifies the procedures HUD and HHS will follow in accepting, reviewing, and selecting applications for approval.

Part VII lists the criteria against which all eligible applications will be evaluated and scored.

Part VIII is meant to facilitate preparation of the application and provide instructions for its timely submission.

Part IX is meant to provide guidance in preparation of the application narrative.

CLOSING DATE: The closing date for submission of the applications under this demonstration is August 13, 1991. HUD will accept comments on this announcement for a thirty (30) day period after its publication in the **Federal Register.**

Applications will be accepted beginning 45 days after publication of this announcement in the **Federal Register** to allow HUD time to review comments.

The closing date for submission of applications under the Office of Community Services HUD/HHS Demonstration Grantee Set-Aside (see Part IV: Resources available to the project *Complementary Funding,* below) is August 13, 1991.

FOR FURTHER INFORMATION CONTACT: Gary D. Ashcraft, Director, Division of Program Evaluation, Administration for Children and Families, Family Support Administration, Attention: Economic Empowerment Demonstration Program, 370 L'Enfant Promenade, SW., Fifth Floor, Washington, DC, Telephone (202) 401–9315 (FTS 8–441–9315). Hearing and speech-impaired persons may use the HHS/TDD number, (202) 401–4657.

Part I: Background and Goals

The Secretaries' MOU specified community-level projects as one strategy for integrating the resources of housing and welfare programs. Pursuant to the MOU, HUD Assistant Secretary for Public and Indian Housing, Joseph Schiff and HHS Assistant Secretary for Family Support (now for Children and Families), Jo Ann B. Barnhart, issued an Information Memorandum (IM) on plans to achieve increased cooperation and coordination of HUD and HHS programs. The IM declared that the Departments "* * * are proceeding to develop actions and strategies that, among other things, encourage communities to integrate assistance programs for families receiving welfare in public and Indian housing. The Family Support Act of 1988, particularly the multifaceted Job Opportunities and Basic Skills Training (JOBS) program, offers new opportunities for interagency cooperation to promote self-sufficiency."

Accordingly, HUD and HHS propose to approve projects in up to 15 demonstration sites. Each project must develop and test strategies responsive to all of the following goals:

1. Empowering residents of public and Indian housing to take control over their living environment through resident management and/or other self-sufficiency initiatives.

2. Providing comprehensive and integrated programs of work experience, education, job training, economic development and supportive services to families in public and Indian housing.

3. Helping families receiving welfare who live in public and Indian housing to move off Aid to Families with Dependent Children (AFDC) and other assistance programs and to become economically self-sufficient through

mandatory participation in the JOBS program, including a required work component.

4. Assisting families to successfully participate in homeownership initiatives.

ATTACHMENT A describes HHS and HUD programs referred to in this announcement.

Part II: Eligible Applicants

Applicants for these demonstrations may be any of the following: A Public Housing Authority (PHA) and/or Indian Housing Authority (IHA); a Resident Management Corporation (RMC), an incorporated Resident Council (RC) resident-supported non-profits, or other incorporated resident entity; and/or a local government, applying jointly with the State IV–A Agency responsible for administering the Aid to Families with Dependent Children (AFDC) and the Job Opportunities and Basic Skills Training (JOBS) programs. The applicants will form a partnership to develop, implement, and operate each project.

For applicants for HUD Technical Assistance funds (see Optional Project Requirements for Technical Assistance to Support CBDG-Funded Activities in the Demonstration, below) eligibility is restricted to applications proposing to provide assistance in accordance with the Community Development Block Grant (CBDG) related requirements in PART III in one of the United States communities eligible to receive a CBDG entitlement grant or an Indian Tribe currently receiving assistance under the Indian CBDG program.

Part III: Site and Project Requirements

Site Requirements

Applications should propose to integrate demonstration activities with sites where work is planned or underway in HUD's Comprehensive Improvement Assistance Program (CIAP), new developments, homeownership conversion programs, and CDBG programs. Preference for approval will be given where work activities are identified for the following three types of sites:

1. Public and Indian housing developments planned for or recently modernized under CIAP.

2. Newly developed public or Indian housing units.

3. Homeownership conversion projects under HUD's section 21 of the Housing and Community Development Act of 1987, section 5(h) of the U.S. Housing Act of 1937, Turnkey III, and Indian Mutual Help authorities.

Applications also will be considered that propose to integrate demonstration activities with existing housing sites. However, the applicant must provide evidence of support from a significant majority of residents at the proposed site agreeing to participate in the Economic Empowerment Demonstration.

Sites proposed for demonstrations must have a majority of AFDC recipients among the residents.

Because of our desire to focus on communities, we do not anticipate funding scattered site projects or sites otherwise artificially enlarged to include a majority of welfare recipients to meet evaluation requirements. However, an applicant may choose, for example, as its demonstration site two buildings of a four-building public or Indian housing development.

Project Requirements

To achieve empowerment of public and Indian housing residents toward economic self-sufficiency, residents at the demonstration site must commit to assist in project activities in full partnership with the local housing authority and key agencies.

Proposed projects must incorporate all of the following program requirements:

1. All residents of the project who are 18 years old or over who are receiving AFDC and are not exempt from participation in the State JOBS program must be scheduled for, and participate in, JOBS approved activities between a minimum of 20 and a maximum of 40 hours per week (participation for more than 40 hours may be scheduled on a case-by-case basis). As an additional requirement, a minimum of 10 of the weekly hours of participation must be in work activities. Work is defined as unsubsidized employment, community work experience (CWEP), work supplementation, or on-the-job training. (See ATTACHMENT A for general JOBS information, including descriptions of CWEP, work supplementation and OJT.)

2. Evidence of coordination with the residents of the proposed demonstration site through a letter of support from the elected Resident Management Corporation (RMC), or Resident Council (RC), or other documentation such as a signed petition of support from residents if no organization exists. This process will help to achieve the goal of ensuring a resident empowerment approach. Supportive documentation must be representative of the site's total population, including non-JOBS eligible residents.

3. Formation or use of an existing coordinating council with residents, State and local social services and housing agencies (public and private), and businesses and educational facilities. It is expected that council members will make available resources, programs, or jobs to assist welfare and non-welfare families living in public and Indian housing to become self-sufficient.

4. A plan for on-site delivery of an integrated array of diverse services to assist target families and individuals to achieve economic independence. The plan should demonstrate how it would contribute to community capacity building, such as: the ability to formulate, manage and operate an organization under the governance of a board of directors; the development of linkages with local public and private organizations to provide access to resources; the ability to participate in the decision making process with institutions that effect community agencies' laws and policies; etc.

In addition, applicants must describe in the application and include in project operations all of the following:

1. A description of proposed project operation which will (a) reduce dependency through intensive participation in JOBS and coordinated activities by residents who receive AFDC, and (b) propose criteria through which the success of the project at achieving resident self-sufficiency can be measured.

2. A sound organizational scheme for a cooperative endeavor which assures: (a) Adequate involvement and representation of coordinating council members and (b) a plan for targeting public and private resources.

3. A needs assessment and self-sufficiency plan for residents of the demonstration site. (Guidance for preparing the needs assessment can be found in the PART IX "CHECKLIST FOR PREPARING THE APPLICATION NARRATIVE.) For JOBS-eligible residents, the plan must meet the JOBS regulatory requirements for an initial assessment and employability plan at 45 CFR 250.41. For those who are not JOBS-eligible, the plan should be based on similar requirements.

4. Individual resident performance standards that can reasonably be expected to predict successful completion of self-sufficiency plans.

5. Evidence that the demonstration plan, if approved, is likely to operate for a period of at least 3 years and has a reasonable likelihood of success, defined in terms of resident self-sufficiency.

Proposed projects may incorporate the following desirable provisions:

1. The self-sufficiency plan may serve as a contract with each family and the demonstration sponsors and can be made part of the public or Indian

housing lease executed between the family and the PHA, IHA or RMC.

2. The right to reside at the demonstration site and/or receive on-site services may be made contingent upon compliance with participation criteria established by the joint applicants.

Applicants are strongly encouraged to include components that will reinforce the above provisions in support of participants' efforts towards economic self-sufficiency and homeownership. These might include, for example, a linkage with the Child Support Enforcement program to increase paternity determinations, support orders, and child support payments. Another potential component would be a community safety program, possibly in cooperation with the municipal police, to reduce street crime, gang violence, and drug trafficking.

The description of project components and operations should be supported by a rationale for selection of those elements and a discussion of why they show promise for meeting the demonstration goals and project objectives.

Optional Project Requirements for Technical Assistance to Support CDBG-Funded Activities in the Demonstration

Technical assistance grant support for the demonstration is available in those communities which have committed or plan to commit CDBG entitlement funds to aid residents of public housing in becoming self-sufficient through participation in homeownership activities, resident management initiatives, and comprehensive and integrated programs of work experience, education, job training, economic development and other supportive services. The use of technical assistance is limited to facilitating skills and knowledge in planning, developing and administering the activities being funded by the local CDBG entitlement funds. It could include such activities as:

- Needs assessments and development, monitoring and revisions to CDBG-funded self-sufficiency plans for residents.
- Development and evaluation of performance standards to predict successful completion of residents' self-sufficiency plans.
- Design and training in implementation of administrative systems to coordinate all activities related to the CDBG-funded activities.
- Assessment of services provided to public housing residents by existing systems of job training, education, supportive services, etc.
- Design of alternative methods for integrating CDBG-funded services/activities with other services to provide a comprehensive support program for residents.
- Design and conduct training programs for program staff, supportive services staff, education and economic development personnel involved in the implementation of CDBG-funded activities.
- Assistance to residents and future homeowners at individual public housing sites in developing CDBG-funded homeownership conversion programs.
- Provision of linkages to organizations and/or individuals participating in the demonstration to help achieve demonstration goals and improve the delivery of CDBG-funded services to the demonstration site.

Part IV: Resources Available to the Project

Funding under the HUD/HHS Economic Empowerment Demonstration Program:

It is anticipated that grants totalling up to $2 million will be made available from HUD's CDBG Technical Assistance Program the first year of a three-year project period. It is also anticipated that HHS will make available, to an independent third-party, a contract totalling up to $530,000 under Section 1115 of the Social Security Act for the purpose of conducting evaluations.

Initial approval of projects will include, if approved, funds, waivers of certain State plan requirements and matching of certain unallowable costs pursuant to section 1115 of the Social Security Act as discussed below, for the first (one-year) budget period. Grantees must submit non-competing continuation applications for each of the remaining two years of the project period. Approval will be granted subject to the availability of funds and the grantee's progress toward meeting project objectives.

Complementary Funding

In addition, non-profit organizations who receive funding under this project as well as other non-profit organizations who enter into agreements with organizations who receive funding under this project, will be eligible for funds under the Job Opportunities for Low-Income Individuals Program administered by the Office of Community Services, Administration for Children and Families, Department of Health and Human Services. Up to two grants will be made under that program to successful grantees to create jobs for individuals in the public and Indian housing projects which the HUD/HHS Economic Empowerment Demonstration Program grantees represent. The maximum amount of each grant will be $500,000 and the project period will be three years.

The purpose and eligibility requirements of the complementary funding will be found in the OCS Program Announcement.

The closing date for applications under the Job Opportunities for Low-Income Individuals Program is indicated under Closing Date at the beginning of this document.

For further information on the complementary funding, contact: Gary D. Ashcraft, Director, Division of Program Evaluation, Office of Family Assistance, Administration for Children and Families, Attention: Economic Empowerment Demonstration Program, 370 L'Enfant Promenade, SW., Fifth Floor, Washington, DC, Telephone (202) 401–9315 (FTS 8–441–9315) or, for the hearing and speech-impaired, (202) 401–4657.

Waivers and Exemption

As part of the empowerment demonstration, applicants may request waivers from existing HHS and HUD requirements which, in the judgement of the applicants, will further the objectives of family self-sufficiency and resident empowerment. A brief description of HHS and HUD waiver processes, including some examples is offered below:

HHS

The Secretary of HHS has existing authority under section 1115 of the Social Security Act to waive many requirements of the AFDC and JOBS programs for the purpose of demonstration projects which the Secretary judges are likely to lead to family self-sufficiency through employment. In addition, under this authority, States may receive federal matching for costs not normally eligible for federal match. Within the Economic Empowerment Demonstrations, the single State agency responsible under title IV–A of the Act for the AFDC and JOBS programs must be the applicant and recipient of the waivers and must pay the costs for which federal matching is requested.

One successful demonstration which was evaluated is the Saturation Work Initiative Model (SWIM) in San Diego, California. The demonstration tested the feasibility and effectiveness of requiring high levels of participation (saturation) of welfare recipients in work and training programs designed to move them into employment. Project components included job-search, work

experience in conjunction with on-going job search and for those still unable to obtain employment through these components, skills training and education. SWIM showed that a required, structured work and training program could be effective, especially for the most economically dependent of its participants. In addition, the program was regarded by participants as fair and worthwhile.

For additional information on SWIM contact: Gary D. Ashcraft, Director, Division of Program Evaluation, Office of Family Assistance, Administration for Children and Families, Attention: Economic Empowerment Demonstration Program, 370 L'Enfant Promenade, Fifth Floor, Washington, DC, Telephone (202) 401–9315 (FTS 8–441–9315) or, for the hearing and speech-impaired, (202) 401–4657.

The following are examples of ways in which applicants might vary their AFDC and JOBS programs through a demonstration. The examples, which should be seen as illustrations rather than suggestions, include these provisions:

Increases in Scope of JOBS Participation: AFDC recipients normally exempt from participation in JOBS may be included. Applicants wishing to extend the benefits of intensive participation in self-sufficiency activities under JOBS may wish to consider expanding the population at the demonstration site of those covered by the JOBS participation requirements.

Pay after Performance: Participation in JOBS activities can be more closely related to circumstances of employment by making payment of AFDC or the provision of other benefits contingent upon successful completion of hours of JOBS activities.

Applicants for Economic Empowerment Demonstrations are encouraged to design projects that involve the maximum number of participants in a program tailored to the local community. In applying for a demonstration, State IV–A agencies must describe in their applications proposed variations from AFDC and JOBS program requirements, in addition to those within the work requirement for this demonstration, and explain how the proposed variations would enhance efforts to increase the self-sufficiency of participants. Each application will be reviewed by HHS to determine whether these are appropriate for approval under the waiver and matching provisions of section 1115 of the Social Security Act. Project approval will include use of the appropriate section 1115 provisions.

HUD

Within HUD, innovative programs are operated under regulatory authority consistent with the statutory requirements for the public and Indian housing program. Some of these are subject to exemption, such as the following:

Ceiling Rents: Currently HUD regulations (24 CFR, part 913) require that residents of public and Indian housing pay rent based on their income. As residents' incomes increase, they may incur rent levels higher than private market rents creating a disincentive for many residents to seek employment and preventing significant economic change for those who do work. Under a programmatic waiver, PHAs and IHAs can limit the amount paid in rent by establishing a maximum rent per type of unit related to the cost for the unit rather than resident income. By retaining residents with incomes above the poverty level, the development more closely reflects the larger community. In addition, working residents generally represent positive role models for their neighbors and children while deriving the economic benefits of employment.

Non-dwelling Use of Housing: Normally, when PHAs and IHAs remove a unit from dwelling status, a reduction in the operating subsidy occurs. A procedure for granting waivers to allow continued subsidy for a non-dwelling unit used in anti-drug, resident management, economic and social enterprises for tenant, day care, or tenant council activities is now available. [See HUD Notice PIH 90–39 (PHA)].

Income Exemptions: Regulations require an annual review of resident income which serves as a basis for computing the following year's rent. To encourage economic self-sufficiency, HUD's income policies disregard certain items from rent calculations:

- Scholarships for tuition;
- Stipends from JTPA and HUD sponsored training programs;
- Reimbursement of out-of-pocket expenses incurred to allow participation in such publicly-funded programs as JOBS.

Technical Assistance

HHS

JOBS Technical Assistance: It is anticipated that demonstration sites will receive technical assistance if the applicant requests it. The Administration for Children and Families, through an interagency agreement with the Departments of Labor and Education, has contracted with the National Alliance of Business and MAXIMUS, Inc., to provide technical assistance with the goal of helping States and localities operate effective and efficient JOBS programs. The contractors will help States implement JOBS programs which maximize participation and provide effective program interventions that have the possibility of changing the life prospects of welfare recipients.

In addition, ACKCO, Inc., also through an interagency agreement with HHS, Labor and Education, will provide technical assistance to Indian Tribes and Alaska Native Organizations implementing and operating JOBS programs.

HUD

Technical Assistance for Community Development Block Grant-Funded Activities: The principal purpose of the Community Development Block Grant (CDBG) Technical Assistance Program is to increase the effectiveness which units of general local government plan, develop and administer programs funded by CDBG entitlement grants. Activities eligible for technical assistance funding include the provision of technical or advisory services; the design and operation of training projects, such as workshops, seminars, or conferences; the development and distribution of technical materials and information; and other methods of demonstrating making available skills, information and knowledge to assist units of general local government in planning, developing or administering programs funded by CDBG entitlement grants. Technical assistance funds also may be used to assess programs and activities funded with CDBG funds.

Resident Management Technical Assistance: Training and technical assistance grants are available from HUD through annual grant competitions to provide direct funding of up to $100,000 to public and Indian housing resident groups "for the development of resident management entities, including the formation of such entities, the development of the management capability of newly formed or existing entities, the identification of the social support needs of residents of public and Indian housing projects, and the securing of such support." In many areas of the country, resident management groups, in partnership with local housing authorities, have begun to play a significant role in helping to shape JOBS, JTPA, and other federal assistance programs.

In addition, HUD also offers technical assistance through the Office of Drug Free Neighborhoods (ODFN). For more

information on these and other HUD programs, call the toll-free number on 1–800–245–2691.

State and Local Resources

Applicants are expected to provide no less than 25 percent of the total cost of these demonstrations from State and/or other non-Federal funds. Matching rates as set forth in Title IV–A of the Social Security Act applicable to AFDC and JOBS may not be waived. Because the demonstrations are viewed as an effort beyond that for implementing and operating JOBS, JOBS funds cannot be used to satisfy the 25 percent matching requirement. A commitment of local CDBG funds designated to the site to support demonstration activities is expected and can be counted as non-Federal matching funds.

Part V: Evaluation and Assessment

HHS will evaluate the demonstrations under contract with an independent third party evaluator, such as a research institute or consulting firm. Grantees must provide data, conduct interviews, and provide other information, as needed, to the evaluator. The HHS evaluator will investigate, among other things, the effectiveness of the enhanced participation requirements on the achievement of self-sufficiency.

In addition, each site must conduct its own assessment of the effects of the demonstration on participants' increase in self-sufficiency and movement toward homeownership. One component in the assessment will be an appraisal of the feasibility of the enhanced JOBS participation requirements. Applicants located near a Historically Black College or University (HBCU) are encouraged to engage the expertise available through that institution in undertaking their assessments.

The purpose of the grantee assessments is to amplify future findings from the independent third-party evaluation and to help explain demonstration outcomes. HUD and HHS do not expect the assessment to be based on a large-scale statistical analysis of extensive data. The Departments envision the assessments as process studies that combine quantitative data, including those from existing sources, with intimate staff knowledge of the demonstration's operation. It is anticipated that most grantees, especially those working with HBCUs, will not hire new full-time staff specifically to work on the process studies.

HUD and HHS anticipate that many data items will serve the purposes of both the independent third-party evaluation and the assessments. Specific information and guidance on working with the contractor will be provided to grantees as third-party evaluation plans are implemented. It is expected that the evaluation contractor will meet with each grantee to identify data items and to establish procedures for collecting and sharing data. Data should be available for AFDC recipients' level of work effort so that progress toward economic self-sufficiency can be assessed.

Grantee Reporting Requirements

Interim program reports will be due to ACF on a quarterly basis. Project directors shall submit the original copy of each report to the Division of Grants Management and one copy each to the assigned Project Officer and the appropriate ACF Regional Administrator.

A financial status report (SF 269) will be due semiannually.

Part VI: Application and Selection Process

Applicants for the Economic Empowerment Demonstrations who respond to this announcement must submit an application on Standard Form 424 "Application for Federal Assistance" (SF–424), with supporting narrative information, and certifications according to the instructions in Part VIII: Preparing and Submitting the Application, below. All applications for these projects will be reviewed against the criteria in Part VII: Criteria for Selection, below. They will be scored by a panel whose members are knowledgeable about the programs in the project plan. The ranking of applications based upon scores will be the criteria used to recommend projects for approval. The HHS Assistant Secretary for Children and Families, in consultation with appropriate HUD authorities, will act for the Secretary of HHS in approving and disapproving projects.

Applicants will be notified of approval or disapproval [sixty (60) days after the closing date as described in section entitled "Closing Date"] but no later than September 30, 1991. Approved projects will begin on October 1, 1991.

Applicants applying for funds under the Job Opportunities for Low Income Individuals program, whether for general consideration or for Set-Aside funds should submit an application following the instructions in the OCS Program Announcement and applications will be reviewed and scored against the criteria in that announcement.

Part VII: Criteria for Selection

All applications will be reviewed, scored and selected for participation in the demonstration, except for the award of HUD funds, according to the degree to which each meets Criteria 1, 2, and 3, below.

Applications which request HUD Community Development Technical Assistance Funds will be scored, ranked and recommended for funding from HUD funds in two steps. They first will be selected for participation in the demonstration according to the degree to which they meet Criteria 1, 2, and 3, below. Once selected for participation in the demonstration for all benefits except the award of HUD funds, they then will be scored and ranked again in a separate group on the factors in Criterion 4.

1. *Responsiveness to the HUD/HHS goals and requirements for the Economic Empowerment Demonstrations of the proposed project objectives and project plan. Maximum points: 45.*

- The extent to which project objectives are consistent with the HUD/HHS goals stated in PART I and the program and operational requirements of PART III of the announcement. The extent to which the project design reflects an understanding of the goals and requirements.
- The extent to which the maximum number of individuals will be active participants in JOBS and resident empowerment programs, including work, designed to result in self-sufficiency. The level of required commitment from residents in such activities, measured in part by weekly hours of planned activity, and the likelihood that such activities will lead to self-sufficiency.
- The extent to which work activities are identified using HUD's Comprehensive Improvement Assistance Program (CIAP), new development programs, and homeownership programs.
- The extent to which the applicant offers evidence of resident support and participation in development and implementation of the project and the coordinating council represents a broad spectrum of community leadership.
- The extent to which the applicant proposes to make innovative use of technical assistance in forming linkages to organizations and individuals that can assist the applicant in meeting project objectives and improving the delivery of block grant funded services to the project site.

2. *The completeness and feasibility of a plan to assess the effects of the demonstration in moving residents toward economic self-sufficiency and homeownership. Maximum points: 20.*

• The appropriateness to project objectives and the feasibility of the "in-house" assessment plan proposed by the applicant in the application narrative.

• The extent to which the applicant discusses the types of information and data likely to be used in the assessment, gives examples of available data and its sources, and identifies data gaps.

• The extent to which the plan for implementing the assessment is feasible.

• Written assurance of the applicant's willingness to work with the HUD/HHS third-party evaluator.

3. *The adequacy of the plan for project management and staffing. Maximum points: 35.*

• The appropriateness of the organizational structure and the feasibility of the management plan for carrying out the plan to meet project objectives. The specificity with which the applicant spells out each member organization's responsibilities within the demonstration. The feasibility of a plan for coordination of those responsibilities and for ensuring that each organization's representative carries out his/her responsibilities.

• The appropriateness of the qualifications and experience of applicant organization managers to provide administrative and fiscal management of the grant and to support the third-party evaluation and in-house assessment. The proposed plan to fill any gaps in organizational experience that may exist.

• The adequacy of personal qualifications and of time allocations for both paid and volunteer key staff for carrying out the project plan. The adequacy of qualifications and time allocations for other project personnel.

4. *Adequacy of the application for HUD technical assistance funds.*

Each application which proposes to use HUD technical assistance funds in support of CDBG-funded activities in the demonstration and which already has been selected for participation in the demonstration based on its score and ranking against Criteria 1, 2, and 3, above, will be scored and ranked again in a separate group against the following:

• Probable effectiveness of the proposal in meeting needs of localities and accomplishing overall project objectives. Maximum points: 25.

• Soundness of approach based on the extent to which the application identifies techniques or systems that can significantly impact on the key problem(s) identified. Maximum points: 25.

• Methodology for transfer of successful technical assistance techniques to other potential assistance providers. Maximum points: 10.

• Organizational and management plan reflecting a rational project management system. Maximum points: 15.

• Applicants qualifications based on present and past relevant experience and the competence of key personnel assigned to the project. Maximum points: 15.

• Potential for assistance activities being sustained beyond the period of the grant. Maximum points: 10.

Applications will be selected for HUD technical assistance funding according to the rank order of their scores on these criteria, but no application scoring below 50 will be funded. All activities in each application selected for funding must be technical assistance activities which facilitate skills and knowledge in planning, developing and administering activities being funded by local CDBG entitlement funds or Indian CBDG funds, and must include all letters required under Section II—G in Part IX: Checklist for Preparing the Application Narrative.

Part VIII—Preparing and Submitting the Application

1. Availability of Forms

Attachments B, C, and D contain all of the standard forms necessary for the application for awards under this demonstration announcement. These forms may be photocopied for the application.

For purposes of this announcement, all applicants will use the SF 424, SF–424A, and SF–424B and include the required narrative information. Instructions for completing the SF 424, SF–424A, and SF–424B are found in Attachments B, C, D, and PART IX.

Part IX contains a checklist to facilitate preparation of the narrative. Applicants should follow the numbered topical sequence of the checklist in writing the narrative.

In preparing the application, applicants are urged to consider fully the information in this announcement on demonstration goals, project and site requirements, resources, and evaluation/assessment plans. It is recommended also that applicants become familiar with the panel review criteria (Part VII: Criteria for Selection, above) and address as completely as possible in the narrative the concerns expressed in each criterion.

The application will consist of:

(a) Standard Form 424, "Application for Federal Assistance" (SF–424);

(b) "Budget Information—Non-Construction—Construction Programs" (SF–424A);

(c) "Assurances —Non-Construction Programs" (SF–424B);

(d) Restrictions on Lobbying, Certification for Contracts, Grants, Loans, and Cooperative Agreements: fill out, sign and date form found at ATTACHMENT H;

(e) Disclosure of Lobbying Activities, SF–LLL: fill out, sign and date form found at ATTACHMENT H, if appropriate; and

(f) the Project Narrative.

The applicant must be aware that in signing and submitting the application for this award, it is certifying that it will comply with Federal requirements concerning the drug-free work place and debarment regulations forth in Attachments E and F.

2. Application Submission

Applications must be submitted to ACF by the closing date. Refer to "Closing Date" at the beginning of this document for the specific date.

Applications may be mailed to: Administration for Children and Families, Division of Grants Management, 370 L'Enfant Promenade, SW., 6th Floor—OFM/DGM, Washington, DC 20447.

Hand-delivered applications are accepted during normal working hours of 8 a.m. to 4:30 p.m., Monday through Friday, on or prior to the established closing date at: Administration for Children and Families, Division of Grants Management, 6th Floor, 901 D Street, SW., Washington, DC 20447.

An application will be considered to be received on time under either of the following circumstances:

—The application is sent on or before the closing date as evidenced by a legible U.S. Postal Service postmark or a legibly dated receipt from a commercial carrier. Private metered postmarks will not be considered acceptable as proof of timely mailing. Applications submitted by any means other than through the U.S. Postal Service or commercial carrier shall be considered acceptable only if physically received at the address below.

—The application is hand-delivered on or before August 13, 1991 to the Office of Financial Management, Division of Grants Management, HHS/ACF, at the address below. Hand-delivered applications will be accepted between 8 a.m. and 4:30 p.m., Monday through Friday (excluding legal holidays),

through the closing date. The official date of receipt of hand-delivered applications will be that recorded by ACF at the time of delivery.

Late applications will be returned to the sender without consideration by the review panel.

Applications once submitted are considered final and no additional materials will be accepted.

One application with an original Authorized Representative signature and two copies are required.

3. Intergovernmental Review

All applicants must comply with the intergovernmental review requirements of Executive Order 12372, "Intergovernmental Review of Federal Programs," and 45 CFR Part 100, "Intergovernmental Review of Department of Health and Human Services Program and Activities." Through this process, States (in consultation with local governments) are provided the opportunity to review and comment on applications for Federal financial assistance.

All States and Territories except Alaska, Idaho, Kansas, Minnesota, Nebraska, Virginia, American Samoa and Palau have elected to participate in the Executive Order process and have established Single Point of Contact (SPOCs). Applicants from these seven jurisdictions need take no action regarding E.O. 12372. Applicants for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of E.O. 12372. Applicants should contact the State's Single Point of Contact (SPOC) as early as possible to determine the applicable procedure. The SPOC comment period has been reduced from sixty (60) days to thirty (30) days from the application deadline date to submit comments to allow ACF time to review, consider and attempt to accommodate SPOC input, in order to make grant awards before the end of the fiscal year.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Division of Grants Management, 6th Floor, 370 L'Enfant Promenade, SW., Washington, DC 20447.

A list of the Single Points of Contact for each State and Territory is included as Attachment G.

4. Catalog of Federal Domestic Assistance 'CFDA) Reference

These demonstrations have no CFDA number.

Part IX—Checklist for Preparing the Application Narrative

In preparing applications for the above projects, applicants are asked to work from this list of items to be included in the narrative and to organize their material into the four (4) segments below under Roman numerals: I. Project Purpose, II. Project Plan, III. Evaluation and Assessment, and IV. Project Operation.

Within each segment, please use the underlined topics (but not their letters and numbers within the checklist) as section headings.

I. *Project Purpose* (Corresponds to "I. Project Title and Objectives" and "II. Background and Importance of Project" in the standard printed grant application instructions):

A. Statement of overall project purpose related to the goals listed in Part I: Background and Goals in the announcement.

B. Statement of specific objectives based on the demonstration goals and project purpose.

C. Identification of all agencies/organizations coordinating with the State AFDC/JOBS agency to develop, implement, and operate the project.

D. Identification of HUD programs at the proposed project site (CIAP, new development, homeownership conversion existing sites with residential support, Community Development Block Grant).

E. Specification of the number of site residents and the proportion who are AFDC recipients.

F. Identification of agencies and organizations in addition to those in the applicant's unit (I.–C., above) that will participate in the project and the role of each.

G. Rationale for the mix of agencies/organizations to be included in the demonstration.

II. *Project Plan* (Corresponds to "V. Work Plan" and "VII. Implementation Potential" in the standard printed grant application instructions):

A. Specific and detailed discussion of each required program element listed in the announcement:

1. The mandatory work requirement.

2. Evidence of coordination with demonstration site residents. (Documentation such as a letter of support or resident petition may be appended.)

3. A plan for forming, if one does not exist, a coordinating council. The coordinating council must include representatives from the applicant agencies as well as (if not an applicant agency) from State and local social service and housing agencies (public and private), businesses, and educational facilities that have resources, programs, or jobs to assist welfare and non-welfare families living in public and Indian housing become self-sufficient. Communities are encouraged to involve the local Private Industry Council, if one exists, and to include members of the medical, religious, and financial communities in the coordinating body. The coordinating council should strive for equal representation from the private and public sectors.

Note: The coordinating council must work with the applicant, PHA and other public and private agencies that have resources or programs available to assist welfare and non-welfare families. The coordinating council must secure commitments of local public and private resources and must oversee the administration of the program.

A list of coordination objectives the current or proposed coordinating council will address.

4. A plan for on-site delivery and integration of services to assist targeted families. A description of how the plan will contribute to community capacity building through training, planning, and involvement of residents in management and other activities.

B. Specific and detailed discussion of each required operational element:

1. A project operations plan to reduce depedency through JOBS and coordinated activities. Criteria by which project success toward achieving resident self-sufficiency can be measured.

2. Description of an organizational scheme for assuring cooperation among participating agencies/organizations, to include:

a. A plan for adequate representation and involvement of coordinating council members, and

b. A plan for targeting public and private resources.

3. *Needs assessment and self-sufficiency plan.* The needs assessment should identify both specific needs of the target population and the availability of resources within the community to meet these needs. In particular, the assessment should identify areas of potential employment in the community, and resources and activities needed to help participants obtain jobs in these areas. In addition to employment opportunities and job training the assessment should address housing, child care, education, personal development and employment counseling, transportation, and medical care.

Note: Many local universities or colleges may be of assistance with the assessment. The following are suggestions for preparing the needs assessment:

—Talk with potential program participants to uncover their perceptions of the obstacles to self-sufficiency. Ask representatives of the PHA and various social service agencies for their views on the same problems and what assistance programs are available to solve them.
—Review the target population's need for housing, job training/placement, and support services. Identify educational levels of potential participants, average number of ages of children who will require child care, types of counseling required, transportation needs, etc.
—Identify job training and placement opportunities existing in the area both through the JTPA and private sector groups.
—Determine which training programs are most likely to lead to long-term employment possibilities with career-ladder possibilities.
—Contact employment bureaus, Chambers of Commerce, and similar organizations in neighboring communities to determine their potential employment opportunities. If these neighboring groups are willing to help, elicit their participation on the coordinating council.
—Identify, by agency or group, potential sources of support. Determine exactly what services each group is willing to provide; to how many participants, how often, at what time, and whether or not a fee will be charged. Secure written commitments from these groups stating the services they agree to offer.

4. List of performance standards to show successful progress toward completion of the self-sufficiency plan. Rationale for the standards.

5. Likelihood of continuation within the community beyond the experimental stage. Evidence that the demonstration plan, if approved, is likely to operate for a period of at least 5 years and has a reasonable likelihood of success, defined in terms of resident self-sufficiency.

C. Specific and detailed discussion of additional project provisions, for example:

1. A provision to use the required self-sufficiency plan as a contract between each participating family and the demonstration sponsors. A plan to make the contract part of the family's lease with the PHA, IHA, or RMC.

2. A plan to make residence at the demonstration site and/or to receive on-site services contingent upon residents meeting project participation criteria.

3. A plan for linkage with the Child Support Enforcement program to enhance economic self-sufficiency through increasing paternity determinations, support orders, and child support payments.

4. A plan to establish and operate a community safety program to reduce street crime, gang violence, and drug trafficking.

D. Identification of project provisions (regarding, for example, participant exemptions or benefits to be contingent upon successful completion of specified hours of JOB activities) that may require waivers under section 1115 of the Social Security Act because they depart from AFDC or JOBS program requirements. (Provide a rationale for each alternative provision).

E. Identification of project provisions (for example, those regarding ceiling rents, non-dwelling use of housing, and computations for determining a resident's prospective rent) that may require HUD exemptions because they depart from regulatory authority consistent with statutory requirements.

F. A discussion of project activities that require technical assistance with identification of the types of assistance desired. (To the extent possible, specify the types needed, for example, HHS JOBS or HUD Resident Management technical assistance.)

G. Each applicant which proposes to use HUD technical assistance funds in support of CDBG-funded activities in the demonstration must submit the following:

1. A letter signed by the government official responsible for administering the CDBG program in the community in which the technical assistance activities will occur identifying the amount of CDBG entitlement funds committed or planned to be committed, the dates of commitment or planned commitment, the specific activities undertaken or planned to be undertaken, and the relationship between the CDBG entitlement activities and the proposed technical assistance activities.

2. Where the applicant, applying jointly with the State IV–A agency, is a non-profit organization or for-profit organization, public housing authority or public body other than the CDBG entitlement community itself, the application must include a letter signed by the Chief Executive Officer of the CDBG community in which the technical assistance will occur designating the applicant as a technical assistance provider to its CDBG entitlement program.

3. Description of the proposed uses of HUD technical assistance funds in accordance with project requirements in Part III: Site and Project Requirements.

III. *Evaluation and Assessment* (Corresponds to "III. Research and Demonstration Methodology" and "IV. Evaluation Plan" in the standard printed grant application instructions):

A. A discussion of the applicant's anticipated cooperation with the outside evaluator of all the demonstrations. To include:

1. Written assurance of willingness to cooperate.

2. Discussion of possible barriers to cooperation and measures to overcome them.

3. Identification of resources (data, personnel) that the grantee can bring to the evaluation partnership.

B. A general description of the applicant's evaluative assessment plan (process study) to describe and discuss problems of implementing and operating the demonstration and assessing the extent to which its interventions helped move participants toward economic self-sufficiency and homeownership. To include:

1. Description of a plan to carry out the assessment. To include:

a. Identification of resources (expertise, estimate of person-hours, etc.) to be provided by the institution.

b. Identification of, and resume for, the person in the applicant unit responsible for coordinating the assessment with the college or university, if applicable.

c. Status of the proposed partnership.

d. A schedule for implementing and conducting the assessment.

2. A discussion of the information and data to be used in the assessment, including:

a. Lists (or at least examples) of the data to be included, with their sources.

b. Designation of the data item(s) for participants' level of work effort.

c. Identification of gaps in data desired for the assessment.

IV. *Project Operation* (Corresponds to "V. Work Plan" and "VI. Project Plan and Facilities" in the standard printed grant application instructions):

A. Gantt Charts or other schedules, one for the project's first year and a second for the two remaining years. (Include in the first-year schedule phase-in dates for each project component, dates for measuring progress against participation criteria, etc.)

B. An organizational plan that describes the working relationship of the resident and coordinating councils with project management and staff. (Include organizational charts, with the number of each type of staff position and time allocations for each position.)

C. An operational plan that describes the responsibilities of each key individual and unit within the organizational plan. Identification of specific individuals for key individuals, referenced to IV.–D, below. Identification of gaps in organizational experience and a plan to fill those gaps.

D. Resumes for each person in a key position. Position descriptions for jobs for which there are no incumbents.

Dated: May 6, 1991.

Robert M. Wilson,

Deputy Assistant Secretary for Children and Families.

Attachment A—Program Descriptions and Regional Office Contacts

U.S. Department of Health and Human Services

Aid to Families with Dependent Children (AFDC)

States make payments directly to eligible needy families with dependent children to cover costs for food, shelter, clothing, and other items of daily living. The program requirements and benefits vary by State. In general, the program benefits single parent families with children under the age of 18 whose father or mother has died or is continuously absent from the home, or two-parent families in which one of the parents is incapacitated. In addition, all States include two-parent families in which the principal earner is unemployed. The Federal government pays half of the State's administrative costs and from 50–83% of benefits.

Jobs Opportunities and Basic Skills Training Program (JOBS)

The Family Support Act of 1988 established the JOBS program. The purpose of JOBS is to provide AFDC families with the opportunity to take part in education, job training, and work experience programs that will help them avoid long term dependency. All States were required to implement a JOBS program by October 1, 1990. JOBS will also provide these individuals with support services, such as child care, tailored to their needs, which they require to become self-supporting. JOBS programs will be designed by the States themselves to meet each of their specific needs.

The JOBS program is designed to:

- Target resources to those hardest to serve, particularly women with young children.
- Emphasize education, particularly literacy and remedial education.
- Provide training and work experience for jobs that exist.
- Maximize use of existing resources by encouraging extensive coordination at all levels.
- Reach as many recipients as possible.
- Provide states flexibility in program design.
- Encourage targeting of program resources or services, not administration.
- Provide women with choices of child care providers, within state fiscal constraints.
- Focus on women and their children.

The major features of the JOBS program are:

—The State IV-A agency is required to coordinate JOBS program services, including child care and supportive services with other Federal, state and local educational, training, employment, and service programs and with Indian Tribes and Alaska Native organizations that are eligible to conduct separate JOBS programs.

—States must provide all AFDC applicants and recipients with information on the JOBS program, including: education, training, and employment opportunities; available supportive services including child care and transition child care; the State IV–A agency's obligations; and the participant's responsibilities.

—States are required to conduct an initial assessment of each participant's employability including the work experience, employment skills, and service needs of each participant. The State must develop an employability plan in consultation with the JOBS participant based on the initial assessment.

—Mandatory activities consist of the following components:

- Basic Education Activities—Education below the post-secondary level must include, but is not limited to: (1) high school education or its equivalent; (2) basic and remedial education to achieve a basic literacy level; and (3) education in English as a second language.
- Job Readiness Activities—preparation for work by assuring that participants are familar with general work place expectations and exhibit work behavior and attitudes necessary to compete successfully in the labor market.
- Jobs Skills Training—includes vocational training for a participant in technical job skills and equivalent knowledge and abilities in a specific occupational area.
- Job Development and Job Placement—agency activity on behalf of participants to solicit a public or private employer's unsubsidized job opening, to market participants or to secure job interviews for them.

—State JOBS program must also offer two of the following four optional components: (a) Group and individual job search skills; (b) on-the-job-training of participants; (c) work-supplementation by developing and subsidizing jobs for recipients as an alternative to financial assistance; and (d) community work experience programs to improve the employability of individuals not able to obtain employment by providing work experience in projects which serve a useful public purpose.

—All recipients of AFDC must participate in JOBS program activities unless they are exempt. Exemptions include recipients who are: under age 16, age 60 or older, ill or incapacitated, working 30 or more hours per week, in the third or subsequent month of pregnancy, youngest child is under 3 (or 1, at state option), or is a VISTA volunteer.

—States may require a parent caring for a child under age 6 to participate no more than 20 hours per week, although participation of more than 20 hours may be encouraged when deemed appropriate in light of the recipients's employment goals.

—To the extent that resources permit, the State must require the custodial parent under 20 who has not finished high school (or its equivalent) to participant in an appropriate educational activity even if the youngest child is under 3. However, the State may require the custodial parent who is 18 or 19 and is required to participate in JOBS to participate in training or work activities (subject to the 20-hour limit) instead of in educational activities if one of certain conditions is met.

Child Care

—States must guarantee child care necessary for AFDC recipients to: (1) Accept or maintain employment, or (2) participate in an approved educational or training activity under JOBS, or in non-JOBS areas according to guidelines for approval of activities in non-JOBS areas.

—The guarantee of child care is limited to dependent children under 13, or older children who are physically or mentally incapable of caring for themselves or who are under court supervision. States must also guarantee care for a child who would be in the assistance unit except for the receipt of supplemental Security

Income under title XVI of foster care under title IV–E.

—Regulations allow for the caretaker relative to choose the type of child care (center, group family day care, family day care or in-home care), if more than one type is available.

—States may provide for child care in a variety of ways: by providing care directly, contracting with providers, issuing vouchers to the custodial parent, reimbursing the custodial parent for out-of-pocket expenses, or allowing for a dependent care disregard when calculating the welfare grant.

—FFP is available for payments for the actual cost of child care up to the statewide limit established by the State IV–A agency, but not for more than the applicable local market rate. In setting the statewide limit the state may choose the amount of the dependent care disregard or some higher amount.

—States must establish local market rates which are based on a representative sample of providers or slots. Local market rates must be determined by type of care, such as center care, group family day care. Rates must be differentiated by care type for children with special needs, infants, toddlers, preschool and school children and whether there are different rates for full and part-time care. Local market rates must be established at the 75th percentile of the cost of such care.

—The amount of the dependent care disregard is $175 per month, per child over two and $200 for a child under two.

—FFP is available for child care benefits at the Federal medical assistance percentage and is not subject to a funding cap. Child care administrative costs will be matched at the administrative matching rate for AFDC.

Other Supportive Services

—States must define work-related supportive services and work-related expenses in the State Supportive Services Plan. They may include one-time, work-related expenses which would enable individuals to accept or maintain employment.

Transitional Child Care

—States must guarantee child care for up to 12 months when a family becomes ineligible for AFDC assistance because of increased earnings, loss of the income disregard due to time limitations, or for AFDC–UP cases only, an increase in the number of hours worked to over 100 hours per month.

—To be eligible, the former recipient must have received AFDC in 3 of the prior 6 months.

—Eligibility for benefits continues for 12 consecutive months. Families may begin to receive child care in any month during the 12 month eligibility period.

—States must establish a sliding fee scale for the purpose of calculating a family's contribution for transitional child care. The State IV–A agency must require each family receiving transitional child care to contribute toward the payment for such care based on the family's ability to pay.

Child Support Enforcement Program

It 1975, the Child Support Enforcement program was established as a Federal/State/local effort to locate absent parents, establish paternity when necessary, and establish and enforce legal orders for support. The Federal and State governments jointly (66–34) percent fund child support enforcement services. This program is unique among government programs in that States can make net dollar savings through child support enforcement efforts. There are over 9.8 million mothers rearing children without a father in the household who could potentially benefit from child support services.

Continuing concern for the well-being of children who live with only one of their parents and a desire to further promote family self-sufficiency promoted Congress to enact the Child Support Enforcement Amendments of 1984 and the Family Support Act of 1988. Under these laws, States are required to use strong proven practices for collecting child support payments, to upgrade efforts to establish paternity and to respond with equal vigor on behalf of children living in other States and to provide services for welfare and non-welfare families alike. Enforcement remedies which States must use include: mandatory immediate wage withholdings, expedited legal processes, and offsetting of both Federal and State income tax refunds. States must also establish mandatory presumptive guidelines for setting child support awards. Also under the Family Support Act of 1988, States must be able to renew and modify support orders when requested to comply with their guidelines. By the end of 1993, States must establish a periodic review and modification of child support orders at least every 36 months.

ADMINISTRATION FOR CHILDREN AND FAMILIES REGIONAL OFFICES

States	Acting regional administrators
Region I: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.	Mr. Hugh Galligan, DHHS/ACF, John F. Kennedy Federal, Building, 6th Floor, Room 600, Boston, Massachusetts 02203, (FTS) 835–2463, Commercial (617) 565–2463, FAX: (FTS) 835–2493.
Region II: New York, New Jersey, Puerto Rico, Virgin Islands.	Ms. Ann Schreiber, DHHS/ACF, 26 Federal Plaza, Room 4048, New York, New York 10278, (FTS) 264–2890, Commercial (212) 264–2890, FAX: (FTS) 264–4881.
Region III: Delaware, Maryland, Pennsylvania, Virginia, West Virginia, and District of Columbia.	Mr. Rick Spitzborg, DHHS/ACF, Mail Stop #15, 3535 Market Street, Room 5220, Philadelphia, Pennsylvania 19101, (FTS) 596–4365, Commercial (215) 596–1320, FAX: (FTS) 596–4437.
Region IV: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.	Ms. Suanne Brooks, DHHS/ACF, 101 Marietta Tower, Suite 821, Atlanta, Georgia 30323, (FTS) 841–5733, Commercial (404) 331–5733, FAX: (FTS) 841–1776.
Region V: Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.	Ms. Marion Steffy, DHHS/ACF, 105 W. Adams Street, 20th Floor, Chicago, Illinois 60603, (FTS) 353–4237, Commercial (312) 353–4237, FAX: (FTS) 353–2204.
Region VI: Arkansas, Louisiana, New Mexico, Oklahoma, Texas.	Mr. Marvin Layne, DHHS/ACF, 1200 Main Tower Building, Suite 1700, Dallas, Texas 75202, (FTS) 729–9648, Commercial (214) 767–9648, FAX: (FTS) 729–3743.
Region VII: Iowa, Kansas, Missouri, Nebraska.	Mr. Dwight High, DHHS/ACF, 601 East 12th Street, Federal Building, Room 515, Kansas City, Missouri 64106, (FTS) 867–2806, Commercial (816) 426–2806, FAX: (FTS) 867–3010.
Region VIII: Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.	Mr. David Chapo, DHHS/ACF, Federal Office Building, Room 1185, 1961 Stout Street, Denver, Colorado 80294–3538, (FTS) 564–5646, Commercial (303) 844–5646, FAX: (FTS) 564–2313.
Region IX: Arizona, California, Hawaii, Nevada, Guam, Trust Territory of Pacific Island, American Samoa.	Sharon Fujii, Ph.D., DHHS/ACF, 50 United Nations Plaza, Mail Stop 351, San Francisco, California 94102, (FTS) 556–4415, Commercial (415) 556–4415, FAX: (FTS) 556–1544.

ADMINISTRATION FOR CHILDREN AND FAMILIES REGIONAL OFFICES—Continued

States	Acting regional administrators
Region X: Alaska, Idaho, Oregon, Washington.	Mr. Edward Singler, DHHS/ACF, 2201 Sixth Avenue, M/S RX-70, Seattle, Washington 98121, (FTS) 399-2775, Commercial (206) 553-2775, FAX: (FTS) 399-0421.

U.S. Department of Housing and Urban Development

Public Housing

The Federal low income public housing program provides Federal aid to local public housing agencies to provide decent, safe and sanitary housing for low income residents at rents they can afford. The program is administered under the authority of the U.S. Housing Act of 1937, as amended, and currently supports 1,300,00 units of housing.

There are 3,100 public housing agencies (PHAs) established by local governments in accordance with State law. These local public agencies develop, own, and operate low income public housing projects, which used to be financed through the sale of local tax exempt obligations, guaranteed by the U.S. Government, and now are funded by direct Federal grants. HUD furnishes technical and professional assistance in planning, developing, and managing the projects and gives three kinds of financial assistance: funds for development costs, annual contributions for operating subsidy, and modernization (capital improvement) funds.

Rents are based on the resident's ability to contribute to the costs of managing and operating the housing. To gain admission to public housing, the family must be a lower income family; its income may not be more than 80% of the median income for the area. Actual average tenant incomes are about 30% of the median.

Indian Housing

This HUD program makes grants and pays operating subsidies to 182 local Indian housing authorities (IHAs) to assist in developing and managing low income housing projects. The program is administered under the authority of the U.S. Housing Act of 1937, as amended, with almost 70,000 units of housing built in Indian country since the inception of the program in 1961.

Three basic types of Indian housing programs are in use on Indian reservations; (1) conventional rental; (2) homeownership; and (3) Section 8 or vouchers. In all of these programs, the IHA and HUD enter into a financial agreement which provides Federal assistance for the development and/or operation of housing and outlines the responsibility of the IHA in order to maintain this arrangement.

Resident Management Grant Program

This program provides financial assistance to resident councils and resident management corporations to fund certain activities related to resident management of public and Indian housing. There are currently over 100 resident management entities under development generating positive social and management benefits including job creation, reduction of crime and welfare dependency, development of new social services, enhancement of community services and overall improvement in the quality of life for residents of public and Indian housing. In addition to improving their housing, RMCs start businesses that hire residents, operate day care centers, and provide job training for residents. The FY '91 funding level for this program is at $5 million with per-site grants up to $100,000.

Comprehensive Improvement Assistance Program (CIAP)

This program provides financial assistance to Public Housing Agencies (PHAs), and Indian Housing Authorities (IHAs), to improve the physical condition and upgrade the management and operation of existing public and Indian housing to assure that such developments continue to serve lower-income families. Up to 10% of CIAP may be used for management improvement funding which can support resident training activities consistent with JOBS self-sufficiency efforts.

Homeownership Programs

The Department administers several programs which offer the residents the opportunity to become homeowners. These programs include a lease-purchase program under Turnkey III, the Indian Mutual Help Program, sales of public housing properties by PHAs to residents under the statutory authority of section 5(h) of the U.S. Housing Act of 1937, and sales of multifamily buildings from local PHAs to RMCs under section 21.

Community Development Block Grant (CDBG) Program

This program provides annual grants to states, cities and counties to develop viable urban communities by providing decent housing and a suitable living environment, and by expanding economic opportunities, principally for low- and moderate-income persons. One way that a CDBG-assisted economic development activity can meet the national objective of benefiting low- and moderate-income persons is if the activity involves the employment of persons, the majority of whom are of low and moderate income. JOBS participants would automatically meet the CDBG low- to moderate-income national objective.

One of Secretary Kemp's priorities is to empower the poor by providing public and assisted housing residents an opportunity to manage and own the housing units in which they live. HUD is developing guidance for using CDBG funds to assist residents of public and assisted housing with housing resident management, ownership conversion, and economic development opportunities. Activities may include, but are not limited to, acquisition and rehabilitation assistance, public services and public facilities and improvements, and economic development activities.

The Public Housing Drug Elimination Program

This program provides direct financial assistance to PHAs and IHAs to reduce and eliminate drug-related crime in and around their communities. Through a competitive grants process, applications are awarded based upon the severity of the drug problem and the quality and comprehensiveness of the plan to solve the problem, and the extent to which residents and community leaders are involved in implementing the program. Grant funds may be used for enforcement and prevention activities for up to two years per award.

U.S. Department of Housing and Urban Development

Regional Resident Initiatives Coordinators (RICS)

States	Regional RICS
Region I: (Boston) Connecticut, Maine, Massachusetts, Rhode Island, Vermont.	Bill Hart (Acting), HUD/OPH, Thomas P. O'Neill, Jr., Federal Building, 10 Causeway St., Boston, Massachusetts 02222-1092, (FTS) 835-5298, Commercial 617-565-5298, FAX: (FTS) 835-5257.
Region II: (New York) New York, New Jersey, Puerto Rico, Virgin Islands.	Frank Malerba, HUD/OPH, 26 Federal Plaza, New York, New York 10278-0068, (FTS) 264-6355, Commercial (212) 264-6355, FAX: (FTS) 264-0246.

States	Regional RICS
Region III: (Philadelphia) Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia.	Cynthia Jetter, HUD/OPH, Liberty Square Building, 105 S 7th St., Philadelphia, PA 19106–3392, (FTS) 597–6048, Commercial (215) 597–6048, FAX: (FTS) 597–9627.
Region IV: (Atlanta) Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.	Dan Abel, HUD/OPH, Richard B. Russell Federal Building, 75 Spring St. S.W., Atlanta, Georgia 30303–3388, (FTS) 841–0701, Commercial (404) 331–5141, FAX: (FTS) 841–0845.
Region V: (Chicago) Illinois, Indiana, Michigan, Ohio, Wisconsin.	Pat Aikens, HUD/OPH, 626 West Jackson Blvd., Chicago, Illinois 60606–5601, (FTS) 886–0803, Commercial (312) 353–0803, FAX: (FTS) 353–0157.
Region VI: (Fort Worth) Arkansas, Louisiana, New Mexico, Oklahoma, Texas.	Cheryl Renteria, HUD/OPH, 1600 Throckmorton, P.O. Box 2905, Fort Worth, Texas 76113–2905, (FTS) 728–5501, Commercial 817–885–5501, FAX: (FTS) 728–5629.
Region VII: (Kansas City) Iowa, Kansas, Missouri, Nebraska.	T.C. Warren, HUD/OPH Professional Building, 1103 Grand Avenue, Kansas City, Missouri 64106–2496, (FTS) 757–3920, Commercial (816) 236–3920, FAX: (FTS) 758–6590.
Region VIII: (Denver) Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.	Evelyn Meininger, HUD/OPH, Executive Tower Building, 1405 Curtis St., Denver, Colorado 80202–2349, (FTS) 564–4771, Commercial (303) 844–4771, FAX: (FTS) 564–2475.
Region IX: (San Francisco) Arizona, California, Hawaii, Nevada, Guam, Trust Territory of Pacific Island, American Samoa.	Donald Feist, HUD/OPH, Phillip Burton Federal Building and U.S. Courthouse, 450 Golden Gate Avenue, P.O. Box 36003, San Francisco, CA 94102–3448, (FTS) 556–1747, Commercial (415) 556–1747.
Region X: (Seattle) Alaska, Idaho, Oregon, Washington (Seattle).	Barbara Jenkins, HUD/OPH, Arcade Plaza Building, 1321 Second Avenue, Seattle, Washington 8101–2058, (FTS) 399–0276, Commercial (206) 442–0276, FAX: (FTS) 399–4405.

U.S. Department of Housing and Urban Development

Regional Indian Resident Initiatives Coordinators (RICS)

Region	Indian RICS
Region V: Chicago	Kevin Fitzgibbons, Office of Indian Programs, 626 West Jackson Blvd., Chicago, Illinois 60606–5601, (FTS) 886–6484, Commercial (312) 353–6484, FAX: (FTS) 353–0157.
Region VI: Oklahoma	Caren Cook, Indian Programs Division, Murrah Federal Building, 200 N.W. 5th St., Oklahoma City, OK 73102–3202, (FTS) 736–5968, Commercial (405) 231–4181, FAX: (FTS) 736–4648.
Region VIII: Denver	David Bohl, Office of Indian Programs, Executive Tower Building, 1405 Curtis St., Denver, Colorado 80202–2349, (FTS) 564–2963, Commercial (303) 844–2963, FAX: (FTS) 564–2475.
Region IX: Phoenix/San Francisco	Vacant.
Region X: Anchorage	Deb Alston, Office of Indian Programs, 222 W. 8th Ave. #64, Anchorage, Alaska 99513–7537, (FTS) 898–4170, Commercial (907) 271–4170, FAX: (FTS) (907) 271–3667.
Seattle	Lillian Kaufman, Office of Indian Programs, Arcade Plaza Building, 1321 Second Avenue, Seattle, Washington 8101–2058, (FTS) 399–0762, Commercial (206) 442–0762, FAX: (FTS) 399–4405.

BILLING CODE 4150–04–M

ATTACHMENT B—SF 424, APPLICATION FOR FEDERAL ASSISTANCE AND INSTRUCTIONS FOR THE SF–424

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED	Applicant Identifier
3. DATE RECEIVED BY STATE	State Application Identifier
4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

1. TYPE OF SUBMISSION:
Application: ☐ Construction ☐ Non-Construction
Preapplication: ☐ Construction ☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit
Address (give city, county, state, and zip code)	Name and telephone number of the person to be contacted on matters involving this application (give area code)

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐
A State H Independent School Dist
B County I State Controlled Institution of Higher Learning
C Municipal J Private University
D Township K Indian Tribe
E Interstate L Individual
F Intermunicipal M Profit Organization
G Special District N Other (Specify) _____

8. TYPE OF APPLICATION:
☐ New ☐ Continuation ☐ Revision
If Revision, enter appropriate letter(s) in box(es) ☐ ☐
A Increase Award B Decrease Award C Increase Duration
D Decrease Duration Other (specify):

9. NAME OF FEDERAL AGENCY

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐.☐☐☐
TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.)

13. PROPOSED PROJECT:

Start Date	Ending Date

14. CONGRESSIONAL DISTRICTS OF:
a. Applicant b. Project

15. ESTIMATED FUNDING:

a Federal	$ .00
b Applicant	$ 00
c State	$ 00
d Local	$ 00
e Other	$ 00
f Program Income	$ 00
g TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?
a YES THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON
DATE _____
b NO ☐ PROGRAM IS NOT COVERED BY E.O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?
☐ Yes If "Yes," attach an explanation ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a Typed Name of Authorized Representative	b Title	c Telephone number
d Signature of Authorized Representative		e Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

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INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item: Entry:

1 Self-explanatory.

2 Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).

3. State use only (if applicable).

4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.

5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.

6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.

7. Enter the appropriate letter in the space provided.

8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:

— "New" means a new assistance award.

— "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.

— "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.

9 Name of Federal agency from which assistance is being requested with this application.

10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.

11 Enter a brief descriptive title of the project. if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

Item: Entry:

12. List only the largest political entities affected (e.g., State, counties, cities)

13. Self-explanatory.

14. List the applicant's Congressional District and any District(s) affected by the program or project

15. Amount requested or to be contributed during the first funding/budget period by each contributor Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.

16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.

17. This question applies to the applicant organization, not the person who signs as the authorized representative Categories of debt include delinquent audit disallowances, loans and taxes.

18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B – BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY (1)	(2)	(3)	(4)	Total (5)
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

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SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 -19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:
23. Remarks	

SF 424A (4-88) Page 2
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INSTRUCTIONS FOR THE SF-424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A,B,C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A,B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary
Lines 1-4, Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in *Column* (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown Additional sheets should be used when one form does not provide adequate space for all breakdown of data required However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g.)

For new applications, leave Columns (c) and (d) blank For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year)

Lines 1-4, Columns (c) through (g.) (continued)

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5 — Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a-i — Show the totals of Lines 6a to 6h in each column.

Line 6j – Show the amount of indirect cost.

Line 6k – Enter the total of amounts on Lines 6i and 6j For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

INSTRUCTIONS FOR THE SF-424A *(continued)*

Line 7 – Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Lines 8-11 – Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a) – Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b) – Enter the contribution to be made by the applicant.

Column (c) – Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency Applicants which are a State or State agencies should leave this column blank.

Column (d) – Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e) – Enter totals of Columns (b), (c), and (d).

Line 12 — Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D Forecasted Cash Needs

Line 13 – Enter the amount of cash needed by quarter from the grantor agency during the first year

Line 14 – Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15 – Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16 - 19 – Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary

Line 20 – Enter the total for each of the Columns (b)-(e) When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21 – Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency

Line 22 – Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense

Line 23 – Provide any other explanations or comments deemed necessary.

ATTACHMENT D—SF 424B, ASSURANCES—NON-CONSTRUCTION PROGRAMS

OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

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10 Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program andto purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11 Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988, (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C §§ 1451 et seq); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U S.C § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U S.C 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

BILLING CODE 4150-04-C

SF 424B (4-88) Back

Attachment E—U.S. Department of Health and Human Services Certificate Regarding Drug-Free Workplace Requirements Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the January 31, 1989 Federal Register, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the U.S. Department of Health and Human Services determines to award the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of the grant, or governmentwide suspension or debarment.

A. The grantee certifies that it will provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing a drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Make it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and

(2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace not later than five days after such conviction;

(e) Notifying the agency within ten days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such convictions;

(f) Taking one of the following actions, within 30 days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted;

(1) Taking appropriate personnel action against such an employee, up to and including termination; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee shall insert in the space provided below, the site(s) for the performance of work done in connection with the specific grant (Street address, city, county, State, Zip Code):

_____

_____

Attachment F—Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR part 76, certifies to the best of its knowledge and belief that its principals involved:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation for this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services' (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction. The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions", provided below, without modification in all lower tier covered transactions and in all solicitations for lower tier covered actions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusions—Lower Tier Covered Transactions (To Be Supplied to Lower Tier Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(b) Where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusions—Lower Tier Covered Transactions" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Attachment G—State Single Points of Contact

Alabama

Mrs. Moncell Thornell, State Single Point of Contact, Alabama Department of Economic & Community Affairs, 3465 Norman Bridge Road, Post Office Box 250347, Montgomery,

Alabama 36125–0347, Telephone (205) 284–8905

Arizona

Ms. Janice Dunn, Arizona State Clearinghouse, 3800 N. Central Avenue, Fourteenth Floor, Phoenix, Arizona 85012, Telephone (602) 280–1315

Arkansas

Mr. Joseph Gillesbie, Manager, State Clearinghouse, Office of Intergovernmental Service, Department of Finance and Administration, P.O. Box 3278, Little Rock, Arkansas 72203, Telephone (501) 371–1074

California

Glenn Stober, Grants Coordinator, Office of Planning and Research, 1400 Tenth Street, Sacramento, California 95814, Telephone (916) 323–7480

Colorado

State Single Point of Contact, State Clearinghouse, Division of Local Government, 1313 Sherman Street, Room 520, Denver, Colorado 80203, Telephone (303) 866–2156

Connecticut

Under Secretary, Attn: Intergovernmental Review coordinator, Comprehensive Planning Division, Office of Policy and Management, 80 Washington Street, Hartford, Connecticut 06106–4459, Telephone (203) 566–3410

Delaware

Francine Booth, State Single Point of Contact, Executive Department, Thomas Collins Building, Dover, Delaware 19903, Telephone (302) 736–3326

District of Columbia

Lovetta Davis, State Single Point of Contact, Executive Office of the Mayor, Office of Intergovernmental Relations, Room 416, District Building, 1350 Pennsylvania Avenue NW., Washington, D.C. 20004, Telephone (202) 727–9111

Florida

Karen McFarland, Director, Florida State Clearinghouse, Executive Office of the Governor, Office of Planning and Budgeting, The Capitol, Tallahassee, Florida 32399–0001, Telephone (904) 488–8114

Georgia

Charles H. Badger, Administrator, Georgia State Clearinghouse, 270 Washington Street SW., Atlanta, Georgia 30334, Telephone (404) 656–3855

Hawaii

Mr. Harold S. Masumoto, Acting Director, Office of State Planning, Department of Planning and Economic Development, Office of the Governor, State Capitol, Honolulu, Hawaii 96813, Telephone (808) 548–3016 or 548–3085

Illinois

Tom Berkshire, State Single Point of Contact, Office of the Governor, State of Illinois, Springfield, Illinois 62706, Telephone (217) 782–8639

Indiana

Frank Sullivan, Budget Director, State Budget Agency, 212 State House, Indianapolis, Indiana 46204, Telephone (317) 232–5610

Iowa

Steven R. McCann, Division for Community Progress, Iowa Department of Economic Development, 200 East Grant Avenue, Des Moines, Iowa 50309, Telephone (515) 281–3725

Kentucky

Robert Leonard, State Single Point of Contact, Kentucky State Clearinghouse, 2nd Floor Capital Plaza Tower, Frankfort, Kentucky 40601, Telephone (502) 564–2382

Maine

State Single Point of Contact, Attn: Joyce Benson, State Planning Office, State House Station #38, Augusta, Maine 04333, Telephone (207) 289–3261

Maryland

Mary Abrams, Chief, Maryland State Clearinghouse, Department of State Planning, 301 West Preston Street, Baltimore, Maryland 21201–2365, Telephone (301) 225–4490

Massachusetts

State Single Point of Contact, Attn: Beverly Boyle, Executive Office of Communities & Development, 100 Cambridge Street, Room 1803, Boston, Massachusetts 02202, Telephone (617) 727–7001

Michigan

Milton O. Waters, Director of Operations, Michigan Neighborhood Builders Alliance, Michigan Department of Commerce, Telephone (517) 373–7111

Please direct correspondence to: Manager, Federal Project Review, Michigan Department of Commerce, Michigan Neighborhood Builders Alliance, P.O. Box 30242, Lansing, Michigan 48909, Telephone (517) 373–6223.

Mississippi

Cathy Mallette, Clearinghouse Officer, Department of Finance and Administration, Office of Policy Development, 421 West Pascagoula Street, Jackson, Mississippi 39203, Telephone (601) 960–4280

Missouri

Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, Division of General Services, P.O. Box 809, Room 430, Truman Building, Jefferson City, Missouri 65102, Telephone (314) 751–4834

Montana

Deborah Stanton, State Single Point of Contact, Intergovernmental Review Clearinghouse, c/o Office of Budget and Program Planning, Capitol Station, Room 202—State Capitol, Helena, Montana 59620, Telephone (406) 444–5522

Nevada

Department of Administration, State Clearinghouse, Capitol Complex, Carson City, NV. 89710, ATTN: John B. Walker, Clearinghouse Coordinator

New Hampshire

Jeffery H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review Process/James E. Bieber, 2½ Beacon Street, Concord, New Hampshire 03301, Telephone (603) 271–2155

New Jersey

Barry Skokowski, Director, Division of Local Government Services, Department of Community Affairs, CN 803, Trenton, New Jersey 08625–0803, Telephone (609) 292–6613

Please direct correspondence and questions to: Nelson S. Silver, State Review Process, Division of Local Government Services, CN 803, Trenton, New Jersey 08625–0803, Telephone (609) 292–9025.

New Mexico

Dorothy E. (Duffy) Rodriquez, Deputy Director, State Budget Division, Department of Finance & Administration, Room 190, Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone (505) 827–3640

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Telephone (518) 474–1605

North Carolina

Mrs. Chrys Baggett, Director, Intergovernmental Relations, N.C. Department of Administration, 116 W. Jones Street, Raleigh, North Carolina 27611, Telephone (919) 733–0499

North Dakota

William Robinson, State Single Point of Contact, Office of Intergovernmental Affairs, Office of Management and Budget, 14th Floor, State Capitol, Bismarck, North Dakota 58505, Telephone (701) 224–2094

Ohio

Larry Weaver, State Single Point of Contact, State/Federal Funds Coordinator, State Clearinghouse, Office of Budget and Management, 30 East Broad Street, 34th Floor, Columbus, Ohio 43266–0411, Telephone (614) 466–0698

Oklahoma

Don Strain, State Single Point of Contact, Oklahoma Department of Commerce, Office of Federal Assistance Management, 6601 Broadway Extension, Oklahoma City, Oklahoma 73116, Telephone (405) 843–9770

Oregon

Attn: Dolores Streeter, State Single Point of Contact, Intergovernmental Relations Division, State Clearinghouse, 155 Cottage Street NE., Salem, Oregon 97310, Telephone (503) 373–1998

Pennsylvania

Sandra Kline, Project Coordinator, Pennsylvania Intergovernmental Council, P.O. Box 11880, Harrisburg, Pennsylvania 17108, Telephone (717) 783–3700

Rhode Island

Daniel W. Varin, Associate Director, Statewide Planning Program, Department of Administration, Division of Planning, 265 Melrose Street, Providence, Rhode Island 02907, Telephone (401) 277–2656

Please direct correspondence and questions to: Review Coordinator, Office of Stategic Planning.

South Carolina

Danny L. Cromer, State Single Point of Contact, Grant Services, Office of the Governor, 1205 Pendleton Street, Room 477, Columbia, South Carolina 29201, Telephone (803) 734–0493

South Dakota

Susan Comer, State Clearinghouse Coordinator, Office of the Governor, 500 East Capitol, Pierre, South Dakota 57501, Telephone (605) 773–3212.

Tennessee

Charles Brown, State Single Point of Contact State Planning Office, 500 Charlotte Avenue, 309 John Sevier Building, Nashville, Tennessee 37219, Telephone (615) 741–1676

Texas

Tom Adams, Governor's Office of Budget and Planning, P.O. Box 12428, Austin, Texas 78711, Telephone (512) 463–1778

Utah

Utah State Clearinghouse, Attn: Carolyn Wright, Office of Planning and Budget, State of Utah, 116 State Capitol Building, Salt Lake City, Utah 84114, Telephone (801) 538–1547

Vermont

Bernard D. Johnson, Assistant Director, Office of Policy Research & Coordination, Pavilion Office Building, 109 State Street, Montpelier, Vermont 05602, Telephone (802) 828–3326

Washington

Marilyn Dawson, Washington Intergovernmental Review Process, Department of Community Development, 9th and Columbia Building, Mail Stop GH–51, Olympia, Washington 98504–41514 Telephone (206) 753–4978

West Virginia

Fred Cutlip, Director, Community Development Division, Governor's Office of Community and Industrial Development, Building #6, Room 553, Charleston, West Virginia 25305, Telephone (304) 348–4010.

Wisconsin

James R. Klauser, Secretary, Wisconsin Department of Administration, 101 South Webster Street, GEF 2, P.O. Box 7864, Madison, Wisconsin, 53707–7864, Telephone (608) 266–1741

Please direct correspondence and questions to: William C. Carey, Section Chief, Federal-State Relations Office, Wisconsin Department of Administration, (608)–266–0267.

Wyoming

Ann Redman, State Single Point of Contact, Wyoming State Clearinghouse, State Planning Coordinator's Office, Capitol Building, Cheyenne, Wyoming 82002, Telephone (307) 777–7574.

Territories

Guam

Michael J. Reidy, Director, Bureau of Budget and Management Research, Office of the Governor, P.O. Box 2950, Agana, Guam 96910, Telephone (671) 472–2285

Northern Mariana Islands

State Single Point of Contact, Planning and Budget Office, Office of the Governor, Saipan, CM, Northern Mariana Islands 96950

Puerto Rico

Patria Custodio/Israel Soto Marrero, Chairman/Director, Puerto Rico Planning Board, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940–9985, Telephone (809) 727–4444

Virgin Islands

Jose L. George, Director, Office of Management and Budget, No. 32 & 33 Kongens Gade, Charlotte Amalie, V.I. 00802, Telephone (809) 774–0750.

BILLING CODE 4150–04–M

ATTACHMENT H—RESTRICTIONS ON LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3 The undersigned shall require that the language of this certification be included in the award documents for subawards at all tiers (including subcontracts, subgrants and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance
The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or grantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

_____
Signature

_____
Title

_____
Organization

_____
Date

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change **For Material Change Only:** year _____ quarter ____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known*: **Congressional District**, *if known*:	 **Congressional District**, *if known*:
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	**9. Award Amount**, *if known*: $
10. a. Name and Address of Lobbying Entity (*if individual, last name, first name, MI*):	**b. Individuals Performing Services** (*including address if different from No. 10a*) (*last name, first name, MI*):

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment (*check all that apply*):	13. Type of Payment (*check all that apply*):
$ _____ ☐ actual ☐ planned	☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other; specify: _____
12. Form of Payment (*check all that apply*): ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____	

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16.	
Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	**Signature:** _____ **Print Name:** _____ **Title:** _____ **Telephone No.:** _____ **Date:** _____

Federal Use Only:	Authorized for Local Reproduction Standard Form - LLL

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.

13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.

14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.

15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 mintues per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET

Approved by OMB
0348-0046

Reporting Entity: _____ Page _____ of _____

Authorized for Local Reproduction
Standard Form - LLL-A

[FR Doc. 91-11381 Filed 5-14-91; 8:45am]
BILLING CODE 4150-04-C

federal register

Wednesday
May 15, 1991

Part IV

Department of Agriculture

Commodity Credit Corporation

7 CFR Part 1413

Food, Agriculture, Conservation, and Trade Act; Implementation; Final Rule

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1413

Food, Agriculture, Conservation, and Trade Act; Implementation

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to set forth a provision which was inadvertently omitted in the final rule published on April 19, 1991 (56 FR 16156). Generally, that final rule provided a list of crops which could be planted on acreage designated as "flex acreage" under the annual wheat, feed grains, upland cotton and rice programs.

EFFECTIVE DATE: May 15, 1991.

FOR FURTHER INFORMATION CONTACT: H.E. Maynard, Director, Cotton, Grain, and Rice Price Support Division, ASCS, USDA, P.O. Box 2415, Washington, DC 20013, 202–447–7641.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures implementing Executive Order 12291 and Departmental Regulation 1512–1 and has been classified "non major". It has been determined that this final rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographical regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Final Regulatory Impact Analyses are being prepared with respect to the programs for the 1991 crops of wheat, feed grains, cotton, and rice. Copies of the analyses will be available to the public from Director, Commodity Analysis Division, Agricultural Stabilization and Conservation Service, USDA, room 3741, South Agriculture Building, 14th and Independence, P.O. Box 2415, Washington, DC 20013.

The titles and numbers of the Federal assistance programs to which this final rule applies are: Cotton Production Stabilization-10.052; Feed Grain Production Stabilization-10.055; Wheat Production Stabilization-10.058; Rice Production Program-10.065; as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since neither the Agricultural Stabilization and Conservation Service ("ASCS") nor the Commodity Credit Corporation ("CCC") is required by 5 U.S.C. 553 or any other provision of the law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

The information collection requirements contained in these regulations have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. chapter 35, and assigned OMB No. 0560–0004 and 0560–0092. OMB approval for the information collections contained in these rules expires May 31, 1991; however, a request for a 3-year extension from OMB will be submitted.

Public reporting burden for these collections is estimated to vary from 15 minutes to 45 minutes per response, including time for reviewing instructions, searching existing sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, room 404–W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB No. 0560–0004 and 0560–0092), Washington, DC 20503.

Background

In response to a proposed rule published on February 26, 1991 (56 FR 8044) and a notice of proposed determination published on February 15, 1991 (56 FR 6366) CCC received numerous comments with respect to various crops which could be planted on a farm which is enrolled in CCC production adjustment programs. As a result of these comments, the final rule published on April 19, 1991 (56 FR 16156) provided that certain crops which had been proposed as approved crops were not approved for 1991 through 1995. However, some producers had received advice from employees of the Department of Agriculture that the proposed list of crops could be planted and had taken actions regarding the planting of such crops in response to this advice. Accordingly, CCC has determined that such producers should, for 1991 only, be allowed to designate the acreage planted to such crops as "flex acreage" if such plantings were the result of advice provided by employees of the Department of Agriculture. However, the April 19, 1991 final rule inadvertently omitted this provision. Accordingly, this final rule amends 7 CFR 1413.11 to provide that producers who planted a crop which was included in the proposed list and which was not included in the final list will not be considered to be out of compliance with program requirements as a result of such planting if the planting was the result of the advice provided by employees of the Department of Agriculture.

List of Subjects in 7 CFR Part 1413

Cotton, Feed grains, Price support programs, Wheat, Rice.

Final Rule

Accordingly the regulations at 7 CFR part 1413 are amended as follows:

PART 1413—FEED GRAIN, RICE, UPLAND AND EXTRA LONG STAPLE COTTON, WHEAT AND RELATED PROGRAMS

1. The authority citation for 7 CFR part 1413 continues to read as follows:

Authority: 7 U.S.C. 1308, 1308a, 1309, 1441–2, 1444–2, 1444f, 1445b–3a, 1461–1469; 15 U.S.C. 714b and 714c.

2. Section 1413.11 is amended by adding paragraph (j) to read as follows:

§ 1413.11 Planting flexibility.

* * * * *

(j) Notwithstanding any other provision of this section, for the 1991 crop year only, producers who planted the following crops or acreage designated as flex acreage shall be considered in compliance with this section if such plantings were the result of a good faith reliance upon information provided by employees of the Department of Agriculture: wild rice, tree crops, nuts, peanuts, and tobacco.

* * * * *

Signed at Washington, DC On May 10, 1991.

Keith D. Bjerke,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 91–11571 Filed 5–10–91; 4:31 pm]

BILLING CODE 3410–05–M

federal register

Wednesday
May 15, 1991

Part V

Office of Management and Budget

Cost Principles for Educational Institutions; Proposed Revisions to Circular A-21; Notice

OFFICE OF MANAGEMENT AND BUDGET

Proposed Revisions to Circular A–21

AGENCY: Office of Management and Budget.

ACTION: Proposed revisions to Circular A–21.

SUMMARY: This Notice offers interested parties an opportunity to comment on proposed revisions to Office of Management and Budget (OMB) Circular A–21, "Cost Principles for Educational Institutions."

This revision implements the previously stated intent of OMB to revise Circular A–21. On April 22, 1991, Director Richard Darman announced that OMB would move to exclude certain specified costs from indirect cost reimbursements paid to colleges and universities receiving Federal research grants.

Mr. Darman said: "Recent information shows abuses in reimbursements claimed by universities for indirect costs supporting Government funded research. These require additional guidelines to clarify policy and stop the abuse."

This proposed revision represents the intitial step in a broader Administration effort to develop more comprehensive reforms. This effort is examining additional changes in reimbursement policies for administration, facilities and equipment.

The proposed revision implements provisions of 10 U.S.C. 2324(e), (f), and (h)(1) as well as other changes.

10 U.S.C. 2324(e) and (f) were enacted by the Congress to remove ambiguities in cost principles that were being interpreted differently by defense contractors, contracting officers, and contract auditors. These sections specify certain costs as unallowable charges to Federal Government contracts and require clarification on the allowability of other items of cost. Recent revelations concerning university charges to Federal Government research indicate the need to clarify further which charges are allowable.

10 U.S.C. 2324(h)(1) requires a certification by the contractor that all indirect costs submitted for settlement in a proposal are allowable. This revision also contains additional items that are unallowable.

Although the above cited laws pertain only to contracts, these revisions propose that the changes be effective for grants and contracts awarded under Circular A–21. This approach will ensure that ambiguities ordered removed by the Congress for contracts will also be removed for grants. This approach will ensure a consistent approach to the problem of determining allowable costs for all Federal awards.

DATES: Interested parties are invited to comment on these proposed changes. Comments should be submitted to the Office of Management and Budget, Financial Management Division, room 10235, New Executive Office Building, Washington, DC 20503. All comments should be received on or before June 14, 1991.

FOR FURTHER INFORMATION CONTACT: Jack Sheehan, Financial Management Division, Office of Management and Budget (telephone: 202–395–3050).

SUPPLEMENTARY INFORMATION: The following explains the major changes proposed to Circular A–21.

Circular A–21 contains a list of allowable and unallowable costs. The list is not all inclusive and failure to mention a particular item of cost does not imply the cost is allowable or unallowable. Many of the proposed revisions are intended to specifically identify costs which are currently considered unallowable but are not specifically mentioned in the Circular.

1. A new section is added providing for the immediate recovery with interest of all unallowable costs charged to the Federal Government.

2. New subsections are added to the Circular to define public relations and describe allowable public relations costs. Also, a new subsection is added to describe unallowable advertising and public relations costs. Perviously the Circular defined these costs in different sections dealing with advertising and public information costs. The revisions are made to provide for consistent treatment of these costs as provided for in 10 U.S.C. 2324(e) and (f).

3. A new section, Alcoholic beverages, which provides that such costs are unallowable, is added to the Circular. 10 U.S.C. 2324(e) specifically identifies these costs as unallowable.

4. A new subsection, Salary limits, which provides that salary amounts in excess of $120,000 are unallowable charges whether as direct or indirect costs, is added. Public Law 101–517 currently limits salary amounts in excess of $120,000 as direct charges.

5. A technical amendment is made to the Circular to clarify the unallowability of increases to pension costs caused by a delay in funding the actuarial liability more than 30 days after the end of each quarter of the fiscal year. This change conforms the Circular wording on pension costs to that contained in Circular A–122, "Cost Principles for Nonprofit Organizations." Currently such charges (penalities) are considered unallowable even though Circular A–21 does not address this specific situation.

6. A new subsection, Organization-furnished automobiles, is added to the Circular. Currently, business use of an organization-furnished automobile is considered an allowable travel charge to the Federal Government. This revision clarifies that personal use of such vehicles, including transportation to and from work, is compensation for personal services and is unallowable. 10 U.S.C. 2324(f) requires that this cost principle be clarified.

7. A new section, Defense and prosecution of criminal and civil proceedings, claims and patent infringment, is added to the Circular. This new section clarifies the types of and the extent to which litigation costs incurred by an institution will be considered allowable. The criminal and civil proceeding cost limitations are predicated on Section 8 of Pub. L. 100–700, Major Fraud Act of 1988. Litigation costs associated with claims and patent infringement actions remain unallowable.

8. A new subsection is added to the Circular providing that donations and contributions by the institution are unallowable. Currently, the Circular does not specifically address them. 10 U.S.C. 2324(e) identifies them as unallowable.

9. The employee morale, health, and welfare section of the Circular is amended to add food services to the types of allowable activities included under this section and to clarify the allowability of losses arising from such operations. This revision clarifies that such losses are allowable when the food service is operated on a break-even basis or when unusual circumstances exist. 10 U.S.C. 2324(f) requires that this cost principle be clarified.

10. The existing language of the Circular prohibiting Entertainment costs is revised to conform to 10 U.S.C. 2324(e).

11. The Circular is revised to clearly prohibit charging the Federal Government for the costs of goods or services for personal use of employees and the housing and personal living expenses of the institution's officers.

12. The Insurance and indemnification section of the Circular is amended to prohibit charges for commercial insurance against defects in the institution's materials or workmanship.

13. A few section, Lobbying, is added to the Circular. Public comment is specifically requested on expanding new paragraph #23, Lobbying, to include either the current language in the

Federal Acquisition Regulation (FAR) on executive lobbying costs or the current language in the FAR and OMB Circular A–122 on legislative lobbying costs, or both, or any revision of either. These provisions define certain lobbying activities as unallowable charges. Interested parties may wish to review the extensive analysis that accompanied the FAR and Circular A–122 legislative lobbying costs provisions at 49 FR 18260–18277.

14. The Circular is revised to make it clear that the cost of membership in any social, dining, or country club is unallowable, as provided for in 10 U.S.C. 2324(e). 10 U.S.C. 2324(f) also requires the cost principle on memberships in civic and community and professional organizations be clarified. The Circular currently allows the costs of membership in civic, business, technical and professional organizations and is silent on membership in community organizations. This revision makes the membership costs in civic and community organizations unallowable because they do not benefit federally-sponsored work. Allowable membership costs are not restricted to business, professional and technical organizations.

15. A new section is added to the Circular prohibiting charges for the cost of selling and marketing any products or services of the institution.

16. A new subsection is added to the section on severance pay to prohibit charges in excess of the institution's normal practices.

17. Travel cost policies in the Circular are revised. The proposed lodging and subsistence cost principle provision is patterned on section 24 of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 420) and is intended to clarify that reimbursable employee travel costs may be determined based on the use of an institutional travel policy when such policy results in reasonable charges to sponsored agreements. The proposed commercial air travel cost revisions provide, consistent with prudent travel cost management, that reimbursements for airfare costs incurred shall be limited to the lowest available discount airfares. Also, reimbursements for travel performed by use of institution-owned,-leased or -chartered aircraft shall be limited to the cost of allowable commercial airfare.

18. A new section is added to the Circular prohibiting charges for the travel costs of the institution's trustees.

19. A new section is added providing for certification of the institution's indirect cost proposal.

Executive Order No. 12291

OMB has determined that the proposed revisions to Circular No. A–21 do not qualify as a "major rule" under the criteria in Executive Order No. 12291, "Federal Regulation."

The principal effect of the proposed revisions will be to require that Federal agencies ensure that Federal grant and contract funds are not used for purposes that are contrary to specific legislative prohibitions or that have been determined to be not necessary to carry out the program's objectives. The costs to implement the new revisions are primarily accounting costs for grantees, contractors, and Federal agencies. These new costs, however, are mininal in both absolute and relative amounts, and, in many instances, the revisions should reduce audit and compliance costs. Furthermore, much of the accounting work that the revision requires is already mandated by other sections of Circular No. A–21.

Susan Gaffney,

Acting Assistant Director, Financial Management Division.

The following are proposed revisions to sections C, J and K of Circular A–21:

1. The following new section 8 is added to section C:

8. *Collection of unallowable costs.* Cost specifically identified as unallowable in Section J and charged to the government, either directly or indirectly, will be refunded with interest. Interest will be computed in accordance with applicable Federal agency regulations.

2. Section J, *General provisions for selected items of cost,* is revised by modifying the first sentence, "Sections 1 through 44 below. . ." to read, "Sections 1 through 49 below."

3. Section 1, *Advertising costs,* is retitled *Advertising and public relations costs* and revised to read as follows:

1. Advertising and Public Relations Costs

a. The term advertising costs means the costs of advertising media and corollary administrative costs. Advertising media include magazines, newspapers, radio and television programs, direct mail, exhibits, and the like.

b. The term public relations includes community relations and means those activities dedicated to maintaining the image of the institution or maintaining or promoting understanding and favorable relations with the community or public at large or any segment of the public.

c. The only advertising costs allowable are those which are solely for:

(1) The recruitment of personnel required for the performance by the institution of obligations arising under the sponsored agreement, when considered in conjunction with all other recruitment costs, as set forth in section J. 36;

(2) The procurement of goods and services for the performance of the sponsored agreement;

(3) The disposal of scrap or surplus materials acquired in the performance of the sponsored agreement except when institutions are reimbursed for disposal costs at a predetermined amount in accordance with Attachment N, OMB Circular No. A–110; or

(4) Other specific purposes necessary to meet the requirements of the sponsored agreement.

d. The only allowable public relations costs are:

(1) Costs specifically required by sponsored agreements;

(2) Costs of communicating with the public and press pertaining to specific activities or accomplishments which result from performance of sponsored agreements; or

(3) Costs of conducting general liaison with news media and government public relations officers, to the extent that such activities are limited to communication and liaison necessary to keep the public informed on matters of public concern such as notices of contract/grant awards, financial matters, etc.

e. Costs identified in a through d, if incurred for more than one sponsored agreement or for both sponsored work and other work of the institution, are allowable to the extent that the principles in section D and E are observed.

f. Unallowable advertising and public relations costs include the following:

(1) All advertising and public relations costs other than as specified in subsections c, d, and e above;

(2) Costs of special events, such as conventions and trade shows, including:

(i) Costs of displays, demonstrations, and exhibits;

(ii) Costs of meeting rooms, hospitality suites, and other special facilities used in conjunction with shows and other special events; and

(iii) Salaries and wages of employees engaged in setting up and displaying exhibits, making demonstrations, and providing briefings;

(3) Costs of promotional items and memorabilia, including models, gifts, and souvenirs;

(4) Costs of advertising and public relations designed solely to promote the institution.

4. The following new section 2 is added to section J:

2. Alcoholic Beverages

Costs of alcoholic beverages are unallowable.

5. The following new section 3 is added to section J:

3. Alumni Activities

Costs incurred for, or in support of, alumni activities and similar services are unallowable.

6. Former sections 2, 3, 4, and 5 are renumbered 4, 5, 6 and 7, respectively.

7. Former section 6, *Compensation for personal services,* is renumbered 8 and revised as follows:

a. Subsection a is renumbered a(1) and the reference to J.15 is deleted. A new subsection a(2), *Salary limits* is added and reads as follows:

(2) *Salary limits.* Salary amounts (however classified, e.g., salary, wage, bonus, other designation) in excess of the limit established by Public Law 101–517 (currently rates of pay equivalent to $120,000 per annum) are unallowable as charges to sponsored agreements whether as direct or indirect costs. Fringe benefits and indirect costs associated with unallowable salary expenses are also unallowable.

b. Former section J.15, *Fringe benefits,* is deleted and moved in its entirety to a new subsection f in this section and renumbered accordingly. A sentence is added at the end of the first subsection on rules for pension costs and now reads as follows:

f. *Fringe benefits.*

(3) Rules for pension plan costs are as follows:

(a) Costs of the institution's pension plan which are incurred in accordance with the established policies of the institution are allowable, provided: (i) Such policies meet the test of reasonableness, (ii) the methods of cost allocation are equitable for all activities, (iii) the amount of pension cost assigned to each fiscal year is determined in accordance with (b) below, and (iv) the cost assigned to a given fiscal year is paid or funded for all plan participants within six months after the end of that year. However, increases to normal and past service pension costs caused by a delay in funding the actuarial liability beyond 30 days after each quarter of the year to which such costs are assignable are unallowable.

c. A new subsection g is added to this section and reads as follows:

g. *Institution-furnished automobiles.*

That portion of the cost of institution-furnished automobiles that relates to personal use by employees (including transportation to and from work) is unallowable regardless of whether the cost is reported as taxable income to the employees.

8. Former section 7 is renumbered 9 and its reference, to section J.16.C is changed to section J.20.C.

9. Former sections 8 and 9 are renumbered 10 and 12, respectively.

10. The following new section 11 is added to section J:

11. *Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringement.*

a. Definitions.

Conviction, as used herein, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon verdict or a plea, including a conviction due to a plea of nolo contendere.

Costs include, but are not limited to, administrative and clerical expenses; the cost of legal services, whether performed by in-house or private counsel; the costs of the services of accountants, consultants, or others retained by the institution to assist it; all elements of compensation related costs and expenses of employees, officers and trustees, and any similar costs incurred before, during, and after commencement of a judicial or administrative proceeding that bears a direct relationship to the proceedings.

Fraud, as used herein, means (i) acts of fraud or corruption or attempts to defraud the Federal Government or to corrupt its agents, (ii) acts that constitute a cause for debarment or suspension (as specified in agency regulations) and (iii) acts which violate the False Claims Act, 31 U.S.C., sections 3729–3731, or the Anti-kickback Act, 41 U.S.C., sections 51 and 54.

Penalty does not include restitution, reimbursement, or compensatory damages.

Proceeding includes an investigation.

b. Except as otherwise described herein, costs incurred in connection with any criminal, civil or administrative proceeding (including filing of a false certification) commenced by the Federal Government, or a State, local or foreign government, are not allowable if the proceeding: (1) Relates to a violation of, or failure to comply with, a Federal, State, local or foreign statute or regulation by the institution, and (2) results in any of the following dispositions:

(1) In a criminal proceeding, conviction.

(2) In a civil or administrative proceeding involving an allegation of fraud or similar misconduct, a determination of institutional liability.

(3) In the case of any civil or administrative proceeding, the imposition of a monetary penalty.

(4) A final decision by an appropriate Federal official to debar or suspend the institution, to rescind or void an award, or to terminate an award for default by reason of a violation or failure to comply with a law or regulation.

(5) A disposition by consent or compromise, if the action could have resulted in any of the dispositions described in (1), (2), (3) or (4) of this paragraph.

(6) Not covered by subparagraphs b(1) through (5) of this subsection, but where the underlying alleged awardee misconduct by the institution was the same as that which led to a different proceeding whose costs are unallowable by reason of subparagraphs b(1) through (5) of this subsection.

c. If a proceeding referred to in paragraph b is commenced by the Federal Government and is resolved by consent or compromise pursuant to an agreement entered into by the institution and the Federal Government, then the costs incurred by the institution in connection with such proceedings that are otherwise unallowable under paragraph b may be allowed to the extent specifically provided in such agreement.

d. If a proceeding referred to in paragraph b is commenced by a State, local or foreign government, the authorized official of the sponsoring agency may allow the costs incurred for such proceedings, in accordance with agency procedures, provided that the costs were incurred as a result of compliance with: (1) The scope of work, specific terms and conditions, or other terms of the sponsored agreement, or (2) specific written direction of an authorized official of the sponsoring agency.

e. Costs incurred in connection with proceedings described in paragraph b, but which are not made unallowable by that paragraph, may be allowed by the sponsoring agency only to the extent that:

(1) The total costs incurred are reasonable in relation to the activities required to deal with the proceeding and the underlying cause of action;

(2) Payment of the costs incurred, as allowable and allocable costs, is not prohibited by any other provision(s) of the sponsored agreement;

(3) The costs are not otherwise recovered from the Federal Government or a third party, either directly as a result of the proceeding or otherwise; and

(4) The amount of costs allowed does not exceed 80 percent of the total costs incurred and otherwise allowable under the sponsored agreement but for this limitation. Such percentage amount that may be allowed (up to the 80 percent limit) shall not exceed the percentage amount determined by an authorized official of the sponsoring agency to be appropriate, on a case-by-case basis, considering the complexity of procurement litigation, generally accepted principles governing the award of legal fees in civil actions involving the United States as a party, and such other factors as may be appropriate. However, where an agreement reached under paragraph c explicitly considered this 80 percent limitation, then an amount up to the full amount of costs specifically provided in such agreement may be allowed.

f. Costs incurred by the institution in connection with the defense of suits brought by its employees or ex-employees under section 2 of the Major Fraud Act of 1988 (Pub. L. 100–700), including the cost of all relief necessary to make such employee whole, where the institution was found liable or settled, are unallowable.

g. Costs of legal, accounting, and consultant services, and related costs, incurred in connection with defense against Federal Government claims or appeals, or the prosecution of claims or appeals against the Federal Government, are unallowable.

h. Costs of legal, accounting, and consultant services, and related costs, incurred in connection with patent infringement litigation, are unallowable unless otherwise provided for in the sponsored agreements.

i. Costs that may be unallowable under this section, including directly-related costs, shall be differentiated and accounted for by the institution so as to be separately identifiable. During the pendency of any proceeding or investigation covered by paragraphs b and f of this section, the sponsoring agency shall generally withhold payment and not authorize the use of funds advanced under the award for the payment of such costs. However, the sponsoring agency may, in appropriate circumstances, provide for conditional payment upon provision of adequate security, or other adequate assurance, and agreements by the awardee to repay all unallowable costs, plus interest, if the costs are subsequently determined to be unallowable.

11. Former section 10, *Donated services and property,* is renumbered 13 and retitled *Donations and contributions.* The existing text is numbered subsection a and the following new subsection b is added.

b. Donations or contributions made by the institution, regardless of the recipient, are unallowable.

12. Former section 11, *Employee morale, health, and welfare costs and credits,* is renumbered 14 and revised to read as follows:

14. *Employee morale, health, and welfare costs and credits.* The costs of house publications, health or first-aid clinics and/or infirmaries, recreational activities, food services, employees' counseling services, and other expenses incurred in accordance with the institution's established practice or custom for the improvement of working conditions, employer-employee relations, employee morale, and employee performance, are allowable. Such costs will be equitably apportioned to all activities of the institution. Income generated from any of these activities will be credited to the cost thereof unless such income has been irrevocably set over to the employee welfare organizations. Losses resulting from operating food services are allowable only if the institution's objective is to operate such services on a break-even basis. Losses sustained because of operating objectives other than the above are allowable only (a) where the institution can demonstrate unusual circumstances, and (b) with the approval of the cognizant Federal agency.

13. Former section 12, *Entertainment costs,* is renumbered 15 and revised to read as follows:

15. *Entertainment costs.* Costs of entertainment, including amusement, diversion, and social activities and any costs directly associated with such costs (such as tickets to shows or sports events, meals lodging, rentals, transportation, and gratuities) are unallowable.

14. Former section 13 is renumbered 16. The references to sections J.9 and J.33 in subparagraph b(4) are changed to J.12 and J.37, respectively.

15. Former section 16, *Insurance and indemnification,* is renumbered 20 and a new subsection f is added as follows:

f. *Insurance against defects.* Costs of commercial insurance with respect to any costs incurred to correct defects in the institution's materials or workmanship are unallowable.

16. Former section 14, *Fines and penalties,* is renumbered 17 and revised to read as follows:

17. *Fines and penalties.* Costs resulting from violations of, or failure of the institution to comply with, Federal, State, local or foreign laws and regulations are unallowable, except when incurred as a result of compliance with specific provisions of the sponsored agreement, or instructions in writing from the authorized official of the sponsoring agency.

17. Former section 15, *Fringe benefits,* is deleted and replacement coverage is incorporated in renumbered section J.8, *Compensation for personal services.*

18. A new section 18 is added to read as follows:

18. *Goods or services for personal use.* Costs of goods or services for personal use of the institution's employees are unallowable.

19. A new section 19 is added to read as follows:

19. *Housing and personal living expenses.*

(a) Costs of housing (e.g., depreciation, maintenance, utilities, furnishings, rent, etc.), housing allowances and personal living expenses for/of the institution's officers are unallowable.

(b) The term officers includes current and past officers.

20. Former sections 16, 17, and 18 are renumbered 20, 21, and 22, respectively.

21. The following new section 23 is added to section J:

23. *Lobbying.* Reference is made to the Office of Management and Budget's Governmentwide Guidance for New Restrictions on Lobbying published at 54 FR 52306 (12/20/89), the 29-agency common rule published at 55 FR 6736 (2/26/90), and the Office of Management and Budget's Notice published at 55 FR 24540 (6/15/90). These provisions implement section 319 of Public Law 101–121 (31 U.S.C. 1352), popularly known as the "Byrd Amendment."

22. Former sections 19, 20, and 21 are renumbered 24, 25, and 26, respectively.

23. Former section 22, *Memberships, subscriptions, and professional activity costs,* is renumbered 27 and revised as follows:

(a) In subsections a and b, delete the word "civic."

(b) Add the following new subsections d and e.

d. Costs of membership in any civic or community organization are unallowable.

e. Costs of membership in any country club or social or dining club or organization are unallowable.

24. Former section 23 is renumbered as 28 and its reference to section J.34 is changed to section J.38.

25. Former sections 24 and 25 are renumbered 29 and 30, respectively.

26. Section 26, *Professional services costs,* is renumbered 31 and revised to read as follows:

a. Subsection a is changed to read:

a. Costs of professional and consulting services, including legal services rendered by the members of a particular profession who are not employees of the institution are allowable, subject to J.31.b and section J.11, when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Federal Government. Retainer fees to be allowable must be reasonably supported by evidence of services rendered.

b. Subsection c is deleted.

27. Former section 27 is renumbered 32 and its reference to section J.15.C, is changed to section J.8.F.

28. Former section 28 is renumbered 33.

29. Former section 29, *Public information services costs,* is deleted but its coverage is incorporated under revised section J.1., *Advertising and public relations costs.*

30. Former sections 30 and 31 are renumbered 34 and 35, respectively.

31. Former section 32, *Recruiting costs,* is renumbered 36 and revised by inserting the following parenthetical comment after the first sentence in subsection a: "(see section J.1 above)."

32. Former sections 33, 34, 35 are renumbered 37, 38, and 39, respectively.

33. Former section 36 is renumbered 40 and its reference to section J.6 is changed to section J.8.

34. The following new section 41 is added to section J:

41. *Selling and marketing.* Costs of selling and marketing any products or services of the institution (unless allowed under J.1.c or section J.33) are unallowable.

35. Former section 37, *Severance pay,* is renumbered 42 and subsection d is added to read as follows:

d. Costs incurred in excess of the institution's normal severance pay policy applicable to all persons employed by the institution upon termination of employment are unallowable.

36. Former section 38 is renumbered 43.

37. Former section 39, *Special services costs,* is deleted but its coverage is incorporated under revised sections J.1, *Advertising and public relations costs,* and J.3, *Alumni activities.*

38. Former sections 40, 41, and 42 are renumbered 44, 45, and 46, respectively.

39. Former section 43, *Travel costs,* is renumbered 47 and revised to read as follows:

47. *Travel costs.*

a. *General.* Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the institution. Such costs may be charged on an actual basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip and not to selected days of the trip, results in reasonable charges, and is in accordance with the institution's travel policy and practices consistently applied to all institutional travel activities.

b. *Lodging and subsistence.* Costs incurred by employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses, shall be considered reasonable and allowable only to the extent such costs do not exceed charges normally allowed by the institution in its regular operations as a result of an institutional policy and the amounts claimed under sponsored agreements represent reasonable and allocable costs. In the absence of an acceptable institutional policy regarding travel costs, the rates and amounts established under subchapter I of Chapter 57 of Title 5, United States Code, or by the Administrator of General Services, or the President (or his designee) pursuant to any provisions of such subchapter shall apply to sponsored agreements (Section 24 of 41 USC 420).

c. *Commercial air travel.* Institutions shall use the lowest commercial airfare accommodations for all necessary travel, except when such accommodations are not reasonably available. Airfare costs in excess of the lesser of the lowest available commercial discount airfare, Federal Government contract airfare (where authorized), or customary standard (coach or equivalent) airfare, shall not be allowed except where the use of such accommodations would: require circuitous routing; require travel during unreasonable hours; greatly increase the duration of the flight; result in additional costs which would offset the transportation savings; or offer accommodations which are not reasonably adequate for the medical needs of the traveler. The institution shall establish appropriate airfare travel policies and procedures requiring the use of the lowest available commercial airfare consistent with the foregoing and prudent travel management. Where an institution can reasonably demonstrate to the sponsoring agency, the nonavailability of discount airfare or Federal Government contract airfare for a particular trip or, on an overall basis, that it is the institution's practice to make routine use of such airfare, specific determinations of nonavailability will generally not be questioned by the sponsoring agency, unless a pattern of avoidance is detected. However, in order for airfare costs in excess of the customary standard commercial airfare to be allowable, e.g., use of first-class airfare, the institution must justify and document on a case-by-case basis, the applicable condition(s) set forth above.

d. *Air travel by other than commercial carrier.* "Cost of travel by institution-owned, -leased, or -chartered aircraft," as used in this paragraph, includes the cost of lease, charter, operation (including personnel costs), maintenance, depreciation, insurance, and other related costs. Costs of travel via institution-owned, -leased, or -chartered aircraft shall not exceed the cost of allowable commercial air travel, as provided for in section c above.

40. Former section 44 is renumbered 48.

41. The following new section 49 is added to section J:

49. *Trustees.* Travel and subsistence costs of trustees, regardless of the purpose of the trip, are unallowable.

42. Section K is amended by renumbering the existing text as 1 and adding a new subsection 2 as follows:

2. Certification of indirect costs.

a. *Policy.* No proposal to establish indirect cost rates shall be acceptable unless such costs have been certified by the educational institution using the Certificate of Indirect Costs set forth in paragraph b below. The certificate must be signed on behalf of the institution by an individual at a level no lower than vice president or chief financial officer of the institution that submits the proposal.

No indirect cost rate shall be binding upon the Federal Government if the most recent required proposal from the institution has not been certified. Where it is necessary to establish indirect cost rates, and the institution has not submitted a certified proposal for establishing such rates in accordance with the requirements of this section, the Federal Government shall unilaterally establish such rates. Such rates may be based upon audited historical data or such other data that have been furnished to the cognizant Federal agency and for which it can be demonstrated that all unallowable costs have been excluded. When indirect cost rates are unilaterally established by the Federal Government because of failure of the institution to submit a certified proposal for establishing such rates in accordance with this section, the rates established will be set at a level low enough to ensure that potentially unallowable costs will not be reimbursed.

b. *Certificate.* The certificate required by this section shall be in the following form:

Certificate of Indirect Costs

This is to certify that to the best of my knowledge and belief:

(1) I have reviewed the indirect cost proposal submitted herewith;

(2) All costs included in this proposal [identify date] to establish billing or final indirect costs rate for [identify period covered by rate] are allowable in accordance with the requirements of the Federal agreement(s) to which they apply and with the cost principles applicable to those agreements.

(3) This proposal does not include any costs which are unallowable under applicable cost principles such as (without limitation): advertising and public relations costs, contributions and donations, entertainment costs, fines and penalties, lobbying costs, and defense of fraud proceedings; and

(4) All costs included in this proposal are properly allocable to Federal agreements on the basis of a beneficial or causal relationship between the expenses incurred and the agreements to which they are allocated in accordance with applicable requirements.

I declare under penalty of perjury that the foregoing is true and correct.

Institution:_____
Signature: _____
Name of Official:_____
Title: _____
Date of Execution: _____

[FR Doc. 91-11684 Filed 5-14-91; 8:45 am]

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federal register

Wednesday
May 15, 1991

Part VI

The President

Proclamation 6291—
World Trade Week, 1991

Digitized by

Federal Register
Vol. 56, No. 94
Wednesday, May 15, 1991

Presidential Documents

Title 3—

The President

Proclamation 6291 of May 13, 1991

World Trade Week, 1991

By the President of the United States of America

A Proclamation

International trade benefits all who participate. An expansion in trade promotes worldwide prosperity by increasing production and creating jobs.

Open markets and the free movement of goods, services, and capital across international borders are vital to economic growth. Free trade fosters more efficient use of the world's resources, higher real wages for both American and foreign workers, and the production of a wider variety of more affordable, high quality goods for our consumers.

Although the United States, working in concert with other nations, has made progress in dismantling trade barriers, we are still trying to achieve the ideal of free and fair trade. Toward that end, we are striving to bring the Uruguay Round of trade negotiations to a successful conclusion. We are also working to forge a North American Free Trade Agreement, which would establish the largest integrated market on earth—a market of 360 million consumers and an estimated $6 trillion in annual output. Vital to these efforts—and to the success of the Enterprise for the Americas Initiative—is the extension of fast track procedures.

Here at home we see convincing evidence that expanded trade strengthens the economy, thereby creating opportunities for individuals. During the past 5 years, exports have accounted for more than 40 percent of all growth in the U.S. economy. Last year exports supported more than 7 million jobs. Thus, it is fitting that the theme of this year's World Trade Week be "Exports: Generating Jobs for Americans." Indeed, export expansion is perhaps the most effective jobs program that our Nation can establish today.

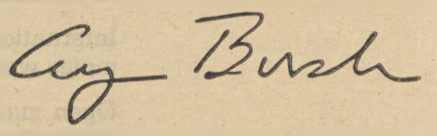
The triumph of democratic ideals and free market principles in more and more nations around the world has created unprecedented opportunities for American businesspeople and farmers to expand sales overseas. To take advantage of these new export opportunities, Americans must do what we do best: apply our manufacturing ingenuity, our commitment to service and to the customer, and our expert salesmanship to the challenge of opening new markets abroad. To meet foreign competition, we must redouble our commitment to quality, so that the phrase "Made in America" is automatically associated with "Best in the World."

The United States Government stands ready to help. We are committed to eliminating foreign trade barriers and to opening new markets for American goods, services, investment, and ideas. We have placed a high priority on programs that are designed to provide American business exporters with information and counseling that will assist them in selling overseas. By expanding exports, members of American business and industry will not only increase their profits and their employment rolls but also contribute to improved standards of living for millions of people around the world.

The message of World Trade Week, 1991, is that exports and open markets are vital to future U.S. economic growth. It is a message not just for this week but for every week of the year.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim the week of May 19 through May 25, 1991, as World Trade Week. I urge all Americans to observe this week with appropriate programs, ceremonies, and activities.

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



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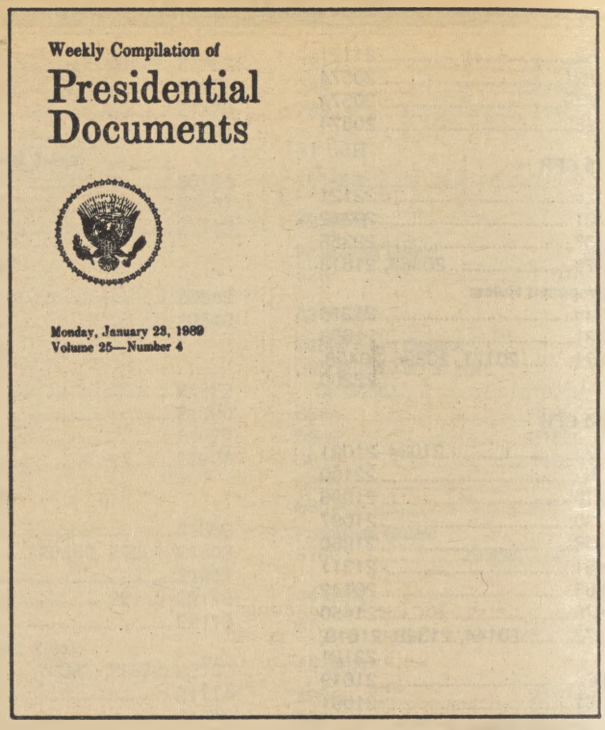
Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

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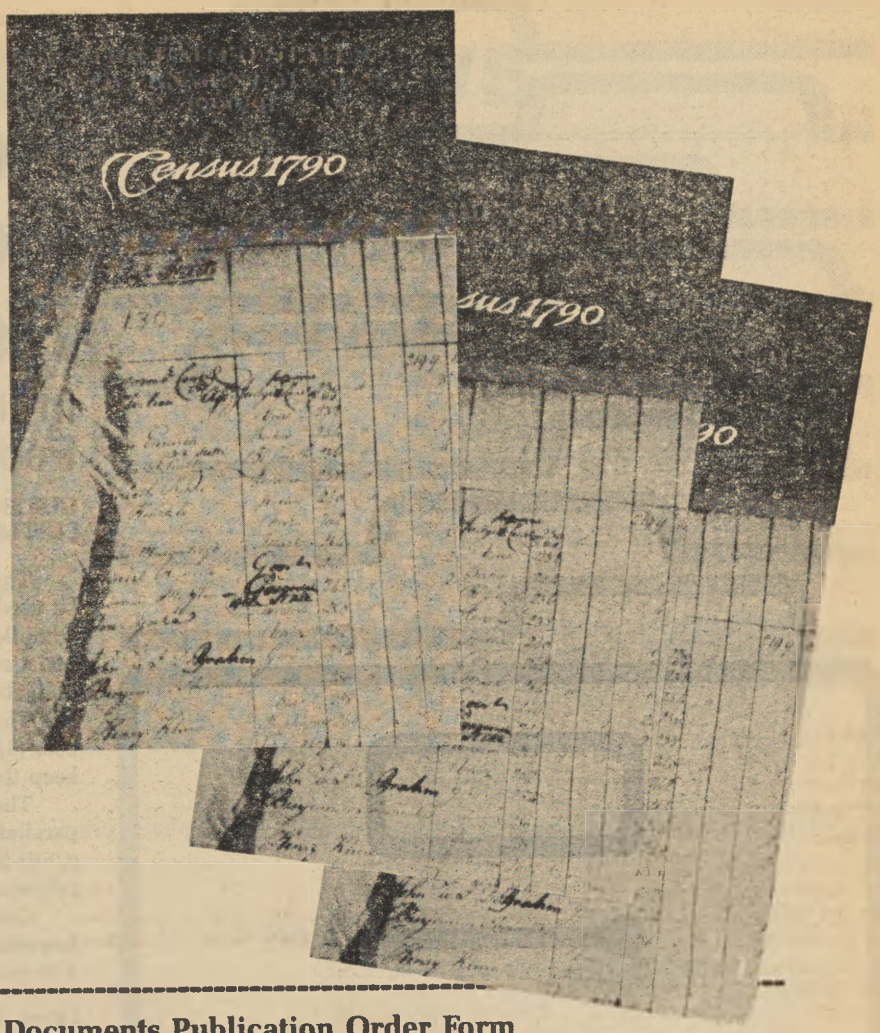
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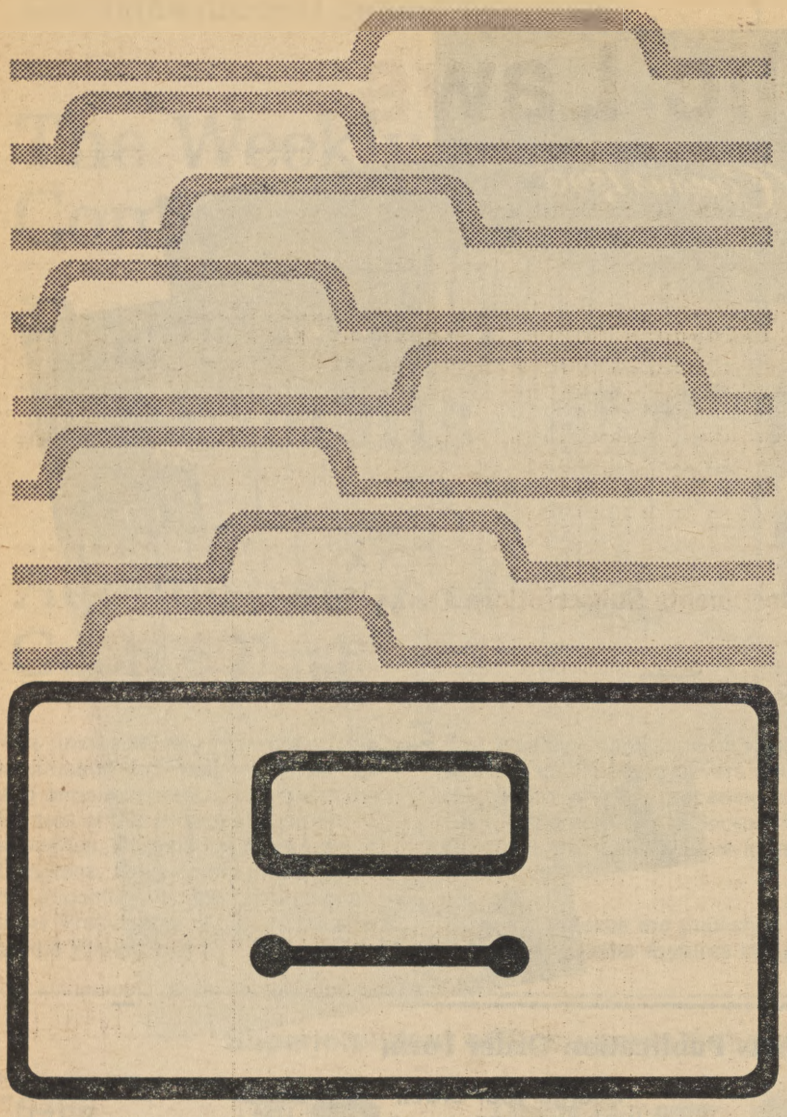
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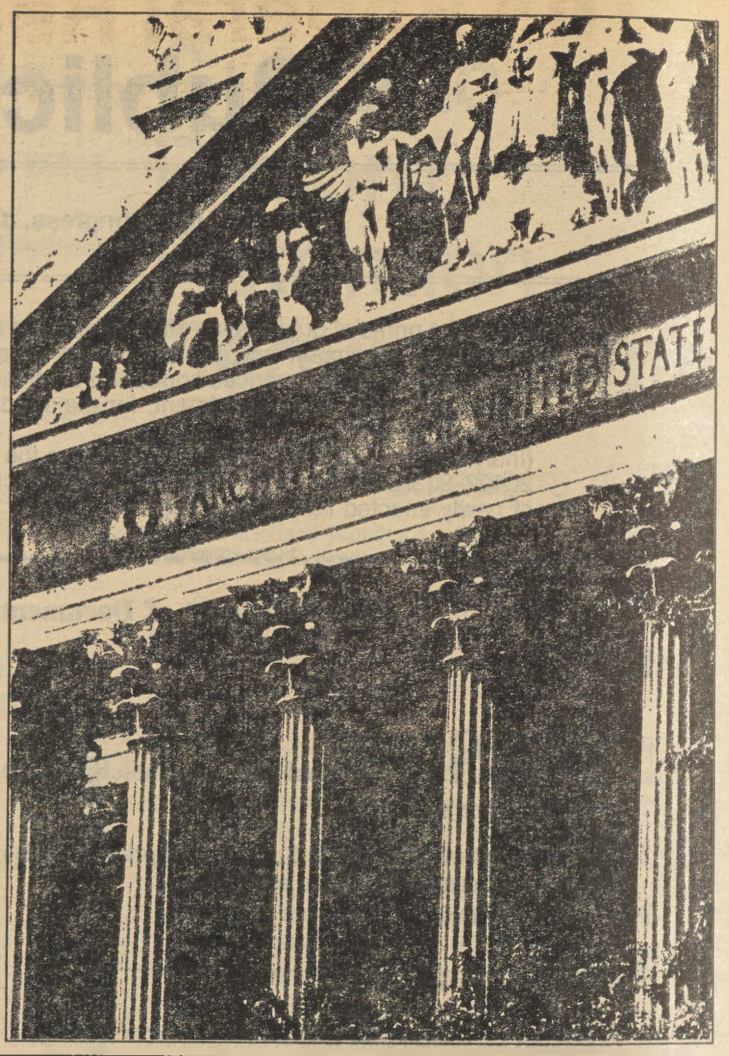
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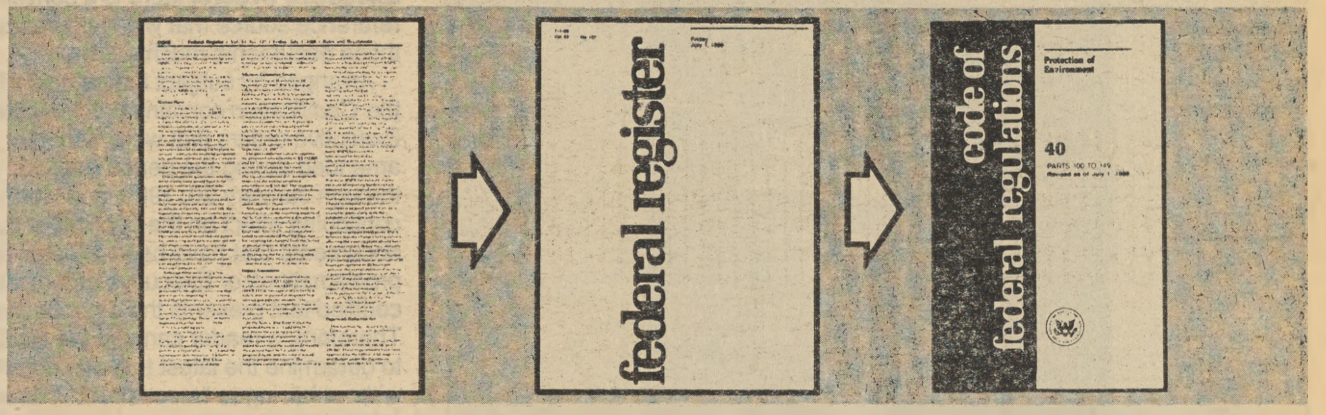
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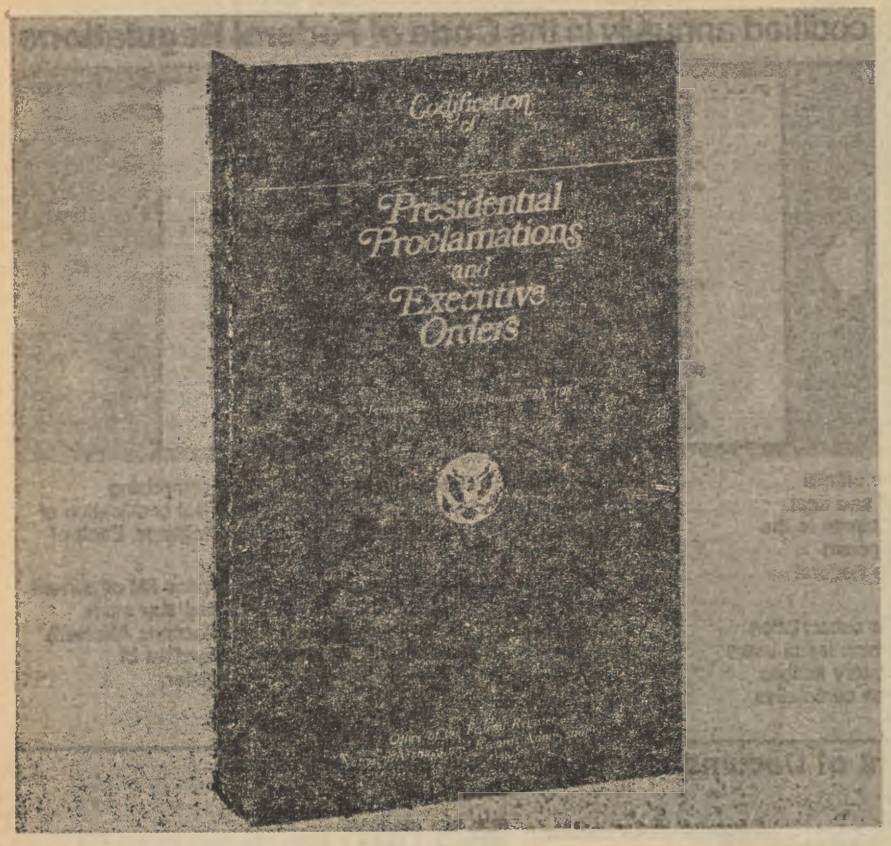
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