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Wednesday
September 23, 1992

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Contents

Federal Register

Vol. 57, No. 185

Wednesday, September 23, 1992

Agricultural Marketing Service
PROPOSED RULES
Lemons grown in California and Arizona, 43943
Mushroom promotion, research, and consumer information order, 43943

Agricultural Stabilization and Conservation Service
PROPOSED RULES
Special programs:
Administrative appeal process, 43937

Agriculture Department
See Agricultural Marketing Service
See Agricultural Stabilization and Conservation Service
See Animal and Plant Health Inspection Service
See Forest Service

Alcohol, Drug Abuse, and Mental Health Administration
NOTICES
Meetings; advisory committees:
October, 43980
October and November, 43981

Animal and Plant Health Inspection Service
RULES
Exportation and importation of animals and animal products:
Animal products and materials from restricted countries, 43885

Army Department
NOTICES
Environmental statements; availability, etc.:
South Florida limestone mining, fresh water lake belt plan, FL, 43965
Meetings:
Science Board, 43965

Centers for Disease Control
NOTICES
Meetings:
Vital and Health Statistics National Committee, 43982

Coast Guard
NOTICES
Pollution:
Ports or terminals holding certificates of adequacy; lists, 44010

Commerce Department
See National Oceanic and Atmospheric Administration
RULES
Audit requirements for institutions of higher education and other nonprofit organizations, 43892

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
China, 43963
Taiwan, 43963

Consumer Product Safety Commission
NOTICES
Agency information collection activities under OMB review, 43964
Meetings:
Consumer Product Safety Act, substantial product hazard reporting requirements; seminars, 43965

Defense Department
See Army Department

Education Department
PROPOSED RULES
Elementary and secondary education:
Drug-free schools and communities counselor training grants program, 44046
NOTICES
Meetings:
National Assessment Governing Board, 43965

Energy Department
See Federal Energy Regulatory Commission
PROPOSED RULES
Air quality planning purposes: designation of areas:
Arizona et al. [**Editorial Note:** This document, appearing on page 43732 of the **Federal Register** of September 22, 1992, was incorrectly indexed in that issue's table of contents.]
NOTICES
Atomic energy agreements; subsequent arrangements, 43969
Grant and cooperative agreement awards:
Northwest Missouri State University, 43966
Recommendations by Defense Nuclear Facilities Safety Board:
Hanford site, WA—
Multi-function waste tank facility, 43967

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
Pennsylvania, 43905
Toxic substances:
Significant new uses—
2-Butenedioic acid (Z), mono(2-((1-oxo-propenyloxy)ethyl), etc., 44050
PROPOSED RULES
Air and water programs:
Pulp, paper, and paperboard industry rulemaking; meeting, 43956
Air quality implementation plans; approval and promulgation; various States:
California, 43957, 43959
NOTICES
Clean Air Act:
Confidential business information and data transfer to contractors, 43970
Pesticide registration, cancellation, etc.:
Allium sativum, 43971
Citric acid, 43971
Dettelbach Chemical Co. et al., 43972
Diversey Corp., 43974

Indole-3-butyric acid, 43977
Putrescent whole egg solids, 43978
Toxic and hazardous substances control:
Premanufacture exemption approvals, 43977

Federal Aviation Administration
RULES
Airworthiness directives:
Boeing, 43890
PROPOSED RULES
Airworthiness directives:
Boeing, 43944

Federal Emergency Management Agency
NOTICES
Disaster and emergency areas:
Texas, 43979
Meetings:
Security Practices Board of Review, 43979

Federal Energy Regulatory Commission
NOTICES
Environmental compliance training courses, 43966
Natural Gas Policy Act:
State jurisdictional agencies tight formation recommendations; preliminary findings—
Colorado Oil & Gas Conservation Commission, 43969
Applications, hearings, determinations, etc.:
Iroquois Gas Transmission System, L.P., 43970
Mid-Louisiana Gas Co., 43970
Natural Gas Services, Inc., 43968
Texas Sea Rim Pipeline, Inc., 43968
Trunkline Gas Co., 43970

Federal Financial Institutions Examination Council
NOTICES
Home Mortgage Disclosure Act:
Disclosure statements and aggregate MSA reports; income categorization, 43979

Federal Reserve System
RULES
Bank holding companies and change in bank control, and membership of State banking institutions (Regulations H and Y):
Capital adequacy; risk-based capital guidelines, 43889

Fish and Wildlife Service
NOTICES
Endangered and threatened species permit applications, 43985

Forest Service
NOTICES
Environmental statements; availability, etc.:
Payette National Forest, ID, 43962

Health and Human Services Department
See Alcohol, Drug Abuse, and Mental Health Administration
See Centers for Disease Control
See Health Care Financing Administration
See Public Health Service
NOTICES
Organization, functions, and authority delegations:
Assistant Secretary for Health, 43980

Health Care Financing Administration
RULES
Medicaid and medicare:
Long-term care facilities (skilled nursing and intermediate care) requirements; correction, 43922
Revaluation of assets, 43906
NOTICES
Privacy Act:
Computer matching programs, 43982

Health Resources and Services Administration
See Public Health Service

Indian Affairs Bureau
NOTICES
Agency information collection activities under OMB review, 43983

Interior Department
See Fish and Wildlife Service
See Indian Affairs Bureau
See Land Management Bureau
See Surface Mining Reclamation and Enforcement Office

Internal Revenue Service
RULES
Income taxes:
Elections under the Technical and Miscellaneous Revenue Act of 1988 and other temporary election regulations, 43893
Oil and gas wells; percentage depletion limitations, 43897
PROPOSED RULES
Income taxes:
Foreign corporations; determination of interest expense deduction
Hearing, 43945

International Trade Commission
NOTICES
Import investigations:
Dry peas and lentils; conditions of competition between U.S. and Canada in third-country markets, 43985

Interstate Commerce Commission
RULES
Motor carriers:
Nonoperating carries; undercharges collection, 43925
NOTICES
Motor carriers:
Finance applications, 43986
Rail carriers:
Cost recovery procedures—
Adjustment factor, 43986

Land Management Bureau
NOTICES
Coal leases, exploration licenses, etc.:
Utah, 43983
Meetings:
Vale District Grazing Advisory Board, 43983
Vale District Multiple-Use Advisory Council, 43984
Realty actions; sales, leases, etc.:
Utah, 43984
Resource management plans, etc.:
Jackson District, FL, 43984

Martin Luther King, Jr. Federal Holiday Commission
NOTICES
Meetings, 43987

National Foundation on the Arts and Humanities
NOTICES
Meetings:
Arts National Council [Editorial Note: This document, appearing on page 43755 of the Federal Register of September 22, 1992, was inadvertently omitted in that issue's table of contents.]

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Gulf of Alaska groundfish and groundfish fishery of the Bering Sea and Aleutian Islands, 43926

National Space Council
NOTICES
Meetings, 43987

Nuclear Regulatory Commission
RULES
Production and utilization facilities; domestic licensing:
Plant modifications implementation; integrated schedules; policy statement, 43886
NOTICES
Meetings:
Reactor Safeguards Advisory Committee et al., 43987
Applications, hearings, determinations, etc.:
Allied-General Nuclear Services, Inc., 43989

Postal Service
PROPOSED RULES
Domestic Mail Manual:
Letter-size Zip+4 rate and Zip+4 barcoded rate mailings; preparation requirements, 43956

Public Health Service
See Alcohol, Drug Abuse, and Mental Health Administration
See Centers for Disease Control
NOTICES
Meetings:
Scientific Integrity Advisory Committee, 43980

Resolution Trust Corporation
NOTICES
Coastal Barrier Improvement Act; property availability:
Falcon Crest Ranch II, CA, 44005
Harmony Road, CO, 44005

Saint Lawrence Seaway Development Corporation
NOTICES
Meetings:
Advisory Board, 44005

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
American Stock Exchange, Inc., 43990
Applications, hearings, determinations, etc.:
G.T. Global Growth Series, et al., 43992
SPDR Trust, Series 1, et al., 43996
WestLB Finance USA Inc., et al., 44001

State Department
NOTICES
Agency information collection activities under OMB review, 44004

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Permanent program and abandoned mine land reclamation plan submissions:
Kentucky, 43946–43952
Ohio, 43954

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Thrift Supervision Office
NOTICES
Applications, hearings, determinations, etc.:
Ogden First Federal Savings & Loan Association, 44005

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Saint Lawrence Seaway Development Corporation

Treasury Department
See Internal Revenue Service
See Thrift Supervision Office

Veterans Affairs Department
RULES
Adjudication; pensions, compensation, dependency, etc.:
Active military service determinations, 43904
NOTICES
Agency information collection activities under OMB review, 44006
Committees; establishment, renewal, termination, etc.:
Prosthetics Services Advisory Committee, 44007
Rehabilitation Research and Development Scientific Review and Evaluation Board, 44007
Privacy Act:
Systems of records, 44007

Separate Parts In This Issue

Part II
Department of Transportation, Coast Guard, 44010

Part III
Department of Education, 44046

Part IV
Environmental Protection Agency, 44050

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
Proposed Rules:
780.....43937
910.....43943
1209.....43943

9 CFR
94.....43885

10 CFR
50.....43886

12 CFR
208.....43889
225.....43889

14 CFR
39.....43890
Proposed Rules:
39.....43944

15 CFR
29b.....43892

26 CFR
1 (2 documents).....43893, 43897
5c.....43893
5f.....43893
5h.....43893
6.....43893
7.....43893
7a.....43893
10.....43893
13.....43893
14.....43893
14a.....43893
18.....43893
19.....43893
301.....43893
602 (2 documents).....43893, 43897
Proposed Rules:
1.....43945

30 CFR
Proposed Rules:
917 (4 documents).....43946–43952
935.....43954

34 CFR
Proposed Rules:
231.....44046
238.....44046

38 CFR
3.....43904

39 CFR
Proposed Rules:
111.....43956

40 CFR
52.....43905
721.....44050
Proposed Rules:
Ch. I.....43956
52 (2 documents).....43957, 43959

42 CFR
413.....43906
431.....43922
442.....43922
447 (2 documents).....43906, 43922
483.....43922
488.....43922
489.....43922
498.....43922

49 CFR
1321.....43925

50 CFR
672.....43926
675.....43926

Rules and Regulations

Federal Register
Vol. 57, No. 185
Wednesday, September 23, 1992

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.
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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 91-153-2]

Transit of Animal Products From Restricted Countries Through the United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are allowing certain animal products to be moved through the United States from countries that are declared free of foot-and-mouth disease but that are subject to certain restrictions, and from countries that are considered free of swine vesicular disease but that are subject to certain restrictions, even if the animal products do not originate in establishments approved by the United States Department of Agriculture. We have determined that this action will provide shippers in foreign countries additional cargo routes to foreign destinations, without increasing the risk of introducing animal diseases into the United States.

EFFECTIVE DATE: September 16, 1992.

FOR FURTHER INFORMATION CONTACT: Dr. John Gray, Senior Staff Veterinarian, Import-Export Products Staff, VS, APHIS, USDA, room 756, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7885.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) regulate, among other things, the importation into the United States of certain animals, meat, and animal products. These regulations are designed, among other things, to prevent the introduction into the United States of rinderpest, foot-and-mouth disease, African swine fever, hog cholera, swine vesicular disease, and velogenic viscerotropic Newcastle disease.

The regulations in § 94.11 list countries in which rinderpest and foot-and-mouth disease are not considered to exist, but that, because of importation practices or geography, present some risk of exporting products contaminated by those diseases. Similarly, the regulations in § 94.13 list countries in which swine vesicular disease is not considered to exist, but that, because of importation practices or geography, present some risk of exporting products contaminated by that disease.

The regulations include provisions allowing certain meat and meat products to be imported from these countries, provided they are prepared and imported under certain conditions. One of these conditions is that the meat and meat products be prepared in inspected establishments that are eligible to have their products imported into the United States under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the regulations in 9 CFR 327.4. Additionally, the meat and meat products must be accompanied by certification relating to standards promulgated by the Food Safety and Inspection Service (FSIS), United States Department of Agriculture.

On June 23, 1992, we published in the **Federal Register** (57 FR 27951-27953, Docket No. 91-153) a proposal to allow certain meat and meat products to be imported into the United States, for transit through the United States for immediate export, even if those articles are not prepared in the inspected establishments described above. We also proposed to remove the requirement that the meat and meat products be accompanied by certification relating to FSIS standards.

Comments on the proposed rule were required to be received by the Animal and Plant Health Inspection Service on or before July 23, 1992. We received three comments by that date. The comments were from a shipping line, a foreign ministry of agriculture, and food supply company. Two of the commenters supported the proposal as written. The third commenter supported the proposal, but requested two clarifications, as discussed below.

The commenter requested clarification as to whether the proposed regulation would apply to all animals, rather than just to ruminants and swine as written. The requirements we are eliminating, that certain meat and meat products from the countries in question be prepared in FSIS-approved establishments and that specified certification accompany the articles, apply only to meat and meat products from swine and ruminants. There are no equivalent requirements for products from other animals. Therefore, there was no need to address products from other animals in the proposal.

Our proposal defined " immediate export" as "the period of time determined by APHIS, based on shipping routes and timetables, to be the shortest practicable interval of time between the arrival in the United States of an incoming carrier and the departure from the United States of an outgoing carrier, to transport a consignment of products." One commenter requested that we clarify whether overland shipments, such as those through the United States to Canada or Mexico, would be allowable under this definition of "immediate export." We recognize that in certain cases it will be most cost effective for shipments to move overland through the United States. The intent of the regulations as written is to allow such overland shipments, provided they are carried out within the shortest time practicable.

Therefore, based on the rationale in the proposed rule and in this document, we are adopting the proposed rule with one nonsubstantive change.

Effective Date

Mr. Robert Melland, Administrator of the Animal and Plant Health Inspection Service, has determined that this rulemaking proceeding should be expedited by making this rule effective upon signature. This rule relieves certain restrictions on the importation into the United States of animal products for transit to another country, if those animal products come from countries that are free of rinderpest and foot-and-mouth disease but that are subject to certain restrictions, or from countries that are free of swine vesicular disease but that are subject to certain restrictions. This rule will open up additional trade routes for certain products currently not eligible to transit

the United States. It will benefit shipping handlers at United States ports, exporters of animal products, shipping lines, domestic specialized transport companies, and domestic brokerage houses.

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.

In accordance with 5 U.S.C. 604, we have prepared a Final Regulatory Flexibility Analysis, set forth in the following paragraphs, regarding the impact of this rule on small entities.

In accordance with 21 U.S.C. 111, the Secretary of Agriculture is authorized to promulgate regulations to prevent the introduction into the United States from a foreign country of any contagious, infectious, or communicable disease of animals. We are revising sections of 9 CFR part 94 to allow animal products from certain countries to transit the United States in order to be shipped to third countries for which they are destined, even if the animal products are not prepared in inspected establishments that are eligible to have their products imported into the United States under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the regulations in 9 CFR 327.2, and are not accompanied by the USDA-approved foreign meat inspection certificate prescribed in 9 CFR 327.4. We believe these changes will open up additional trade routes for animal products not prepared in the described establishments or accompanied by the described certification, without increasing the risk of the introduction of disease into the United States.

This rule will create no new restrictions. We are aware that implementation of this rule may generate the transit of additional shipments of animal products through United States ports. In particular, we are aware of a large volume of intended shipments originating from European countries (specifically, Great Britain and Northern Ireland), and destined for Caribbean countries and Mexico, that are likely to transit the United States. This is because major shipping lines use the United States and its ports as a major shipping hub.

There will be a beneficial impact from any increase in the volume of shipments handled at United States ports. The exporters of animal products, shipping lines, consumers in recipient countries, domestic specialized transport companies, and domestic brokerage houses will also benefit from this action.

As an alternative to the changes made by this rule, we considered making no changes to the regulations. We rejected this alternative because it would have continued to impose unnecessary restrictions on the movement of certain animal products.

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging its provisions.

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.*).

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, 9 CFR part 94 is amended as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS), AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY; PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 continues to read as follows:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, and 134f; 31 U.S.C. 9701; 42 U.S.C. 4331, 4332; 7 CFR 2.17, 2.51, and 371.2(d).

2. Section 94.0 is amended by adding a definition of "Immediate export", in alphabetical order, to read as follows:

§ 94.0 Definitions.

* * * * *

Immediate export. The period of time determined by APHIS, based on shipping routes and timetables, to be the shortest practicable interval of time between the arrival in the United States of an incoming carrier and the departure from the United States of an outgoing carrier, to transport a consignment of products.

* * * * *

3. Section 94.15 is amended by adding a new paragraph (c) to read as follows:

§ 94.15 Animal products and materials; movement and handling.

* * * * *

(c) Meat and other products of ruminants or swine from countries listed in § 94.11(a) and pork and pork products from countries listed in § 94.13 that do not meet the requirements of § 94.11(b) or § 94.13(a) may transit through the United States for immediate export, provided the provisions of paragraph (a) of this section are met, and provided all other applicable provisions of this part are met.

Done in Washington, DC, this 16th day of September 1992.

Robert Melland,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92–22948 Filed 9–22–92; 8:45 am]

BILLING CODE 3410–34–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Integrated Schedules; Policy Statement

AGENCY: Nuclear Regulatory Commission.

ACTION: Final policy statement on integrated schedules.

SUMMARY: The Nuclear Regulatory Commission (NRC) is publishing its Final Policy Statement on Integrated Schedules. This policy statement describes the policy the Commission intends to use to promote voluntary implementation of licensee integrated schedules for regulatory requirements and other activities at nuclear power plants. The primary focus of the policy addresses the way licensees may establish realistic integrated schedules and the ways the Commission intends to interact with these licensees. It also documents the Commission's support for the establishment of integrated schedules at each nuclear power plant.

Integrated schedules for plant modifications and activities will permit the NRC, the nuclear industry, and the public to focus on safety issues while forecasting and maintaining long-term schedules and will permit more effective use of licensee resources to implement these plant changes and NRC resources to review them.

EFFECTIVE DATE: November 23, 1992.

FOR FURTHER INFORMATION, CONTACT: Claudia M. Abbate, Policy Development and Technical Support Branch, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555; Telephone (301) 504–1281.

SUPPLEMENTARY INFORMATION:

Background

On November 27, 1987, the "Proposed Policy Statement on Integrated Schedules for Implementation of Plant Modifications" was published in the **Federal Register** (52 FR 45345). The proposed policy statement described the policy the Commission intended to use to promote the development of voluntary integrated schedules for implementing regulatory requirements and other improvements in nuclear power plants. The comment period ended on January 25, 1988. The staff received and evaluated 19 sets of comments. Seven facilities implemented the proposed policy on integrated schedules.

On December 27, 1990, the NRC requested comments on SECY–90–347, "Regulatory Impact Survey Report," in the **Federal Register** (55 FR 53220). SECY–90–347 included a discussion of the proposed integrated regulatory requirements implementation schedule (IRRIS) concept. The staff developed IRRIS to better manage the impact on licensees of implementing generic requirements. During the 30-day comment period, the NRC received and evaluated 22 sets of comments that addressed IRRIS.

On June 7, 1991, SECY–91–172, "Regulatory Impact Survey Report—Final," was issued which stated that the staff would not go forward with the IRRIS program, but would revise the 1987 proposed policy by integrating the proposed integrated schedule policy, the IRRIS program, as well as the experience gained from licensees that have implemented integrated schedules.

Summary of Public Comments

All but two comments received regarding the proposed policy on integrated schedules were from licensees. Most comments opposed the policy statement as written for several reasons. First, some respondents stated that too much emphasis was placed on incorporating integrated schedules into the operating license through a license condition. There was a concern that licensees not requesting a license condition would not receive equal consideration of schedular issues as licensees that did request a license condition. Second, respondents indicated that development of a negotiated integrated schedule by licensees with good regulatory compliance records is neither necessary nor appropriate. The respondents believe an amendment to the operating license would require additional resources on their part as well as the NRC and would not significantly enhance the effort to complete licensing activities. Third, respondents indicated that all work efforts should be included in the schedule rather than just NRC-initiated tasks as was discussed in the proposed policy statement. Respondents felt that only including part of the tasks in the schedule may not show that regulatory requirements are receiving timely attention.

Respondents submitting comments regarding the IRRIS program as proposed in SECY–90–347 stated that IRRIS would only address the symptoms of cumulative generic requirements and would not address the problem of management of generic requirements at the front-end of the process. The respondents commented that the IRRIS program should: (1) Include all regulatory actions and information requests; (2) be implemented through a pilot program with appropriate guidelines and evaluation of the pilot program, (3) have provisons to eliminate low priority items, and (4) remove the freeze on the schedule one year before an outage.

Operational Experience

The licensees for seven operating facilities (including two multi-unit sites) have implemented integrated schedules. The licensees include all activities above a certain threshold (such as number of person-hour or cost) in the integrated schedule. Such items would include NRC-mandated items, commitments to NRC generic letters and bulletins, significant actions to resolve items from NRC inspection reports and licensee event reports (LERs), and licensee-initiated actions. Most of these licensees implement a two- or three-tier approach with NRC rules being one tier and the other tiers consisting of commitments and licensee-initiated projects.

The licensees submit integrated schedules to the NRC semi-annually. The priorities are determined by different methodologies, but are based upon general considerations such as safety significance, cost, availability of the plant and of resources. One licensee used the integrated schedule to delay implementation of items indefinitely. In a few cases the NRC has disagreed with the licensees' priority of certain items. However, the process has generally benefitted both the NRC and the licensees.

The proposed policy statement was revised as a result of the comments and feedback from licensees' experience in implementing the integrated schedule. Although the Commission believes that integrated schedules should be developed, licensees are not required to participate in the program or incorporate an integrated schedule into the operating license. Licensees may voluntarily develop and coordinate an integrated schedule with the NRC. Those licensees already implementing an integrated schedule may continue with their current program or adopt a program consistent with the final policy.

Final Commission Policy

The Commission believes the implementation of integrated schedules on a plant-specific basis will provide a systematic method of coordinating, managing, and scheduling major modifications and activities initiated by both the NRC and licensees. Integrated schedules could enhance timely compliance with regulatory requirements and accommodate licensee-initiated activities. The integrated schedule provides a major benefit in its flexibility to assign or reassign resources in recognition of the safety significance.

The integrated schedule program, including the prioritization methodology, the schedule, and periodic schedule updates will be determined by the licensee and submitted to the NRC for review. The major elements of an integrated scheduling program should include the following:

1. A systematic process for identifying and defining those activities to be scheduled;

2. A process for prioritizing and a process for scheduling the individual actions, taking into account factors such as safety, plant availability, radiation exposure, procurement requirements, and costs;

3. A plan for maintaining and updating implementation schedules;

4. A provision for NRC review of the prioritization and scheduling process, the initial schedule and updates;

5. A provision for requesting schedular relief on NRC-initiated schedules; and

6. A process for evaluating a licensee's maintenance of schedules through the issuance of periodic reports on actions completed, schedules for new actions, and schedule changes that result from new actions or implementation problems.

Licensees who volunteer will develop a program which will result in an integrated schedule containing three levels. Items contained in level 1 of the integrated schedule will be those items with specific implementation dates to be implemented in response to a rule, order, or license condition, including Technical Specifications and amendments. These items will be included in the integrated schedule to provide a complete view of the items that the NRC requires to be implemented. The licensee cannot change the implementation schedules for these items through the integrated schedule program. The licensee must request schedule changes for these items in accordance with standard procedures for applications for license amendments or exemptions.

Items contained in level 2 of the integrated schedule will result from licensee commitments of NRC actions, including generic communications (generic letters and bulletins). Licensees will have the flexibility to establish and revise their schedular commitments for level 2 items. When an NRC communication is issued, licensees with an integrated schedule will review the recommended implementation date, will include the item in the integrated schedule, and will prioritize the item among other NRC items in the integrated schedule. The licensee will then provide the NRC with the proposed implementation date in the initial response to the NRC communication. If other items of more significance to safety prevent the licensee from scheduling the newly-initiated item by the date recommended in the NRC correspondence, the licensee will submit to the NRC the justification for the proposed schedule in the initial response to the NRC communication.

The licensee with an integrated schedule program will be able to substitute licensee-initiated safety enhancements in place of NRC-recommended initiatives in those instances in which the licensee's initiatives yield an equivalent safety benefit. The licensee will submit the proposed schedule for the licensee-initiated item and the justification for the substitution.

The NRC staff will have 90 days to review the proposed schedule for implementing level 2 items (90-day negative consent). If the schedule cannot be agreed upon by both parties and if the staff believes that a significant safety concern exists, the staff at any time can issue an order to implement such items. The staff can take this action whether or not a licensee has an integrated schedule.

The licensee can request relief from implementing specific NRC items in level 2 that have not been implemented over a number of years because of their low safety significance. The licensee will need to obtain specific NRC approval for removal of these items. The 90-day negative consent process does not apply.

Items contained in level 3 of the integrated schedule will be other activities such as licensee-initiated projects, LER follow-up, and INPO or NUMARC initiatives. The licensee will identify items to include in level 3 and the threshold above which level 3 tasks will be included in the integrated schedule. The integrated schedule will include only those items above the threshold. Licensees will schedule items in level 3 consistent with commitments and other items in the schedule. Level 3 activity schedules will be submitted to the NRC, but no formal review will be performed by the staff on these items. They are included so the staff can obtain a complete overview of licensee activities.

The licensee will not be required to incorporate the integrated schedule into the operating license as a license condition. Licensees who volunteer for the program will develop and submit the integrated schedule program, the detailed integrated schedule for a fuel cycle, and a less detailed schedule for future fuel cycles to the NRC. Thereafter, the licensee will submit the detailed integrated schedule for the upcoming fuel cycle and a less detailed schedule for items to be implemented in future fuel cycles. The staff will have a 90-day negative consent period to respond to the integrated schedule proposed by the licensee.

A fundamental premise of integrated schedules is that plant tasks can and should be prioritized. This can also apply to design engineering and analysis efforts that require substantial resources for an extended period of time. The prioritization of these projects can provide a consistent and defensible basis for the initial implementation schedule and for negotiating future changes or additions.

As the prioritization method will be based on a number of factors, many of which will be plant specific, the Commission has concluded that the licensee should select the prioritization methodology, except to the extent that items in level 1 may have to be implemented by specific dates in accordance with the regulation, order, or license condition. Although integrated schedules will be developed and proposed by the licensee, the licensee is obligated to describe the process comprehensively to the NRC. The Commission must understand the planning and scheduling practices and have an overview of ongoing activities at the plant to ensure that licensees are establishing realistic and timely implementation schedules.

The NRC's Divisions of Reactor Projects in the Office of Nuclear Reactor Regulation will manage the implementation of the integrated schedule program. The staff will work with the licensees and other NRC offices, such as the responsible regional office, to develop mutually acceptable schedules.

Licensees currently implementing an integrated schedule may continue their program or adopt the program outlined above. Licensees may withdraw from the program upon notifying the NRC.

This policy statement contains information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). These requirements were approved by Office of Management and Budget approval number 3150–0168, which expires August 31, 1995.

Public reporting burden for this collection of information is estimated to average 300 hours annually per licensee. In addition, there is a one-time burden of 300 hours per licensee for submittal of the initial program and a one-time burden of 40 hours for termination of the program. This includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Information and Records Management Branch (MNBB–7714), Division of Information Support Services, Office of Information and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555; and to Ronald Minsk, Office of Information and Regulatory Affairs (3150–0168), NEOB–

3019, Office of Management and Budget, Washington, DC 20503.

Dated at Rockville, MD, this 17th day of September, 1992.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 92–23034 Filed 9–22–92; 8:45 am]

BILLING CODE 7590–01–M

FEDERAL RESERVE SYSTEM

12 CFR Parts 208 and 225

[Regulations H and Y; Docket No. R-0776]

Capital; Capital Adequacy Guidelines

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Interim rule.

SUMMARY: The Board is proposing to modify its risk-based capital guidelines for state member banks and bank holding companies to include the European Bank for Reconstruction and Development, the International Finance Corporation, and the Nordic Investment Bank in the list of named multilateral lending institutions that are eligible for a 20 percent risk weight. This proposed modification would conform the Board's risk-based capital guidelines more closely to interpretive guidance adopted by the other G-10 countries that are signatories to the Basle Accord.

DATES: The interim rule is effective as of September 23, 1992. Comments must be received by October 23, 1992.

ADDRESSES: Comments, which should refer to Docket No. R-0776, may be mailed to the Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551, to the attention of Mr. William W. Wiles, Secretary. Comments addressed to Mr. Wiles may also be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments may be inspected in Room B-1122 between 9:00 a.m. and 5:00 p.m. weekdays, except as provided in § 261.8 of the Board's Rules Regarding Availability of Information, 12 CFR 261.8.

FOR FURTHER INFORMATION CONTACT: Rhoger H Pugh, Assistant Director (202/728-5883), Kelly S. Shaw, Supervisory Financial Analyst (202/452-3054), Norah Barger, Supervisory Financial Analyst (202/452-2402), Division of Banking Supervision and Regulation; and Brian E. J. Lam, Attorney (202/452-2067), Legal Division, Board of Governors of the Federal Reserve System. For the hearing impaired *only*, Telecommunication Device for the Deaf (TDD), Dorothea Thompson (202/452-3544), Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC.

SUPPLEMENTARY INFORMATION: Under the risk-based capital framework established by the Basle Accord, claims on, and claims guaranteed by, multilateral lending institutions and regional development banks in which G-10 countries are shareholding members may be accorded, at national discretion, a 20 percent risk weight. Like the Basle Accord, the Board's risk-based capital guidelines specify five multilateral lending institutions and regional development banks[1] that are eligible for the 20 percent risk weight. The guidelines further state that other multilateral lending institutions and regional development banks may be accorded a 20 percent risk weight if the U.S. government is a shareholder or contributing member.

The Board has received a number of requests concerning the risk weight of claims on, and investments in securities issued by, the European Bank for Reconstruction and Development (EBRD), the International Finance Corporation (IFC), and the Nordic Investment Bank (NIB). In response to these requests, the Board is proposing to clarify that bank holding companies and state member banks may assign a 20 percent risk weight to claims on, or guaranteed by, the EBRD or the IFC. The U.S. is a contributing shareholder of the EBRD, but it was established after the original publication of the capital adequacy guidelines. Since the IFC is a subsidiary of the World Bank, an organization that the guidelines specifically name as an institution eligible for the 20 percent risk weight, it already implicitly is included in the 20 percent risk category. However, since numerous inquiries have been received with regard to the appropriate risk category for the IFC, the Board is proposing to include it in the list of multilateral lending institutions and regional development banks specifically named in the guidelines as eligible for the 20 percent risk weight.

The Board is also proposing to permit bank holding companies and state member banks to assign a 20 percent risk weight to claims on, or guaranteed by, NIB. Under the current guidelines, NIB would not qualify for a 20 percent risk weight as the U.S. is neither a shareholder nor a contributing member. However, the Basle Committee on Banking Supervision has interpreted the criteria in the Basle Accord for assigning a multilateral lending institution to the 20 percent risk category to mean that any country may include NIB in this preferential risk category since Sweden, a G-10 country, is a shareholder in NIB. Thus, adding NIB to the list of named multilateral lending institutions eligible for a 20 percent risk weight would serve to conform the Board's risk-based capital guidelines more closely to the interpretative guidance adopted by the other G-10 countries that are signatories to the Basle Accord.

The proposed modifications to the risk-based capital guidelines would have the effect of allowing claims collateralized by securities issued by the EBRD, IFC, and NIB to be included in the 20 percent risk category.

The Board is seeking comment on the proposed change to its risk-based capital guidelines. Because the Board wishes to implement in an appropriate and expeditious manner guidance adopted by the G-10 countries in connection with the Basle Accord, and because the proposed revision would reduce rather than expand the regulatory burden on state member banks and bank holding companies, the Board is implementing the proposed change immediately as an interim rule.

Regulatory Flexibility Act Analysis

The Federal Reserve Board does not believe adoption of this proposal would have a significant economic impact on a substantial number of small business entities (in this case, small banking organizations), in accord with the spirit and purposes of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). In this regard, the proposed revision would reduce certain regulatory burdens on bank holding companies as it would reduce the capital charge on certain transactions. In addition, because the risk-based capital guidelines generally do not apply to bank holding companies with consolidated assets of less than $150 million, this proposal will not affect such companies.

List of Subjects

12 CFR Part 208

Accounting, Agriculture, Banks, banking, Confidential business information, Currency, Federal Reserve

[1] International Bank for Reconstruction and Development (World Bank), Latin American Development Bank, Asian Development Bank, African Development Bank, and the European Investment Bank.

System, Reporting and recordkeeping requirements, Securities.

12 CFR Part 225

Administrative practice and procedure, Banks, banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities.

For the reasons set forth in the preamble, and pursuant to the Board's authority under section 5(b) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844 (b)), and section 910 of the International Lending Supervision Act of 1983 (12 U.S.C. 3909), the Board is amending 12 CFR parts 208 and 225 as follows:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM

1. The authority citation for part 208 is revised to read as follows:

Authority: Sections 9, 11(a), 11(c), 19, 21, 25, and 25(a) of the Federal Reserve Act, as amended (12 U.S.C. 321-338, 248(a), 248(c), 461, 481-486, 601 and 611, respectively); sections 4, 13(j), and 18(o) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1814, 1823(j), and1828(o), respectively); section 7(a) of the International Banking Act of 1978 (12 U.S.C. 3105); sections 907-910 of the International Lending Supervision Act of 1983 (12 U.S.C. 3906-3909); sections 2, 12(b), 12(g), 12(i), 15B(c) (5), 17, 17A, and 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78b, 78l(b), 78l(g), 78l(i), 78o-4(c) (5), 78q, 78q-1, and 78w, respectively); section 5155 of the Revised Statutes (12 U.S.C. 36) as amended by the McFadden Act of 1927; and sections 1101-1122 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3310 and 3331-3351).

2. Appendix A to part 208 is amended by revising the second sentence of the second paragraph in III.C.2 to read as follows:

Appenix A to Part 208—Capital Adequacy Guidelines for State Member Banks: Risk-Based Measure

* * * * *

III. * * *

C. * * *

2. ***In addition, this category also includes claims on, and the portions of claims that are guaranteed by, U.S. government-sponsored[32] agencies and claims on, and the portions of claims guaranteed by, the International Bank for Reconstruction and Development (World Bank), the International Finance Corporation, the Interamerican Development Bank, the Asian Development Bank, the African Development Bank, the European Investment Bank, the European Bank for Reconstruction and Development, the Nordic Investment Bank, and other multilateral lending institutions or regional development banks in which the U.S. government is a shareholder or contributing member.***

* * * * *

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

1. The authority citation for part 225 is revised to read as follows:

Authority: 12 U.S.C. 1817(j) (13), 1818(b), 1828(o), 1831i, 1843(c) (8), 1844(b), 1972(l), 3106, 3108, 3907, 3909, 3310, 3331-3351, and sec. 306 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Pub. L. 102-242, 105 Stat. 2236 (1991)).

2. Appendix A to part 225 is amended by revising the second sentence of the second paragraph in III.C.2 to read as follows:

Appendix A to Part 225—Capital Adequacy Guidelines for Bank Holding Companies: Risk-Based Measure

* * * * *

III. * * *

C. * * *

2. ***In addition, this category also includes claims on, and the portions of claims that are guaranteed by, U.S. government-sponsored[35] agencies and claims on, and the portions of claims guaranteed by, the International Bank for Reconstruction and Development (World Bank), the International Finance Corporation, the Interamerican Development Bank, the Asian Development Bank, the African Development Bank, the European Investment Bank, the European Bank for Reconstruction and Development, the Nordic Investment Bank, and other multilateral lending institutions or regional development banks in which the U.S. government is a shareholder or contributing member.***

* * * * *

Board of Governors of the Federal Reserve System, September 16, 1992.

William W. Wiles,

Secretary of the Board.

[FR Doc. 92-23025 Filed 9-22-92; 8:45 am]

BILLING CODE 6210-01-F

[32] For this purpose, U.S. government-sponsored agencies are defined as agencies originally established or chartered by the federal government to serve public purposes specified by the U.S. Congress but whose obligations are *not explicitly* guaranteed by the full faith and credit of the U.S. government. These agencies include the Federal Home Loan Mortgage Corporation (FHLMC), the Federal National Mortgage Association (FNMA), the Farm Credit System, the Federal Home Loan Bank System, and the Student Loan Marketing Association (SLMA). Claims on U.S. government-sponsored agencies include capital stock in a Federal Home Loan Bank that is held as a condition of membership in that Bank.

[35] For this purpose, U.S. government-sponsored agencies are defined as agencies originally established or chartered by the federal government to serve public purposes specified by the U.S. Congress but whose obligations are *not explicitly* guaranteed by the full faith and credit of the U.S. government. These agencies include the Federal Home Loan Mortgage Corporation (FHLMC), the Federal National Mortgage Association (FNMA), the Farm Credit System, the Federal Home Loan Bank System, and the Student Loan Marketing Association (SLMA). Claims on U.S. government-sponsored agencies include capital stock in a Federal Home Loan Bank that is held as a condition of membership in that Bank.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92-NM-115-AD; Amendment 39-8373; AD 92-19-15]

Airworthiness Directives; Boeing Model 707 and 720 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 707 and 720 series airplanes, that currently requires inspections of the inboard engine nacelle strut attach structure to detect cracks, and repair, if necessary. This amendment requires improved repetitive inspections to detect cracks in the inboard nacelle strut midspar fittings, and replacement, if necessary. In addition, this AD significantly decreases the repetitive inspection intervals. This amendment is prompted by two recent reports of engine and pylon separations on Model 707 series airplanes and numerous reports of cracks found in the midspar fittings. The actions specified in this AD are intended to prevent separation of an inboard engine from an airplane.

DATES: Effective on October 8, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 8, 1992.

Comments for inclusion in the Rules Docket must be received on or before November 23, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-115-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW.,

Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Stanton R. Wood, Aerospace Engineer, Seattle Aircraft Certification Office, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206)-227–2772; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: On October 31, 1988, the FAA issued AD 88–24–10, Amendment 39–6063 (53 FR 46434, November 17, 1988), to require inspections of the inboard engine nacelle strut attach structure to detect cracks, and repair, if necessary. That action was prompted by a report of an engine separating from an airplane. The actions required by that AD are intended to prevent separation of an inboard engine from an airplane.

Since the issuance of that AD, there have been two recent reports involving the separation of the number 3 engines and pylons from Model 707 series airplanes. One report indicated that the number 3 engine and pylon separated from the airplane, impacting the number 4 engine upon separation. Subsequently, the number 4 engine and pylon also separated from the airplane, and a fire occurred in the wing area where the number 3 pylon broke off. Investigation revealed that the number 3 pylon separated from the airplane as a result of the failure of the inboard midspar fitting, which attaches the pylon to the wing. Analysis indicates that the inboard midspar fitting failed due to fatigue cracking. Failure to detect and repair cracks in this area could lead to the separation of an inboard engine from an airplane.

While these two reports occurred on airplanes that had been modified in accordance with Supplemental Type Certificate (STC) SA2699NM to include engine "hush kits," numerous cracks have been found in the midspar fittings on unmodified Model 707 and 720 series airplanes as well. This AD addresses certain unmodified Model 707 and 720 series airplanes, in addition to airplanes that have been modified in accordance with the aforementioned STC (SA2699NM) and two STC's that are of similar design, SA3595NM and SA4015NM.

The FAA has reviewed and approved Boeing Service Bulletin 3183, Revision 4, dated July 8, 1992, which describes improved procedures to perform repetitive close visual inspections to detect cracks in both midspar fittings on each inboard strut.

The Boeing Company has designed a replacement fitting, which, if installed, would correct the fatigue cracking problem addressed in this AD. This replacement fitting is described in Boeing Service Bulletin 3183, Revision 1, dated May 17, 1977, and Revision 2, dated January 28, 1988, and is included as an optional terminating action in this AD. The FAA plans further rulemaking to require installation of the midspar fittings with these improved fittings as terminating action for the repetitive inspections on all Boeing Model 707 and 720 series airplanes. Therefore, this AD is considered to be interim action.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of this same type design, this AD supersedes AD 88–24–10 to require improved repetitive inspections to detect cracks in the inboard nacelle strut midspar fittings, and replacement, if necessary. This AD also decreases the repetitive inspection intervals based on recent service history of these airplanes in order to ensure that cracks are detected and repaired in a timely manner.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption "**ADDRESSES.**" All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the 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 AD 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 postcard on which the following statement is made: "Comments to Docket Number 92–NM–115–AD." The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, 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—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 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 amendment 39–6063 (53 FR 46434, November 17, 1988), and by adding a new airworthiness directive (AD), amendment 39–8373, to read as follows:

92–19–15. Boeing: Amendment 39–8373. Docket 92–NM–115–AD. Supersedes AD 88–24–10, Amendment 39–6063.

Applicability: Model 707 and 720 series airplanes; line numbers 1 through 906, inclusive; including Model 707 and 720 series airplanes that have been modified in accordance with Supplemental Type Certificates (STC's) SA2699NM, SA3595NM, or SA4015NM; certificated in any category.

Compliance: Required as indicated, unless accomplished previously. To prevent separation of an inboard engine from an airplane, accomplish the following:

(a) Perform a close visual inspection of the midspar fittings to detect cracks in accordance with Boeing Service Bulletin 3183, Revision 4, dated July 8, 1992, unless accomplished previously in accordance with Boeing Service Bulletin 3183, Revision 2, dated January 28, 1988, at the times specified in paragraph (a)(1), (a)(2), (a)(3), or (a)(4), of this AD, as applicable.

(1) For Model 707–300B/C series airplanes modified by installation of a "hush kit" in accordance with Supplemental Type Certificate (STC) SA2699NM, at the later of the times specified in paragraph (a)(1)(i) or (a)(1)(ii) of this AD:

(i) Prior to the accumulation of 12,000 flight hours; or

(ii) Within 650 flight hours or 250 flight cycles after the effective date of this AD, whichever occurs first.

(2) For Model 707–100B and 720B series airplanes modified by installation of a "hush kit" in accordance with STC SA3595NM or SA4015NM, at the later of the times specified in paragraph (a)(2)(i) or (a)(2)(ii) of this AD:

(i) Prior to the accumulation of 12,000 flight hours; or

(ii) Within 650 flight hours or 325 flight cycles after the effective date of this AD, whichever occurs first.

(3) For Model 707–300, 707–400, and 707–300B/C series airplanes, at the later of the times specified in paragraph (a)(3)(i) or (a)(3)(ii) of this AD:

(i) Prior to the accumulation of 12,000 flight hours; or

(ii) Within 1,100 flight hours or 400 flight cycles after the effective date of this AD, whichever occurs first.

(4) For Model 707–100, 707–100B, 707–200, 720 and 720B series airplanes, at the later of the times specified in paragraph (a)(4)(i) or (a)(4)(ii) of this AD:

(i) Prior to the accumulation of 12,000 flight hours; or

(ii) Within 1,100 flight hours or 550 flight cycles after the effective date of this AD, whichever occurs first.

(b) Repeat the inspection required by paragraph (a) of this AD thereafter at the intervals specified in paragraph (b)(1), (b)(2), (b)(3), or (b)(4) of this AD, as applicable, in accordance with Boeing Service Bulletin 3183, Revision 4, dated July 8, 1992.

(1) For Model 707–300B/C series airplanes modified by installation of a "hush kit" in accordance with STC SA2699NM: At intervals not to exceed 750 flight hours or 300 flight cycles, whichever occurs first.

(2) For Model 707–100B and 720B series airplanes modified by installation of a "hush kit" in accordance with STC SA3595NM or SA4015NM: At intervals not to exceed 750 flight hours or 375 flight cycles, whichever occurs first.

(3) For Model 707–300, –400, and –300B/C series airplanes: At intervals not to exceed 1,200 flight hours or 450 flight cycles, whichever occurs first.

(4) For Model 707–100, 707–100B, 707–200, 720, and 720B series airplanes: At intervals not to exceed 1,200 flight hours or 600 flight cycles, whichever occurs first.

(c) If any cracks are found in the midspar support fittings as a result of the inspections required by paragraph (a) or (b) of this AD, prior to further flight: Conduct an eddy current inspection, replace both midspar support fittings, and modify or repair all other structure specified in the service bulletin, in accordance with Boeing Service Bulletin 3183, Revision 1, dated May 13, 1977, or Revision 2, dated January 28, 1988. If a currently-installed fitting is replaced by a new fitting of the same part number, that new fitting must be inspected in accordance with the compliance times and procedures required by paragraphs (a) and (b) of this AD.

(d) Replacement of the fittings with new, improved fittings, in accordance with Boeing Service Bulletin 3183, Revision 2, dated January 28, 1988, constitutes terminating action for the repetitive inspections required by this AD.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(f) 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.

(g) The inspections, replacement, and modification or repair shall be done in accordance with Boeing Service Bulletin 3183, Revision 4, dated July 8, 1992, Boeing Service Bulletin 3183, Revision 1, dated May 13, 1977, and Boeing Service Bulletin 3183, Revision 2, dated January 28, 1988. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on October 8, 1992.

Issued in Renton, Washington, on August 27, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–23001 Filed 9–22–92; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

15 CFR Part 29b

[Docket No. 911200–2073]

RIN 0605–AA07

Audit Requirements for Institutions of Higher Education and Other Nonprofit Organizations

AGENCY: Department of Commerce.

ACTION: Affirmation of interim final rule.

SUMMARY: This rule adopts as final, Department of Commerce interim regulations amending 15 CFR part 29b, "Audit Requirements for Institutions of Higher Education and Other Nonprofit Organizations," to incorporate new guidance from the Office of Management and Budget (OMB). As a result of this final rule, the Department of Commerce is requiring educational institutions and other nonprofit organizations that receive Federal assistance to follow the provisions of OMB's "Compliance Supplement for Audits of Institutions of Higher Education and Other Nonprofit Institutions" when performing the organization-wide audits currently required under this part.

DATES: The provisions of this final rule became effective February 7, 1992, and apply to audits of educational and nonprofit institutions initiated after March 9, 1992.

FOR FURTHER INFORMATION CONTACT: Barbara Lambis, Director, Office of Federal Assistance, U.S. Department of Commerce, HCHB Room 6054, 14th Street and Constitution Avenue NW., Washington, DC 20230, (202) 377–5817.

SUPPLEMENTARY INFORMATION: On February 7, 1992, the Department of Commerce published an interim final rule amending part 29b (57 FR 4715), and allowed interested persons 30 days to comment. No comments were received and the Department of Commerce is adopting the amendment as a final rule without change.

This is not a major rule within the meaning of Section 1 of Executive Order

12291. 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 effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Because this rule relates to public property, loans, grants, benefits and contracts, it is exempt from the requirements of notice and opportunity to comment and the 30-day delayed effective date (5 U.S.C. 553(a)(2)). No other law requires that notice and opportunity for comment on this final rule be given.

Since notice and opportunity to comment are not required to be given for this final rule under Section 553 of the Administrative Procedure Act or any other law, no initial or final Regulatory Flexibility Analysis has to be or will be prepared for purposes of the Regulatory Flexibility Act.

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

Paperwork Reduction Act

This final rule contains a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection has been approved by OMB under control number 0991–0003. The public reporting burden for this collection of information is estimated to average five (5) hours 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.

List of Subjects in 15 CFR Part 29b

Accounting, Colleges and universities, Grant programs, Nonprofit organizations, Reporting and recordkeeping requirements.

Under authority of 5 U.S.C. 301, the interim final rule published at (57 FR 4715) amending Part 29b to Title 15, Subtitle A of the Code of Federal Regulations is adopted as final without changes.

Sonya G. Stewart,

Director for Federal Assistance and Management Support.

[FR Doc. 92–23104 Filed 9–22–92; 8:45 am]

BILLING CODE 3510–FA–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 5c, 5f, 5h, 6, 7, 7a, 10, 13, 14, 14a, 18, 19, 301, and 602

[T.D. 8435]

RIN 1545–AN09

Certain Elections Under the Technical and Miscellaneous Revenue Act of 1988 and the Redesignation of Certain Other Temporary Elections Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final regulations relating to the time and manner for making certain elections under the Technical and Miscellaneous Revenue Act of 1988. It also redesignates certain other temporary elections regulations that were issued pursuant to various other tax acts. These final and temporary regulations provide guidance to taxpayers making the elections.

EFFECTIVE DATES: The provisions relating to § 301–9100–8 formerly § 5h.6 are effective November 10, 1988. All other provisions are effective on September 23, 1992.

FOR FURTHER INFORMATION CONTACT: Grace Matuszeski at 202–622–4930 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information requirements contained in these final regulations have been reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control number 1545–1112. The estimated annual burden per respondent varies from 15 minutes to 2 hours, depending on individual circumstances, with an estimated average of .28 hour.

These estimates are approximations 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.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Internal Revenue Service, Attn: IRS Reports Clearance Officer T:FP, Washington, DC 20224, and 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.

Background

On September 22, 1989, the Internal Revenue Service published in the **Federal Register** (54 FR 38979) temporary regulations (T.D. 8267) relating to certain elections under various sections of the Internal Revenue Code of 1986 (Code) and the Technical and Miscellaneous Revenue Act of 1988, 102 Stat. 3342. A contemporaneous cross-reference notice of proposed rulemaking was published at 54 FR 39002. This Treasury decision adopts those temporary regulations as final regulations, subject to minor modifications, and moves them from part 5h of the Code of Federal Regulations to part 301. In addition, many of the other temporary regulations that relate to various other elections are redesignated for the purpose of moving them to part 301 as well.

With respect to the temporary regulations that were published on September 22, 1989, no request for a public hearing was received; therefore, none was held.

Explanation of Provisions

Temporary regulations § 5h.6 are adopted as final regulations and are redesignated § 301.9100.8. Temporary regulations §§ 5c.0, 5f.0, 5h.4, 5h.5, 6.1, 6.2, 6.3, 7.0, 7a.1, 7a.2, 7a.3, 10.2, 13.0, 13.1, 14.1–1, and 19.2–1 are given redesignations that move them to § 301.9100 also. The following table illustrates the new section numbers:

Old section number	Redesignation
§ 5c.0	§ 301.9100–4T
§ 5f.0	§ 301.9100–5T
§ 5h.4	§ 301.9100–6T
§ 5h.5	§ 301.9100–7T
§ 5h.6	§ 301.9100–8
§ 6.1	§ 301.9100–9T
§ 6.2	§ 301.9100–10T
§ 6.3	§ 301.9100–11T
§ 7.0	§ 301.9100–12T
§ 7a.1	§ 301.9100–13T
§ 7a.2	§ 301.9100–14T
§ 7a.3	§ 301.9100–15T
§ 10.2	§ 301.9100–16T
§ 13.0	§ 301.9100–17T
§ 13.1	§ 301.9100–18T
§ 14.1–1	§ 301.9100–19T
§ 19.2–1	§ 301.9100–20T

References and citations within title 26 of CFR to any of the redesignated sections have been updated to reflect the redesignations.

Special Analyses

It has been determined that these regulations 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, a final Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking for the final regulations was submitted to the Administrator of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of the final regulations is Grace Matuszeski, Office of the Assistant Chief Counsel (Income Tax and Accounting), Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in their development.

List of Subjects

26 CFR 1.61–1 through 1.194–4

Income taxes, Reporting and recordkeeping requirements.

26 CFR 1.401–0 through 1.419A–2T

Bonds, Employee benefit plans, Income taxes, Pensions, Reporting and recordkeeping requirements, Securities, Trusts and trustees.

26 CFR 1.451–1 through 1.458–10

Accounting, Income taxes, Reporting and recordkeeping requirements.

26 CFR 1.636–1 through 1.636–4

Income taxes, Mineral resources.

26 CFR 1.701–1 through 1.709–2

Income taxes.

26 CFR 1.856–0 through 1.858–1

Income taxes, Investments, Trusts and trustees.

26 CFR Part 5c

Accounting, Banks, Banking, Income taxes, Reporting and recordkeeping requirements, Savings and loan associations.

26 CFR Part 5f

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 5h

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 6

Banks, Banking, Holding companies, Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 7

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 7a

Bankruptcy, Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 10

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 13

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 14

Income taxes, Small business.

26 CFR Part 14a

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 18

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 19

Income taxes.

26 CFR Part 301

Administrative practice and procedure, Alimony, Bankruptcy, Child support, Continental shelf, Courts, Crime, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Investigations, Law enforcement, Oil pollution, Penalties, Pensions, Reporting and recordkeeping requirements, Statistics, Taxes.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Final Regulations and Redesignation of Temporary Regulations

Accordingly, parts 1, 5c, 5f, 5h, 6, 7, 7a, 10, 13, 14, 14a, 18, 19, 301, and 602 of title 26 of the Code of Federal Regulations are amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 is amended by adding the following citations:

Authority: 26 U.S.C. 7805 * * * Section 301.9100–4T also issued under 26 U.S.C. 168(f)(8)(G). Section 301.9100–7T also issued under 26 U.S.C. 42(f)(1), 42(g)(1), 42(i)(2), 42(j)(5), 48(b)(2), 56(f)(3)(B), 83(c)(3), 141(b)(0), 142(d)(1), 142(d)(4)(B), 143(k)(9)(D)(iii), 145(d), 147(b)(4)(A), 165(l)(1), 168(b)(5), 168(f)(1), 168(g)(7). 168(h)(6)(F)(ii), 216(b)(3), 263(i), 263A(d)(3), 382(l)(5)(H), 448(d)(4), 453C(b)(2)(B), 453C(e)(4), 468B, 469(j)(9), 474, 585(c)(3)(A)(iii)(I), 585(c)(4), 616(d), 617(h), 1059(c)(4), 2632(b)(3), 2652(a)(3), 3121(w)(2), 4982(e)(4), and 7701(b). Section 301.9100–7T also issued under the Tax Reform Act of 1986, 100 Stat. 2746, sections 203(a)(1)(B), 204(e), 243(a), 243(b), 311(d)(2), 646, 801(d)(2), 806(e)(2)(C), 905(c), 1704(b), 1801(a), 1802(a), and 1804(e)(4). Section 301.9100–8 also issued under 26 U.S.C. 1(i)(7), 41(h), 42(b)(2)(A)(ii), 42(d)(3), 42(f)(1), 42(g)(3), 42(i)(2)(B), 42(j)(5)(B), 121(d)(9), 142(i)(2), 165(l), 168(b)(2), 219(g)(4), 245(a)(10), 263A(d)(1), 263A(d)(3)(B), 263A(h), 460(b)(3), 643(g)(2), 831(b)(2)(A), 835(a), 865(f), 865(g)(3), 865(h)(2), 904(g)(10), 2056(b)(7)(c)(ii), 2056A(d), 2523(f)(6)(B), 3127, and 7520(a); the Technical and Miscellaneous Revenue Act of 1988, 102 Stat. 3324, sections 1002(a)(23)(B), 1005(c)(11), 1006(d)(15), 1006(j)(1)(C), 1006(t)(18)(B), 1012(n)(3), 1014(c)(1), 1014(c)(2), 2004(j)(1), 2004(m)(5), 5012(e)(4), 6161(c)(2), and 6277; and under the Tax Reform Act of 1986, 100 Stat. 2746, section 905(a). Sections 301.9100–9T, 301.9100–10T and 301.9100–11T also issued under 26 U.S.C. 1103 (g) and (h) and 6158(a). Sections 301.9100–13T, 301.9100–14T and 301.9100–15T also issued under 26 U.S.C. 108(d)(8) and 1017(b)(3)(E). Section 301.9100–16T also issued under 26 U.S.C. 463(d).

Par. 2. Section 301.9100–21 is added to read as follows:

§ 301.9100–21 References to other temporary elections under various tax acts.

Regulations regarding elections under various other tax acts are found at the following sections in title 26 of the Code of Federal Regulations:

Section of 26 CFR	Description of election
5c.168(f)(8)–2	Election to characterize transaction as a section 168(f)(8) lease, under the Economic Recovery Tax Act of 1981.
5c.1256–1	Election with respect to property held on June 23, 1981, under section 508(c) of the Economic Recovery Tax Act of 1981.
5c.1256–2	Election with respect to taxable years beginning before June 23, 1981, and ending after June 22, 1981, under section 509 of the Economic Recovery Tax Act of 1981.
7.48–1	Election to have investment credit for movie and television films determined in accordance with previous litigation, under the Tax Reform Act of 1976.
7.48–2	Election of forty-percent method of determining investment credit for movie and television films placed in service in a taxable year beginning before January 1, 1975, under the Tax Reform Act of 1976.

Section of 26 CFR	Description of election
7.48-3	Election to apply the amendments made by sections 804 (a) and (b) of the Tax Reform Act of 1976 to property described in section 50(a) of the Code.
7.57(d)-1	Election with respect to straight line recovery of intangibles, under the Tax Reform Act of 1976.
11.402(a)(4)(B)-1	Election to treat an amount as a lump sum distribution, under the Employee Retirement Income Security Act of 1974.
11.410-1	Election by church to have participation, vesting, funding, etc., provisions apply, under the Employee Retirement Income Security Act of 1974.
11.412(c)-7	Election to treat certain retroactive plan amendments as made on the first day of the plan year, under the Employee Retirement Income Security Act of 1974.
11.412(c)-11	Election with respect to bonds, under the Employee Retirement Income Security Act of 1974.
11.415(c)(4)-1	Special elections for section 403(b) annuity contracts purchased by educational institutions, hospitals and home health service agencies, under the Employee Retirement Income Security Act of 1974.
12.4	Election of Class Life Asset Depreciation Range System (ADR), under the Revenue Act of 1971.
12.7	Election to be treated as a DISC, under the Revenue Act of 1971.
12.8	Elections with respect to net leases of real property, under the Revenue Act of 1971.
12.9	Election to postpone determination with respect to the presumption described in section 183(d), under the Revenue Act of 1971.
15.1-1	Elections to deduct, relating to exploration expenditures in the case of mining.
15.1-2	Revocation of election to deduct, relating to exploration expenditures in the case of mining.
15.1-3	Elections as to methods of recapture, relating to exploration expenditures in the case of mining.
18.1361-1	Election to treat qualified subchapter S trust as a trust described in section 1361(c)(2)(A)(i), under the Subchapter S Revision Act of 1982.
18.1362-1	Election to be an S corporation, under the subchapter S Revision Act of 1982.
18.1362-3	Revocation of election, under the subchapter S Revision Act of 1982.
18.1362-5	Election not to have new passive income rules apply during 1982, under the subchapter S Revision Act of 1982.
18.1371-1	Election to treat distributions as dividends during certain post-termination transition periods, under the subchapter S Revision Act of 1982.
18.1377-1	Election to terminate year, under the subchapter S Revision Act of 1982.
18.1379-2	Special rules for all elections, consents, and refusals, under the subchapter S Revision Act of 1982.
22.0	Certain estate taxes elections under the Economic Recovery Tax Act of 1981.
23.1	Election and eligibility to treat interests in property held jointly on December 31, 1976, as qualified joint interests, under the Revenue Act of 1978.

PART 5c—TEMPORARY INCOME TAX REGULATIONS UNDER THE ECONOMIC RECOVERY TAX ACT OF 1981

Par. 3. The authority citation for part 5c continues to read as follows:

Authority: Secs. 168(f)(8)(G) and 7805 of the Internal Revenue Code of 1954 (95 Stat. 216; 26 U.S.C. 168(f)(8)(G), and 68A Stat. 916; 26 U.S.C. 7805), unless otherwise noted.

§ 5c.0 [Redesignated as § 301.9100-4T]

Par. 4. Section 5c.0 is redesignated § 301.9100–4T.

PART 5f—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

Par. 5. The authority citation for part 5f continues to read in part:

Authority: 26 U.S.C. 7805 * * *

5f.0 [Redesignated as § 301.9100-5T]

Par. 6. Section 5f.0 is redesignated § 301.9100–5T.

PART 5h—TEMPORARY REGULATIONS—ELECTIONS UNDER VARIOUS PUBLIC LAWS

§§ 5h.4, 5h.5, and 5h.6 [Redesignated as §§ 301.9100-6T, 301.9100-7T, and 301.9100-8]

Par. 7. Sections 5h.4, 5h.5, and 5h.6 are redesignated §§ 301.9100–6T, 301.9100–7T, and 301.9100–8, respectively.

PART 5h—[REMOVED]

Par. 8. Part 5h is removed.

PART 301—[AMENDED]

§ 301.9100-8 [Amended]

Par. 9. In newly designated § 301.9100–8(a)(1) table, the fourth column ("Availability of election") is amended as follows:

1. For the 3rd item, the first column of which reads "1002(1)(1)(A)", the language "and before January 1, 1990 (before January 1, 1992, for buildings described in section 42(h)(1)(E) of the Code)," is removed.

2. For the 4th item, the first column of which reads "1002(1)(2)(B)", the language ", and before January 1, 1990 (after December 31, 1987, and before January 1, 1992, for buildings described in section 42(h)(1)(E) of the Code)" is removed and "." is added in its place.

3. For the 5th item, the first column of which reads "1002(1)(4)", the language ", and before January 1, 1990 (after December 31, 1987, and before January 1, 1992, for buildings described in section 42(h)(1)(E) of the Code)." is removed and "." is added in its place.

4. For the 6th item, the first column of which reads "1002(1)(12)", the language ", and before January 1, 1990 (after December 31, 1987, and before January 1, 1992, for buildings described in section 42(h)(1)(E) of the Code)." is removed and "." is added in its place.

5. For the 7th item, the first column of which reads "1002(1)(19)(B)", the language ", and before January 1, 1990 (after December 31, 1987, and before January 1, 1992, for buildings described in section 42(h)(1)(E) of the Code)." is removed and "." is added in its place.

6. For the 15th item, the first column of which reads "1010(f)(2)", the language "Effective January 1, 1963." is removed and the language "Available for taxable years beginning after December 31, 1986." is added in its place.

7. For the 28th item, the first column of which reads "4004(a)", the language "and before January 1, 1990 (after December 31, 1987, and before January 1, 1992, for buildings described in section 42(h)(1)(E) of the Code)," is removed.

8. For the 31st item, the first column of which reads "5031(a)", the language following the first sentence is removed and the following language is added in its place: "The election is made by attaching a statement to the last income, estate, or gift tax return filed before the due date, or if a timely return is not filed, the first return filed after the due date. The statement shall contain the following: (1) A statement that an election under section 7520(a) is being made; (2) the transferor's name and taxpayer identification number as they appear on the return; (3) a description of the interest being valued; (4) the recipients, beneficiaries, or donees of the transferred interest; (5) the date of the transfer; (6) the Applicable Federal Midterm rate that is used to value the

transferred interest and the month to which the rate pertains."

9. For the 32nd item, the first column of which reads "5033(a)(2)", the following language is added at the end: "However, elections made on or after May 5, 1991, may not be made on any return filed more than one year after the time prescribed for filing the return (including extensions)."

§ 301.9100–8 [Amended]

Par. 10. Newly designated § 301.9100–8(a)(4)(ii) is amended by adding "5031(a) (Code section 7520(a))," between "2004(j)(1)," and "6026(c)".

§ 301.9100–7T [Amended]

Par. 11. In newly designated § 301.9100–7T(f), first sentence, "§ 5h.6(d)" is removed and "§ 301.9100–8(d)" is added in its place.

PART 6—TEMPORARY INCOME TAX REGULATIONS UNDER THE BANK HOLDING COMPANY TAX ACT OF 1976

§§ 6.1, 6.2, and 6.3 [Redesignated as §§ 301.9100–9T, 301.9100–10T and 301.9100–11T]

Par. 12. Sections 6.1, 6.2, and 6.3 are redesignated §§ 301.9100–9T, 301.9100–10T, and 301.9100–11T, respectively.

PART 6—[REMOVED]

Par. 13. Part 6 is removed.

PART 7—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1976

Par. 14. The authority citation for part 7 continues to read in part:

Authority: 26 U.S.C. 7805 * * *

§ 7.0 [Redesignated as § 301.9100–12T]

Par. 15. Section 7.0 is redesignated § 301.9100–12T.

PART 7a—TEMPORARY INCOME TAX REGULATIONS UNDER THE BANKRUPTCY TAX ACT OF 1980

§§ 7a.1, 7a.2, and 7a.3 [Redesignated as §§ 301.9100–13T, 301.9100–14T and 301.9100–15T]

Par. 16. Sections 7a.1, 7a.2, and 7a.3 are redesignated §§ 301.9100–13T, 301.9100–14T, and 301.9100–15T, respectively.

PART 7a—[REMOVED]

Par. 17. Part 7a is removed.

PART 10—TEMPORARY INCOME TAX REGULATIONS UNDER PUBLIC LAW 93–625

§ 10.2 [Redesignated as § 301.9100–16T]

Par. 18. Section 10.2 is redesignated § 301.9100–16T.

PART 10—[REMOVED]

Par. 19. Part 10 is removed.

PART 13—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1969

Par. 20. The general authority for part 13 is revised to read as follows:

Authority: 26 U.S.C. 7805.

§§ 13.0 and 13.1 [Redesignated as §§ 301.9100–17T and 301.9100–18T]

Par. 21. Sections 13.0 and 13.1 are redesignated §§ 301.9100–17T and 301.9100–18T, respectively.

PART 14—[REMOVED] REGULATIONS UNDER ACT OF APRIL 14, 1966, RELATING TO ELECTING SMALL BUSINESS CORPORATIONS

§ 14.1–1 [Redesignated as § 301.9100–19T]

Par. 22. Section 14.1–1 is redesignated § 301.9100–19T.

PART 14 [REMOVED]

Par. 23. Part 14 is removed.

PART 19—TEMPORARY REGULATIONS UNDER THE REVENUE ACT OF 1964

Par. 24. The general authority for part 19 is revised to read as follows:

Authority: 26 U.S.C. 7805.

§ 19.2–1 [Redesignated as § 301.9100–20T]

Par. 25. Section 19.2–1 is redesignated § 301.9100–20T.

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Par. 26. The authority for part 1 continues to read in part:

Authority: 26 U.S.C. 7805 * * *

§ 1.162–10T [Amended]

Par. 27. In § 1.162–10T, A–1, last sentence, "§ 10.2" is removed and "§ 301.9100–16T" is added in its place.

§ 1.169(j)–1T [Amended]

Par. 28. In § 1.168(j)–1T, A–10, fifth sentence, "§ 5h.4(a)" is removed and "§ 301.9100–6T(a)" is added in its place.

§ 1.404(a)–1T [Amended]

Par. 29. In § 1.404(a)–1T, A–1, last sentence, "§ 10.2" is removed and "§ 301.9100–16T" is added in its place.

§ 1.404(b)–1T [Amended]

Par. 30. In § 1.404(b)–1T, A–1, last sentence, "§ 10.2" is removed and "§ 301.9100–16T" is added in its place.

§ 1.404(d)–1T [Amended]

Par. 31. In § 1.404(d)–1T, A–1, last sentence, "§ 10.2" is removed and "§ 301.9100–16T" is added in its place.

§ 1.453C–3T [Amended]

Par. 32. In § 1.453C–3T(c)(4), last sentence, "26 CFR 5h.5" is removed and "§ 301.9100–7T of this chapter" is added in its place.

§ 1.453C–8T [Amended]

Par. 33. In § 1.453C–8T(a)(1), first sentence of the concluding language, "26 CFR 5h.5" is removed and "§ 301.9100–7T of this chapter" is added in its place.

§ 1.636–4 [Amended]

Par. 34. In § 1.636–4(c)(2), fourth sentence, the language "part 13 of this chapter (Temporary Income Tax Regulations Under the Tax Reform Act of 1969) is not required to amend statements previously furnished which meet the requirements of paragraph (b)(1)(ii) of § 13.0 of part 13" is removed and "§§ 301.9100–17T and 301.9100–18T of this chapter are not required to amend statements previously furnished which meet the requirements of § 301.9100–17T(b)(1)(ii) of this chapter" is added in its place.

§ 1.702–3T [Amended]

Par. 35. In § 1.702–3T(c), "§ 5h.5" is removed and "§ 301.9100–7T of this chapter" is added in its place.

§ 1.856–9 [Amended]

Par. 36. In § 1.856–9(d)(2), first sentence, "§ 7.0(c)(1)" is removed and "§ 301.9100–12T(c)(1)" is added in its place.

PART 14a—TEMPORARY INCOME TAX REGULATIONS RELATING TO INCENTIVE STOCK OPTIONS

Par. 37. The general authority for part 14a is revised to read as follows:

Authority: 26 U.S.C. 7805.

§ 14a.422A–1 [Amended]

Par. 38. In § 14a.422A–1, A–4, the first, second and third sentences, "§ 5c.0(d)" is removed and "§ 301.9100–4T(d) of this chapter" is added in its place.

PART 18—TEMPORARY INCOME TAX REGULATIONS UNDER THE SUBCHAPTER S REVISION ACT OF 1982

Par. 39. The authority citation for part 18 is revised to read as follows:

Authority: 26 U.S.C. 7805 and sec. 6(c)(3)(B)(iii) of the Subchapter S Revision Act of 1982 (96 Stat. 1669).

§ 18.1366-5 [Amended]

Par. 40. In § 18.1366-5(c), "§ 5h.5" is removed and "§ 301.9100-7T of this chapter" is added in its place.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 41. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 42. The table of control numbers in § 602.101(c) is amended by removing the following entries: "5c.0 * * * 1545-0016, 1545-0042, 1545-0074, 1545-0129, 1545-0172, 1545-0619",
"5h.4 * * * 1545-0872",
"5h.5 * * * 1545-0982, 1545-0999, 1545-1016", "5h.6 * * * 1545-1112",
"6.3 * * * 1545-0123", "7.0 * * * 1545-0026, 1545-0074, 1545-0172, 1545-1027",
"7a.1 * * * 1545-0046",
"7a.2 * * * 1545-0046",
"7a.3 * * * 1545-0046", and
"10.2 * * * 1545-0152".

§ 602.101 [Amended]

Par. 43. The table of control numbers in § 602.101(c) is amended by adding in numerical order the following entries: "301.9100-4T * * * 1545-0016, 1545-0042, 1545-0074, 1545-0129, 1545-0172, 1545-0619", "301.9100-6T * * * 1545-0872", "301.9100-7T * * * 1545-0982, 1545-0999, 1545-1016", "301.9100-8 * * * 1545-1112", "301.9100-11T * * * 1545-0123", and "301.9100-12T * * * 1545-0026, 1545-0074, 1545-0172, 1545-1027", "301.9100-13T * * * 1545-0046", "301.9100-14T * * * 1545-0046", "301.9100-15T * * * 1545-0046", and "301.9100-16T * * * 1545-0152".

Fred T. Goldberg, Jr.,

Assistant Secretary of the Treasury.

Dated: September 1, 1992.

Shirley D. Peterson,

Commissioner of Internal Revenue.

[FR Doc. 92-22685 Filed 9-18-92; 2:22 pm]

BILLING CODE 4830-01-M

26 CFR Parts 1 and 602

[T.D. 8437]

RIN 1545-AP56

Limitations on Percentage Depletion in the Case of Oil and Gas Wells

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains amendments to final regulations that clarify the circumstances under which percentage depletion is available in the case of oil and gas wells. The final regulations in this document reflect changes to the applicable law that were made by the Tax Reduction Act of 1975, the Tax Reform Act of 1976, the Energy Tax Act of 1978, the Technical Corrections Act of 1982, the Subchapter S Revision Act of 1982, the Tax Reform Act of 1984, the Tax Reform Act of 1986, and the Revenue Reconciliation Act of 1990.

DATES: These regulations are effective for taxable years beginning after May 13, 1991, except as provided below. A partnership may elect to apply the provisions relating to the reallocation of partnership basis, for taxable years beginning on or before May 13, 1991. Certain of these provisions apply to transfers of proven property after May 13, 1991, but a taxpayer may elect to apply these rules to transfers occurring after October 11, 1990, and on or before May 13, 1991.

FOR FURTHER INFORMATION CONTACT: Brenda M. Stewart, 202-622-3120 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information requirement contained in this final regulation has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)) under control number 1545-1251. The estimated annual burden per respondent varies from 10 minutes to 30 minutes, depending on individual circumstances, with an estimated average of 20 minutes.

These estimates are an approximation of the average time expected to be necessary to collect information. They are based on the information available to the Internal Revenue Service. Individual respondents may require more time or less time, depending on their particular circumstances.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Internal Revenue Service, Attn: IRS Reports Clearance Officer TR:FP, Washington, DC 20224, and to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503.

Background

Proposed regulations under section 613A clarifying the circumstances under which percentage depletion is available in the case of oil and gas wells were published in the **Federal Register** on May 13, 1991. The provisions concerning oil and gas property held by partnerships were published as proposed regulations in the **Federal Register** on May 13, 1991 (56 FR 21965 (May 13, 1991)) because the partnership provisions in the 1991 proposed regulations under section 613A differ substantially from the partnership provisions in the 1977 proposed regulations. Other amendments proposed on May 13, 1991 reflect changes to the applicable law after the issuance of the 1977 proposed regulations under section 613A. These final regulations conform the regulations to section 501 of the Tax Reduction Act of 1975, section 2115(c) of the Tax Reform Act of 1976, section 403(a)(2)(B), (b), and (c) of the Energy Tax Act of 1978, sections 202(d)(2) and 203(b)(3)(B) of the Technical Corrections Act of 1982, section 3(a) of the Subchapter S Revision Act of 1982, sections 25(b) and 722(e)(1) of the Tax Reform Act of 1984, section 412(a)(1) of the Tax Reform Act of 1986, and sections 11521 and 11522 of the Revenue Reconciliation Act of 1990.

Explanation of Provisions

I. Reallocation of Partnership Basis

Proposed § 1.613A-3(e)(3)(ii) provides that in the case of an entry of a new partner (or an additional contribution by an existing partner), a partnership must allocate to the new partner the partner's share of the aggregate of the partners' adjusted bases in each partnership oil or gas property. Concurrently, each existing partner is required to reduce the partner's basis in each partnership oil or gas property by the percentage of the partnership's aggregate basis in the property that has been allocated to the new partner. Proposed § 1.613A-3(e)(iii) provides that the partnership may determine the partners' aggregate bases by using data submitted by partners or by using certain assumptions.

If a partner does not inform the partnership of the partner's basis in an oil or gas property, the partnership must use the following assumptions to

determine the basis: (1) The partner deducted the partner's share of deductions under section 263(c) in the first year in which the partner could claim a deduction for such amounts, unless the partnership elected to capitalize such amounts, (2) the partner was not subject to the 65 percent-of-taxable income limitation of section 613A(d)(1) with respect to the partner's depletion allowance under section 611, and (3) the partner was not subject to the taxable income limitation of section 613(a), the depletable quantity limitations of section 613A(c), or the limitations of section 613A)(d) (2), (3), and (4), except to the extent the limitation is applied at the partnership level.

Use of the assumptions may result in the loss of a portion of the partners' collective basis in partnership property upon reallocation to an entering partner. A partnership may avoid the loss of any portion of the collective basis, however, by using written data submitted by partners.

In the case of the withdrawal of a partner, the withdrawing partner's adjusted basis in each oil and gas property must be allocated to the remaining partners. If assumptions are used to determine the withdrawing partner's basis in the oil and gas property, a portion of the partners' collective basis may also be lost.

Commentators have argued that a withdrawing partner may have little or no incentive to provide the partnership with the necessary data. Therefore, the partnership would be forced to use the assumptions set forth in proposed § 1.613A–3(e)(3)(iii)(C). The commentators suggested that a partnership be permitted to rebut the assumptions by showing that the use of the assumptions would result in inequitable treatment and a loss of partnership basis.

The final regulations reflect the commentators' suggestion that a partnership be permitted to rebut the assumptions in the case of a withdrawing partner. However, the final regulations limit the opportunity to rebut the assumptions to the assumption relating to the status of the withdrawing partner as a retailer or refiner. A partnership may rebut the assumption that the withdrawing partner is not a retailer or a refiner by demonstrating that the withdrawing partner is a retailer or refiner. The opportunity to rebut the assumptions is limited to the retailer or refiner assumption because this is the only assumption rebuttable with the use of information in the public domain. See § 1.613A–3(e)(3)(iv)(B).

II. Transfers After October 11, 1990

Proposed § 1.613A–3(i)(2) reflects the repeal by section 11521 of the Revenue Reconciliation Act of 1990 of section 613A(c)(9), the "transfer rule," which made transferred proven properties ineligible for percentage depletion. Proposed § 1.613A–3(i)(2)(ii) interpreted the term "transfer," for purposes of determining whether a transfer occurs following the effective date of the repeal, in the same manner as it was interpreted under prior law. The repeal of the transfer rule is effective for transferees of proven properties transferred after October 11, 1990. Under proposed § 1.613A–3(i)(2)(ii) the term "transfer" has the same meaning as under § 1.613A–7(n), which defines "transfer" under repealed section 613A(c)(9).

Commentators expressed concern that the rules set forth in proposed § 1.613A–3(i)(2) regarding the repeal of the transfer rule are too restrictive and suggested that a facts and circumstances test would best implement the intent of Congress. Specifically commentators suggested a rule that would provide that a transfer after October 11, 1990 will restore percentage depletion on a proven property if the transfer is undertaken for: (1) A valid business purpose, (2) another valid non-tax reason (e.g., transfer at death), or (3) the purpose of lowering the income tax liability of the transferee if the transfer was undertaken with the expectation that it would encourage better utilization of the percentage depletion benefit.

The commentators' suggestion was not adopted because it would treat a disposition of property as a transfer even if the beneficial interest in the property is still retained by the transferor (e.g., the transfer of property to a partnership for a partnership interest). Had Congress intended to permit the restoration of percentage depletion without the transfer of the beneficial interest in property, the repeal of the transfer rule would have been effective as of a certain date, without regard to any transfer. Moreover, Congress provided a definition of the term "transfer" in repealed section 613A(c)(9). Because Congress also used the term "transfer" in the effective date of the repeal of section 613A(c)(9), it is reasonable to interpret the term as having the same meaning. Accordingly, proposed § 1.613A–3(i)(2)(ii) remains unchanged in the final regulations.

III. Transfer of Proven Property in Exchange for Stock

Under former section 613A(c)(10), a transfer of proven property by an individual to a qualified transferee corporation solely in exchange for stock of that corporation was excepted from the transfer rule. If the transferor of the property disposed of the stock at any time during the transferor's lifetime, however, the depletable quantity of the transferee corporation would be reduced by an amount bearing the same ratio to the total depletable quantity as the fair market value of the stock disposed of bore to the aggregate fair market value of the stock of the corporation.

Commentators have requested that the regulations make clear that for purposes of transfers of property occurring before October 12, 1990 under section 613A(c)(10), prior to its repeal, the transfer of stock after October 11, 1990 by a transferor will not result in a reduction in the depletable quantity of the transferee corporation.

The comments are consistent with the intention of the final regulations that no transaction after October 11, 1990 will cause a property to become ineligible for percentage depletion. Accordingly, the final regulations provide that the disposition of stock received in exchange for proven property will not result in a reduction of the transferee corporation's depletable quantity under section 613A(c)(10)(F) (prior to its repeal). See § 1.613A–3(i)(2).

IV. Bonuses and Advanced Royalties

Consistent with *Commissioner* v. *Engle*, 464 U.S.C. 206 (1984) (which holds that section 613A was not intended to disallow percentage depletion on a lease bonus or advanced royalty payment even when there is no actual production in the year of receipt), the final regulations under section 613A provide rules allowing percentage depletion for lease bonuses and advanced royalties received or accrued before August 17, 1986. However, section 412(a)(1) of the Tax Reform Act of 1986 added section 613A(d) (5) to the Code which overrules *Engle*. Thus, proposed § 1.613A–3(j)(1) provides that any advanced royalty (to the extent that actual production during the taxable year is insufficient to earn such royalty), lease bonus, or other amount payable without regard to production that is received or accrued after August 16, 1986, is not taken into account in computing the percentage depletion allowance pursuant to section 613A(c). This provision remains unchanged in the final regulations.

V. Conforming Changes to Section 1.705–1(a)(4)

Proposed § 1.705–1(a)(4) provided that the basis of any oil or gas property was decreased (but not below zero) by the amount of the partner's deduction for depletion allowable under section 611 for any partnership oil or gas property. Commentators noted that this provision did not reflect the changes to section 705(a)(3) by section 722(e)(1) of the Tax Reform Act of 1984.

Accordingly, § 1.705–1(a)(4) of the final regulations provides that the basis of any oil or gas property is decreased (but not below zero) by the amount of the partner's deduction of depletion of any partnership oil and gas property to the extent the deduction does not exceed the proportionate share of the adjusted basis of the property allocated to the partner under section 613A(c)(7)(D).

Special Analyses

It has been determined that these 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 have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Walter H. Woo, Office of the Assistant Chief Counsel (Passthroughs and Special Industries), Internal Revenue Service. However, personnel from other offices of the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR 1.611–0 through 1.617–4

Income taxes, Natural resources, Reporting and recordkeeping requirements.

26 CFR 1.701–1 through 1.771–1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

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

Authority: 26 U.S.C. 7805 * * *

Par. 2. Paragraph (a) of § 1.613–1 is amended by revising the second sentence to read as follows:

§ 1.613–1 Percentage depletion; general rule.

(a) * * * The deduction shall not exceed 50 percent (100 percent in the case of oil and gas properties for taxable years beginning after December 31, 1990) of the taxpayer's taxable income from the property (computed without regard to the allowance for depletion). * * *

* * * * *

§ 1.613A–0 [Amended]

Par. 3. Section 1.613A–0 is amended as follows:

1. The entry for § 1.613A–3(e) is amended by removing the language "[Reserved]" and adding new paragraph headings to read as set forth below.

§ 1.613A–3(f) [Amended]

2. The entry for § 1.613A–3(f) is amended by removing the language "[Reserved]".

§ 1.613A–3(i)(2) [Amended]

3. The entry for § 1.613A–3(i)(2) is amended by removing the language "[Reserved]" and adding new paragraph headings to read as set forth below.

§ 1.613H–3(j)(1) [Amended]

4. The entry for § 1.613A–3(j)(1) is amended by removing the language "[Reserved]".

§ 1.613A–7(e) [Amended]

5. The entry for § 1.613A–7(e) is amended by removing the language "[Reserved]".

§ 1.613A–0 Limitations on percentage depletion in the case of oil and gas wells; table of contents.

* * * * *

§ 1.613A–3 Exemption for independent producers and royalty owners.

* * * * *

(e) *Partnerships.*

(1) General rule.

(2) Initial allocation of adjusted basis of oil or gas property among partners.

(i) General rule.

(ii) Allocation methods.

(3) Adjustments by partnership to allocated adjusted bases.

(i) Capital expenditures by partnership.

(ii) Admission of a new partner or increase in partner's interest.

(A) In general.

(B) Allocation of basis to contributing partner.

(C) Reduction of existing partners' bases.

(iii) Determination of aggregate of partners' adjusted bases in the property.

(A) In general.

(B) Written data.

(C) Assumptions.

(iv) Withdrawal of partner or decrease in partner's interest.

(A) In general.

(B) Special rule for determining a withdrawing partner's basis in the property.

(v) Effective date.

(4) Determination of a partner's interest in partnership capital or income.

(5) Special rules on allocation of adjusted basis to partners.

(6) Miscellaneous rules.

(7) Examples.

* * * * *

(i) *Transfer of oil or gas property.*

* * *

(2) Transfers after October 11, 1990.

(i) General rule.

(ii) Transfer.

(iii) Transferee.

(iv) Effective date.

(v) Examples.

* * * * *

Par. 4. Section 1.613A–2 is amended by revising paragraph (a)(3), redesignating paragraphs (b) and (c) as paragraphs (c) and (d), respectively, and adding a new paragraph (b), to read as follows:

§ 1.613A–2 Exemption for certain domestic gas wells.

(a) * * *

(3) Any geothermal deposits in the United States or in a possession of the United States that is determined to be a gas well within the meaning of former section 613(b)(1)(A) (as in effect before enactment of the Tax Reduction Act of 1975) for taxable years ending after December 31, 1974, and before October 1, 1978 (see section 613(e) for depletion on geothermal deposits thereafter),

(b) For taxable years ending after September 30, 1978, the allowance for depletion under section 611 shall be computed in accordance with section 613 with respect to any qualified natural gas from geopressured brine (as defined in paragraph (e) of § 1.613A–7), and 10 percent shall be deemed to be specified

in section 613(b) for purposes of section 613(a).

* * * * *

§ 1.613A-3 [Amended]

Par. 5. Section 1.613A-3 is amended as follows:

1. The text of paragraphs (e) and (f) is added as set forth below.

2. Paragraph (h)(1) is amended by revising the last sentence to read as set forth below.

3. The text of paragraph (i)(2) is added as set forth below.

4. The text of paragraph (j)(1) is added as set forth below.

§ 1.613A-3 Exemption for independent producers and royalty owners.

* * * * *

(e) *Partnerships*—(1) *General rule.* In the case of a partnership, the depletion allowance under section 611 with respect to production from domestic oil and gas properties shall be computed separately by the partners and not by the partnership. The determination of whether cost or percentage depletion is applicable is to be made at the partner level. The partnership must allocate to each partner the partner's proportionate share of the adjusted basis of each partnership oil or gas property in accordance with the provisions of paragraphs (e)(2) through (e)(6) of this section. This allocation of the adjusted basis of oil or gas property does not affect a partner's adjusted basis in his or her partnership interest.

(2) *Initial allocation of adjusted basis of oil or gas property among partners*—(i) *General rule.* Each partner shall be allocated his or her proportionate share of the adjusted basis of each partnership domestic oil or gas property. The initial allocation of adjusted basis is to be made as of the later of the date of acquisition of the oil or gas property by the partnership or January 1, 1975.

(ii) *Allocation methods.* Except as otherwise provided in paragraph (e)(5) of this section, the provisions of this paragraph (e)(2)(ii) govern the determination under paragraph (e)(2)(i) of this section of a partner's proportionate share of the adjusted basis of oil or gas property. Each partner's proportionate share is determined in accordance with the partner's proportionate interest in partnership capital at the time of the allocation unless both—

(A) The partnership agreement provides that a partner's share of the adjusted basis of one or more properties is determined in accordance with his or her proportionate interest in partnership income; and

(B) At the time of allocation under the partnership agreement the share of each partner in partnership income is reasonably expected to be substantially unchanged throughout the life of the partnership, other than changes merely to reflect the admission of a new partner, an increase in a partner's interest in consideration for money, property, or services, or a partial or complete withdrawal of an existing partner.

If the requirements of paragraph (e)(2)(ii) (A) and (B) of this section are met, a partner's proportionate share is determined in accordance with his or her proportionate interest in partnership income. The partners' shares of adjusted basis are determined on a property-by-property basis. Accordingly, the basis of one property may be allocated in proportion to capital and the basis of another property may be allocated in proportion to income. See §§ 1.613A-3(e)(5) and 1.704-1(b)(4)(v) for special rules concerning allocation of the adjusted basis of oil and gas properties.

(3) *Adjustments by partnership to allocated adjusted bases*—(i) *Capital expenditures by partnership.* Appropriate adjustments shall be made to the partners' adjusted bases in any domestic oil and gas property for any partnership capital expenditures relating to such property that are made after the initial allocation. These adjustments shall be allocated among the partners in accordance with the principles set forth in paragraph (e)(2)(ii) of this section.

(ii) *Admission of a new partner or increase in partner's interest*—(A) *In general.* Upon a contribution of money, other property, or services to the partnership by a new or existing partner ("contributing partner") as consideration for an interest in the partnership, the partnership shall allocate, in accordance with paragraph (e)(3)(ii)(B) of this section, a share of the partnership's basis in each existing oil and gas property to the contributing partner, and each existing partner shall reduce, in accordance with paragraph (e)(3)(ii)(C) of this section, his or her share of the partnership's basis in such property.

(B) *Allocation of basis to contributing partner.* The partnership shall allocate to a contributing partner his or her proportionate share (determined under paragraph (e)(2)(ii) of this section in accordance with the partner's proportionate interest in partnership capital or income) of the partnership's adjusted basis in each existing partnership oil or gas property. For purposes of this allocation, the partnership's adjusted basis in such property equals the aggregate of its partner's adjusted bases in the property, as determined under paragraph (e)(3)(iii) of this section.

(C) *Reduction of existing partners' bases.* Each existing partner's basis in each existing partnership oil or gas property is reduced by the percentage of the partnership's aggregate basis in the property that is allocated to the contributing partner. Thus, if one-third of the partnership's aggregate basis in a property is allocated to a contributing partner because the contributing partner has a one-third interest in partnership capital, after the admission of the contributing partner each existing partner's basis (including the contributing partner's pre-existing basis if such partner is also an existing partner) in each property equals the partner's basis (prior to the admission) reduced by one-third.

(iii) *Determination of aggregate of partners' adjusted bases in the property*—(A) *In general.* To determine the aggregate of its partners' adjusted bases for purposes of this paragraph (e)(3), the partnership must determine each partner's adjusted basis under either paragraph (e)(3)(iii)(B) (written data) or paragraph (e)(3)(iii)(C) (assumptions) of this section. The partnership is permitted to determine the bases of some partners under paragraph (e)(3)(iii)(B) of this section and of others under paragraph (e)(3)(iii)(C) of this section. For this purpose, a partner's basis in an oil or gas property does not include any basis adjustment under section 743(b).

(B) *Written data.* A partnership may determine a partner's basis in an oil or gas property by using written data provided by a partner stating the amount of the partner's adjusted basis or depletion deductions with respect to the property unless the partnership knows or has reason to know that the written data is inaccurate. In determining depletion deductions, a partner must treat as actually deducted any amount disallowed and carried over as a result of the 65 percent-of-income limitation of section 613A(d)(1). If a partnership does not receive written data upon which it may rely, the partnership must use the assumptions provided in paragraph (e)(3)(iii)(C) of this section in determining a partner's adjusted basis in an oil or gas property.

(C) *Assumptions.* Except as provided in paragraph (e)(3)(iv)(B) of this section, a partnership that does not use written data pursuant to paragraph (e)(3)(iii)(B) of this section to determine a partner's basis must use the following assumptions to determine the partner's

adjusted basis in an oil and gas property:

(*1*) The partner deducted his or her share of deductions under section 263(c) in the first year in which the partner could claim a deduction for such amounts, unless the partnership elected to capitalize such amounts;

(*2*) The partner was not subject to the 65 percent-of-income limitation of section 613A(d)(1) with respect to the partner's depletion allowance under section 611; and

(*3*) The partner was not subject to the following limitations, with respect to the partner's depletion allowance under section 611, except to the extent a limitation applied at the partnership level: the taxable income limitation of section 613(a); the depletable quantity limitations of section 613A(c); the prohibition against claiming percentage depletion on transferred proven property under section 613A(c)(9), prior to its repeal; or the limitations of section 613A(d) (2), (3), and (4) (exclusion of retailers and refiners).

(iv) *Withdrawal of partner or decrease in partner's interest*—(A) *In general.* Upon a distribution of money or other property to a withdrawing partner as consideration for an interest in the partnership, the withdrawing partner's adjusted basis in each domestic oil or gas property that continues to be held by the partnership is allocated to the remaining partners in proportion to their proportionate interest in partnership capital or income after taking into account any increase or decrease as a result of the event giving rise to the reallocation. A similar rule shall apply in the case of a diminution of a continuing partner's interest in the partnership.

(B) *Special rule for determining a withdrawing partner's basis in the property.* If a partnership is required to determine a withdrawing partner's adjusted basis using the assumptions under paragraph (e)(3)(iii)(C) of this section, the partnership may rebut the assumption in paragraph (e)(3)(iii)(C)(*3*) of this section that the withdrawing partner was not subject to the limitations of sections 613A(d) (2), (3), and (4) exclusion of retailers and refiners) by demonstrating that the withdrawing partner was subject to the limitations of sections 613A(d) (2), (3), or (4).

(v) *Effective date.* The provisions of § 1.613A–3(e)(3) (i) through (iv) are effective for taxable years beginning after May 13, 1991. However, a partnership may elect to apply these provisions to taxable years beginning on or before May 13, 1991.

(4) *Determination of a partner's interest in partnership capital or income.* For purposes of this paragraph (e), a partner's interest in partnership capital or income is determined by taking into account all facts and circumstances relating to the economic arrangement of the partners. See the factors listed in § 1.704–1(b)(3)(ii).

(5) *Special rules on allocation of adjusted basis to partners.* An allocation or reallocation of the adjusted basis of oil or gas property is pursuant to this paragraph (e) of this section deemed to be in accordance with the partner's proportionate interest in partnership capital or income for purposes of this paragraph (e) where so provided in § 1.704–1(b)(4)(v). In addition, in connection with a revaluation described in § 1.704–1(b)(2)(iv)(*f*), the basis of an oil or gas property is allocated among the partners based on the principles used under § 1.704–1(b)(4)(i) of allocating tax items to take into account variations between the adjusted basis of the property and its fair market value. In the case of an oil or gas property contributed to a partnership by a partner, section 704(c) is taken into account in determining the partner's share of the adjusted basis.

(6) *Miscellaneous rules*—(i) Each partner must separately keep records of his or her share of the adjusted basis in each domestic oil or gas property of the partnership, adjust his or her share of such basis pursuant to section 1016 (including adjustments for any depletion allowed or allowable with respect to such property), and use that adjusted basis each year in the computation of his or her cost depletion or in the computation of his or her gain or loss on the disposition (including abandonment) of the property by the partnership.

(ii) The adjusted basis of a partner's interest in a partnership is decreased (but not below zero) pursuant to section 705(a)(3) by the amount of the depletion deduction allowed or allowable to the partner with respect to a domestic oil or gas property to the extent such deduction does not exceed the proportionate share of the adjusted basis of such property allocated to the partner under section 613A(c)(7)(D), as adjusted by the partner after the initial allocation. Section 705(a)(1)(C) does not apply to depletion deductions that are not included in a partner's distributive share under section 702. Accordingly, the adjusted basis of a partner's interest in a partnership is not increased under section 705(a)(1)(C) with respect to depletion of oil or gas properties. See § 1.705–1(a)(2)(iii).

(iii) Upon the disposition of an oil or gas property by the partnership, each partner must subtract the partner's adjusted basis in the property from his or her allocable portion of the amount realized from the sale of the property to determine gain or loss. The partner's allocable portion of amount realized must, except to the extent governed by section 704(c) (or related principles under § 1.704–1(b)(4)(i)), be determined in accordance with § 1.704–1(b)(4)(v). Except as otherwise provided (e.g., section 751), the sale of a partnership interest is not treated as a sale of an oil and gas property.

(iv) In the case of a transfer of an interest in a partnership, the transferor partner's adjusted basis in each partnership oil or gas property carries over to the transferee partner. If an election under section 754 (relating to optional adjustment to the basis of partnership property) is in effect, such basis is adjusted in accordance with section 743.

(v) For purposes of section 732 (relating to basis of distributed property other than money) and section 734(b) (relating to optional adjustment to basis of partnership property), the partnership's adjusted basis in oil and gas property is an amount equal to the aggregate of its partners' adjusted bases in the property as determined under the rules provided in paragraph (e)(3) of this section.

(7) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example 1. A, B, and C have equal interests in capital in Partnership ABC. On January 1, 1990, the partnership acquired a producing domestic oil property. The partnership's basis in the property was $90x. The partnership allocated the adjusted basis of the property to each partner in proportion to the partner's interest in partnership capital. Accordingly, each partner was allocated an adjusted basis of $30x. Each partner must separately compute his or her depletion allowance. The amount of percentage depletion allowable for each partner for 1992 was $10x. On January 1, 1993, each partner's adjusted basis in the property was $20x ($30x minus $10x). On January 1, 1993, the oil property was sold for $150x. Each partner's gain was $30x ($50x allocable share of amount realized minus the partner's adjusted basis of $20x). Each partner must adjust the partner's adjusted basis in his or her partnership interest to reflect the gain.

Example 2. The facts are the same as in *Example 1* except that on January 1, 1993, the property was not sold but transferred by the partnership to partner A. A's basis in the property was $60x (the sum of A's, B's, and C's adjusted bases in the property).

Example 3. The facts are the same as in *Example 1* with the exception that in 1990 C was a retailer of oil and gas and was only entitled to a cost depletion deduction of $5x. C's gain from the sale of the mineral property

on January 1, 1993, was $25x ($50x allocable share of amount realized minus C's adjusted basis of $25x ($30x minus $5x)).

Example 4. D, a calendar year taxpayer, is a partner in Partnership DEF which owns a domestic producing oil property. On January 1, 1993, the partnership's adjusted basis in the property was $900x. On January 1, 1993, D's adjusted basis in D's partnership interest was $300x and D's adjusted basis in the partnership's oil property was $300x. D's allowable percentage depletion for 1993 with respect to production from the oil property was $50x. On January 1, 1994, D's adjusted basis in D's partnership interest was $250x and D's adjusted basis in the partnership's oil property was $250x ($300x minus $50x).

Example 5. On January 1, 1993, G has an adjusted basis of $5x in partnership GH's proven domestic oil property, which is the sole asset of the partnership. On January 1, 1993 G sells G's partnership interest to I for $100x when the election under section 754 is in effect. I has a special basis adjustment for the oil property of $95x (the difference between I's basis, $100x, and I's share of the basis of the partnership property, $5x). I is not entitled to percentage depletion with respect to I's distributive share of the oil property income because I is a transferee of an interest in a proven oil property. However, I is entitled to cost depletion and for this purpose I's interest in the oil property has an adjusted basis to I of $100x ($5x, plus I's special basis adjustment of $95x).

Example 6. On January 1, 1960, Partnership JK acquired a domestic producing oil property. On January 1, 1993, the partnership's adjusted basis in the property was zero. On January 1, 1993, L is admitted as a partner to the partnership. Since the partnership's adjusted basis in the the oil property is zero, L's proportionate share of the basis in the property is also zero. L is not entitled to percentage depletion because L is a transferee of a proven oil property (see paragraph (g) of this section). Since the property's basis is zero, L is also not entitled to any cost depletion with respect to production from the property.

Example 7. (i) O and P have equal interests in capital in Partnership OP. On January 1, 1993, the partnership acquired an uproven domestic oil property X the basis of which is $200x to the partnership. The partnership allocates $100x of the basis of the property to each partner in accordance with each partner's proportionate interest in partnership capital. For the 1993 taxable year, O has a $10x cost depletion allowance and P has a $25x percentage depletion allowance. Accordingly, at the end of the 1993 taxable year, O's adjusted basis in the property is $90x, and P's adjusted basis in the property is $75x. On January 1, 1994, Q is admitted as an equal partner. The partnership does not use written data from the partners and must therefore assume that each partner was entitled to $25x depletion based on the assumptions provided in § 1.613A–3(e)(3)(iii). This would result in a $50x combined depletion allowance for the partners and an aggregate adjusted basis in the oil property of $150x. Accordingly, the partnership allocates $50x of the basis of the property to Q, one-third of the aggregate adjusted basis determined by the partnership. O and P must each reduce their basis in the property by one-third. Accordingly, after the admission of Q, O's adjusted basis in the property is $60x ($90x minus $30x), and P's adjusted basis in the property is $50x ($75x minus $25x).

(ii) Assume the same facts as in paragraph (i) of this *Example 7* except that O informs the partnership that its adjusted basis in the property is $90x (determined without regard to section 613A(d)(1)). The partnership uses the written data provided by O and determines the aggregate adjusted basis in the property to be $165x ($90x+$75x). Accordingly, the partnership allocates $55x (⅓ of $165x) of the basis of the property to Q, and O and P must each reduce their adjusted basis in the property by one-third, as in paragraph (i) of this *Example 7.* Thus, after the admission of Q, O's adjusted basis in the property is $60x and P's adjusted basis in the property is $50x.

(f) *S corporations.* For purposes of section 613A(c)(13), adjustments to shareholders' adjusted bases in any domestic oil or gas property to reflect capital expenditures by S corporations, the addition of a new shareholder or an increase in a shareholder's interest by reason of a contribution to the S corporation, the redemption of a shareholder's interest, or other appropriate transaction shall be made in accordance with principles similar to the principles under § 1.613A–3(e) applicable to the entry or withdrawal of a partner.

* * * * *

(h) * * *

(1) * * * Accordingly, the group shares the depletable oil (or natural gas) quantity prescribed for a taxpayer for the taxable year and the secondary production (to which gross income from the property is attributable before January 1, 1984) of a member of the group will reduce the other members' share of the group's depletable quantity.

* * * * *

(i) * * *

(2) *Transfers after October 11, 1990*—(i) *General rule.* Section 613A(c) (9) and (10), as in effect prior to the Revenue Reconciliation Act of 1990 (relating to prohibition of percentage depletion on transferred proven properties) has been repealed effective for transfers after October 11, 1990. Accordingly, a transferee of a proven oil or gas property transferred after October 11, 1990 is permitted to claim percentage depletion with respect to production from the property. For purposes of transfers of property occurring before October 12, 1990 under section 613A(c)(10), prior to its repeal, the disposition of stock after October 11, 1990 by a transferor will not result in a reduction in the depletable quantity of the transferee corporation under section 613A(c)(10)(F).

(ii) *Transfer.* The term "transfer" has the same meaning as under § 1.613A–7(n).

(iii) *Transferee.* A person shall not be treated as a transferee with respect to a transferred property to the extent that such person held an interest in the property but was not entitled to a percentage depletion allowance on mineral produced with respect to the property immediately before the transfer. Thus, for example, if a taxpayer who is not entitled to claim percentage depletion on a proven property transfers the property to a partnership for an interest in the partnership, the taxpayer is not a transferee with respect to the property in the hands of the partnership.

(iv) *Effective date.* The provisions of paragraph (i)(2) of § 1.613A–3 are effective for transfers occurring after May 13, 1991. However, a taxpayer may elect to apply these provisions to transfers occurring after October 11, 1990 and on or before May 13, 1991.

(v) *Examples.* The examples below illustrate the provisions of this subparagraph. The examples ignore the application of any restriction on percentage depletion other than the proven property transfer rule.

Example 1. On December 31, 1991, A transfers a proven oil property to B. B may claim percentage depletion with respect to production from the property regardless of whether production from the property was eligible for percentage depletion in A's hands (even if A were a retailer or refiner of oil or gas).

Example 2. On October 10, 1990, A transfers a proven oil property to B. B may not claim percentage depletion with respect to production from the property.

Example 3. On January 1, 1990, C purchases a proven oil property. Because C is a transferee of a proven property, production from the property is not eligible for percentage depletion in C's hands. On December 31, 1991, C contributes the property to Corporation M, an S corporation in which C owns 100 percent of the stock. The contribution of the property is a transfer, but C is not a transferee with respect to the property in the hands of the corporation. Accordingly, C may not claim percentage depletion with respect to production from the property. However, if prior to the contribution C had been entitled to claim percentage depletion with respect to production from the property, C would be entitled to claim percentage depletion with respect to production from the property after the contribution.

Example 4. On December 31, 1991, C contributes a proven oil property (with respect to which C is not entitled to claim percentage depletion) to Corporation N, an S corporation in which C owns 30 percent and D owns 70 percent of the stock. The contribution of the property is a transfer, but

C is not a transferee with respect to the property in the hands of the corporation. Accordingly, C may not claim percentage depletion with respect to C's share of the production from the property. D is a transferee with respect to the property in the hands of Corporation N, and may claim percentage depletion with respect to D's share of production from the property.

Example 5. On December 31, 1991, D transfers a proven oil property (with respect to which D is not entitled to claim percentage depletion) to DE, an equal partnership between D and E. E is a transferee with respect to the property and may claim percentage depletion with respect to production from the property allocated to E under the DE partnership agreement. D is not a transferee with respect to the property, and may not claim percentage depletion with respect to production from the property allocated to E under the DE partnership agreement. However, if D had been entitled to claim percentage depletion with respect to production from the property, then D would be entitled to claim percentage depletion with respect to production from the property in the hands of DE.

Example 6. On January 1, 1990, Corporation P contributes a proven property to Corporation O, its wholly owned subsidiary. Under § 1.613–7(n)(4), the contribution is not treated as a transfer, but only for so long as the tentative quantity is required under section 613A(c)(8) to be allocated between P and O. On December 31, 1991, P sells 90% of the O stock to an unrelated person; accordingly, the tentative quantity is no longer required under section 613A(c)(8) to be allocated between P and O. After the sale of O stock, production from the property in O's hands is eligible for percentage depletion because a transfer of a proven property is deemed to occur upon the transfer of the stock.

Example 7. On October 10, 1990, G transfers a proven oil property to his minor son, H. G had been entitled to claim percentage depletion with respect to production from the property. Under § 1.613A–7(n)(5), H is permitted to claim percentage depletion for so long as G and H are related persons under section 613A(c)(8)(C). On December 31, 1991, H reaches majority and is no longer related to G under section 613A(c)(8)(C). H is entitled to continue to claim percentage depletion on production from the property because the property is treated as being transferred to H on December 31, 1991.

Example 8. On December 31, 1991, I sells a proven property to J, her husband. I had not been entitled to claim percentage depletion with respect to production from the property. Under § 1.613A–7(n)(5), the sale is not a transfer because it is made between persons related under section 613A(c)(8). Accordingly, J may not claim percentage depletion with respect to production from the property. If, however, I had been entitled to claim percentage depletion with respect to production from the property, J would be entitled to claim percentage depletion with respect to production from the property.

Example 9. On December 31, 1991, L inherits a proven property from K. K had not been entitled to claim percentage depletion with respect to production from the property. Under § 1.613A–7(n)(1), the inheritance is not a transfer. Accordingly, L may not claim percentage depletion with respect to production from the property. If, however, K had been entitled to claim percentage depletion with respect to production from the property, L would be entitled to claim percentage depletion with respect to production from the property.

Example 10. On December 31, 1991, Corporation R, a calendar year taxpayer, made an S election effective for the taxable year beginning January 1, 1992 and succeeding taxable years. Since Corporation R is deemed to have transferred its oil and gas properties on January 1, 1992, the shareholders of Corporation R are eligible to claim percentage depletion with respect to the production from the properties.

Example 11. Assume the same facts as in *Example 10* except that Corporation R makes the S election on December 31, 1989, effective for the taxable year beginning January 1, 1990 and succeeding taxable years. Since Corporation R is deemed to have transferred its oil and gas properties on January 1, 1990, the shareholders of Corporation R are not eligible to claim percentage depletion with respect to the production from the properties.

(j) *Percentage depletion with respect to bonuses and advanced royalties*—(1) *Amounts received or accrued after August 16, 1986.* In computing the percentage depletion allowance pursuant to section 613A(c) with respect to amounts received or accrued after August 16, 1986, there shall not be taken into account any advance royalty (to the extent that actual production during the taxable year is insufficient to earn such royalty), lease bonus, or other amount payable without regard to production, even though the amount may be taken into account for purposes of sections 61 and 612 (relating to definitions of gross income and cost depletion, respectively).

* * * * *

Par. 6. Section 1.613A–7 is amended as follows:

1. The text of paragraph (e) is added as set forth below.

2. Paragraph (f)(1) is amended by revising the last sentence to read as set forth below.

3. Paragraph (h) is revised as set forth below.

4. Paragraph (n) is amended by adding a sentence immediately following the first sentence to read as set forth below.

5. Paragraph (o) is amended by revising the first sentence to read as set forth below.

6. Paragraph (r)(1), concluding text, is amended by adding a sentence immediately following the first sentence to read as set forth below.

§ 1.613A–7 Definitions.

* * * * *

(e) *Qualified natural gas from geopressured brine.* The term "qualified natural gas from geopressured brine" means any natural gas which is determined in accordance with section 503 of the Natural Gas Policy Act of 1978 to be produced from geopressured brine and which is produced from any well the drilling of which began after September 30, 1978, and before January 1, 1984.

(f) * * *

(1) * * * Average daily production does not include production resulting from secondary or tertiary processes to which gross income from the property is attributable before January 1, 1984.

* * * * *

(h) *Depletable oil quantity.* The taxpayer's depletable oil quantity, within the meaning of section 613A(c)(1)(A), shall be equal to the tentative quantity determined under the table contained in section 613A(c)(3)(B) and paragraph (b) of § 1.613A–3 (except that, in the case of determinations with respect to days prior to January 1, 1984, such quantity shall be reduced (but not below zero) by the taxpayer's average daily secondary or tertiary production for the taxable year).

* * * * *

(n) * * * For taxable years beginning after 1982, the term "transfer" includes an election by a C corporation to be an S corporation (properties deemed transferred by the C corporation on the day the election first becomes effective) and a termination of an S election (each shareholder's pro rata share of assets of S corporation deemed transferred to C corporation on the day that the termination first becomes effective).

* * *

* * * * *

(o) The term "transferee", as used in section 613A(c)(9), paragraph (i)(1) of § 1.613A–3, and this section includes the original transferee of proven property and his or her successors in interest (excluding successors in interest of proven property transferred after October 11, 1990). * * *

* * * * *

(r) * * *

(1) * * *

* * * Bulk sales made after September 18, 1992, of aviation fuels to the Department of Defense shall be also disregarded. * * *

* * * * *

Par. 7. Section 1.705–1 is amended by:

1. Revising paragraph (a)(2)(iii) to read as set forth below.

2. Redesignating paragraph (a)(4) as paragraph (a)(6) and adding paragraphs

(a)(4) and (a)(5) to read as set forth below.

§ 1.705–1 Determination of basis of partner's interest.

(a) * * *

(2) * * *

(iii) The excess of the deductions for depletion over the basis of the depletable property, unless the property is an oil or gas property the basis of which has been allocated to partners under section 613A(c)(7)(D).

* * * * *

(4) The basis shall be decreased (but not below zero) by the amount of the partner's deduction for depletion allowable under section 611 for any partnership oil and gas property to the extent the deduction does not exceed the proportionate share of the adjusted basis of the property allocated to the partner under section 613A(c)(7)(D).

(5) The basis shall be adjusted (but not below zero) to reflect any gain or loss to the partner resulting from a disposition by the partnership of a domestic oil or gas property after December 31, 1974.

* * * * *

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 8. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101(c) [Amended]

Par. 9. Section 602.101(c) is amended by adding the entry "1.613A–3(e)—1545–1251" to the table.

Michael P. Dolan,

Acting Commissioner of Internal Revenue.

Approved: August 6, 1992.

Fred T. Goldberg, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 92–23097 Filed 9–22–92; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AF92

Active Military Service Certified Under Section 401 of Public Law 95–202

AGENCY: Department of Veterans Affairs.

ACTION: Final Regulation.

SUMMARY: The Department of Veterans Affairs (VA) has amended its regulations concerning persons who are included as having served on active duty. The need for this action results from recent decisions of the Secretary of the Air Force that the World War II service of members of U.S. Civilian Flight Crew and Aviation Ground Support Employees of United Air Lines (UAL), Who Served Overseas as a Result of UAL's Contract With the Air Transport Command and members of U.S. Civilian Flight Crew and Aviation Ground Support Employees of Transcontinental and Western Air (TWA), Inc., Who Served Overseas as a Result of TWA's Contract With the Air Transport Command constitutes active military service in the Armed Forces of the United States for purposes of all laws administered by VA. The effect of this action is to confer veteran status for VA benefit purposes on former members of these groups who were discharged under honorable conditions.

EFFECTIVE DATE: The effective date is May 13, 1992, the date on which the Secretary of the Air Force determined that such service constitutes active duty.

FOR FURTHER INFORMATION CONTACT: John Bisset, Jr., Consultant, Regulations Staff (211B), Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, telephone (202) 233–3005.

SUPPLEMENTARY INFORMATION: Section 401 of Public Law 95–202 authorized the Secretary of Defense to determine whether the service of members of civilian or contractual groups shall be considered active duty for the purposes of all laws administered by VA.

A notice of certification of the following group by the Secretary of the Air Force appeared in the **Federal Register** of June 9, 1992, 57 FR 24478: U.S. Civilian Flight Crew and Aviation Ground Support Employees of United Air Lines (UAL), Who Served Overseas as a Result of UAL's Contract With the Air Transport Command During the Period December 14, 1941, through August 14, 1945.

A notice of certification of the following group by the Secretary of the Air Force also appeared in the **Federal Register** of June 9, 1992, 57 FR 24479: U.S. Civilian Flight Crew and Aviation Ground Support Employees of Transcontinental and Western Air (TWA), Inc., Who Served Overseas as a Result of TWA's Contract With the Air Transport Command During the Period December 14, 1941, through August 14, 1945.

VA is issuing a final rule to amend the provisions of 38 CFR 3.7(x). This change is necessary to expand the regulatory provisions in accordance with the May 13, 1992, determinations of the Secretary of the Air Force, which are binding on VA. Because this amendment implements a determination of the Secretary of the Air Force in accordance with Public Law 95–202, publication as a proposal for public notice and comment is unnecessary.

Since a notice of proposed rulemaking is unnecessary and will not be published, this amendment is not a "rule" as defined in and made subject to the Regulatory Flexibility Act (RFA), 5 U.S.C., sections 601–612. This amendment will not directly affect any small entity.

In accordance with Executive Order 12291, Federal Regulation, the Secretary has determined that this regulatory amendment is non-major for the following reasons:

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

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

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

There is no affected Catalog of Federal Domestic Assistance program number.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

Approved: July 31, 1992.

Edward J. Derwinski,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR Part 3 is amended as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 105 Stat. 386; 38 U.S.C. 501(a), unless otherwise noted.

2. In § 3.7, remove the authority citation following paragraph (x)(21).

3. In § 3.7, paragraphs (x) (22) and (23) and an authority citation are added to read as follows:

§ 3.7 Persons included.

* * * * *

(x) *Active military service certified as such under section 401 of Pub. L. 95–202.*

* * *

(22) U.S. Civilian Flight Crew and Aviation Ground Support Employees of United Air Lines (UAL), Who Served Overseas as a Result of UAL's Contract With the Air Transport Command During the Period December 14, 1941, through August 14, 1945.

(23) U.S. Civilian Flight Crew and Aviation Ground Support Employees of Transcontinental and Western Air (TWA), Inc., Who Served Overseas as a Result of TWA's Contract With the Air Transport Command During the Period December 14, 1941, through August 14, 1945.

(Authority: Sec. 401, Pub. L. 95-202, 91 Stat. 1450)

* * * * *

[FR Doc. 92-22995 Filed 9-22-92; 8:45 am]

BILLING CODE 6320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA7-2-5566; A-1-FRL-4205-7]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; CEMS for NO_x From Large Combustion Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision consists of an amended regulation which adds monitoring requirements for sources of nitrogen oxides (NO_x). The regulation requires that operators of large combustion units with heat input rates equal to or larger than 250 million Btu, continuously monitor NO_x and to properly report the findings of such monitoring. The intended effect of this action is to approve an amended regulation submitted by the Commonwealth of Pennsylvania Department of Environmental Resources as a SIP revision rendering its monitoring requirements as federally enforceable. This action is being taken in accordance with section 110 of the Clean Air Act.

EFFECTIVE DATE: This action will become effective November 23, 1992, unless notice is received by October 23, 1992, that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Comments may be mailed to Thomas J. Maslany, Director, Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107; Public Information Reference Unit, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and Commonwealth of Pennsylvania, Department of Environmental Resources, Bureau of Air Quality Control, P.O. Box 2357, Executive House—2nd & Chestnut Streets, Harrisburg, Pennsylvania 17120.

FOR FURTHER INFORMATION CONTACT: David J. Campbell, (215) 597-9781.

SUPPLEMENTARY INFORMATION: On January 11, 1991, the Commonwealth of Pennsylvania submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of an amended regulation, title 25 Pa. Code, chapter 123, section 123.51, Monitoring Requirements, containing monitoring requirements for sources of nitrogen oxides (NO_x). This regulation requires that operators of 250 million Btu combustion units install, operate, and maintain NO_x continuous emission monitoring systems (CEMS); submit the results to the Pennsylvania Department of Environmental Resources on a regular schedule; and meet minimum data availability requirements.

Summary of SIP Revision

The revision adds monitoring requirements for sources of nitrogen compound emissions. The revision specifically establishes a CEMS requirement in Pennsylvania for major sources of NO_x to provide a reliable data base concerning NO_x emissions. This data will enable Pennsylvania to assure that the forthcoming requirements of subchapter IV of the Clean Air Act (Acid Deposition Control), as amended by the Clean Air Act Amendments of 1990, will be appropriately implemented throughout the State.

The purpose of the revision is to address the acid deposition problem in Pennsylvania. The new monitoring requirements will allow Pennsylvania to assess the magnitude and extent of NO_x emissions in the Commonwealth, permitting it to track the development of one of the precursors of acid rain. By requiring large combustion sources to continuously monitor NO_x emissions, the Commonwealth will be able to track approximately 80% of all NO_x emissions created within the State.

Specifically, the revision adds a new regulation which provides that all combustion units with a rated heat input of 250 million Btu per hour or greater and with an annual average capacity factor of greater than 30% shall:

1. Install, operate and maintain CEMS for NO_x,
2. Submit the results to the Pennsylvania Department of Environmental Resources on a regular schedule, and
3. Meet minimum data availability requirements set forth in the previously approved Title 25 Pa. Code, Chapter 139. (See 49 FR 30184.)

EPA Evaluation

EPA has evaluated Pennsylvania's SIP revision request and makes the following conclusions:

1. The monitoring requirements will not adversely affect Pennsylvania's ability to enforce the current applicable emission limitations which adequately protect the NAAQS for NO_x,

2. The monitoring requirements are clearly enforceable, and

3. The applicable requirements of 40 CFR part 51 have been met. A more detailed evaluation is provided in a Technical Support Document available upon request from the Regional EPA office listed in the **ADDRESSES** section of this notice.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective 60 days from the date of this Federal Register notice unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted. If such notice is received, this action will be withdrawn before the effective date by simultaneously publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective on November 23, 1992.

Final Action

EPA is approving the amended regulation, title 25 Pa. Code, chapter 123, section 123.51, Monitoring Requirements, submitted by the Commonwealth of Pennsylvania Department of Environmental Resources

as a revision to the Pennsylvania SIP. The regulation requires that the operators of large combustion units, continuously monitor NO_x emissions and report the findings to the Pennsylvania Department of Environmental Resources.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis for would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (S. Ct. 1976); 42 U.S.C. 7410(a)(2).

This SIP revision requiring large combustion units in Pennsylvania to continuously monitor NO_x emissions has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). EPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. OMB has agreed to continue that temporary waiver until such time as it rules in EPA's request.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 23, 1992. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur Oxides.

Dated: September 8, 1992.

W. Wisniewski,

Acting Regional Administrator, Region III.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

Subpart NN—Pennsylvania

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

Authority: 42 U.S.C. 7401–7642.

PART 52—[AMENDED]

2. Section 52.2020 is amended by adding paragraph (c)(74) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(74) Revisions to the State Implementation Plan submitted by the Pennsylvania Department of Environmental Resources on January 11, 1991.

(1) *Incorporation by reference.* (A) Letter from the Pennsylvania Department of Environmental Resources dated January 11, 1991 submitting a revision to the Pennsylvania State Implementation Plan.

(B) Amendment to 25 Pa. Code Chapter 123.51 "Monitoring Requirements", concerning continuous nitrogen oxides monitoring, effective October 20, 1990.

(ii) *Additional materials.* (A) Remainder of the State Implementation Plan revision request submitted by the Pennsylvania Department of Environmental Resources on January 11, 1991.

[FR Doc. 92–23002 Filed 9–22–92; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 413 and 447

[BPD–311–F]

RIN 0938–AB68

Medicare and Medicaid Programs; Revaluation of Assets

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This final rule revises the Medicare and Medicaid regulations that are affected by section 2314 of the Deficit Reduction Act of 1984 and sections 9110 and 9509 of the Consolidation Omnibus Budget Reconciliation Act of 1985. Those provisions amended sections 1861(v)(1) and 1902(a)(13) of the Social Security Act. This rule describes new limitations on the valuation of assets acquired as the result of changes in ownership occurring on or after July 18, 1984. These changes affect hospitals and skilled nursing facilities under the Medicare program and hospitals, nursing facilities, and intermediate care facilities for the mentally retarded under the Medicaid program.

EFFECTIVE DATE: This final rule is effective on October 23, 1992.

ADDRESSES: If you wish to submit comments on the information collection requirements contained in this final rule, you may submit comments to: Allison Herron Eydt, HCFA Desk Officer, Office of Information and Regulatory Affairs, Room 3002, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Bruce Oliver—Medicare Provisions, (301) 966–4519; Betty Kern—Medicaid Provisions, (301) 966–4580.

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SUPPLEMENTARY INFORMATION

I. Background

A. Deficit Reduction Act of 1984

Section 2314 of the Deficit Reduction Act of 1984 (Pub. L. 98–369), enacted on July 18, 1984, amended sections 1861(v)(1) and 1902(a)(13) of the Social Security Act (the Act) by adding new provisions concerning valuation of assets, that is, determining historical costs applicable to assets of hospitals, skilled nursing facilities (SNFs), intermediate care facilities (ICFs), and intermediate care facilities for the mentally retarded (ICFs/MR) that undergo a change of ownership on or after July 18, 1984. Previously, historical cost had been limited to the lowest of (1) the purchase price, (2) the fair market value, or (3) depreciated reproduction cost.

Section 1861(v)(1) of the Act was amended by the addition of a new paragraph (O), which provides for the following:

- In establishing an appropriate allowance under Medicare for payment of providers for depreciation expense, interest on capital indebtedness, and (if applicable) a return on equity capital, for an asset of a hospital or SNF that undergoes a change of ownership, the value of the asset after the change of ownership is the lesser of the allowable acquisition cost of the asset to the owner of record as of July 18, 1984 (or, in the case of an asset not in existence as of July 18, 1984, the first owner of record after that date), or the acquisition cost of the asset to the new owner.
- Recapture of depreciation in the manner as provided in regulations in effect on June 1, 1984; that is, if disposal of a depreciable asset results in a gain or loss, an adjustment is necessary in the provider's allowable cost. The amount of a gain included in the determination of allowable cost is limited to the amount of depreciation previously included in Medicare allowable costs. The amount of a loss to be included is limited to the undepreciated basis of the asset permitted under Medicare.
- The costs (for example, legal fees, accounting and administrative costs, travel costs, and the costs of feasibility studies) attributable to the negotiation and settlement of the sale or purchase of any capital asset (by acquisition or merger) for which payment has previously been made by the Medicare program may not be recognized as reasonable cost in the provision of health care services.

Section 1902(a)(13) of the Act was amended by the addition of a new paragraph (B), which requires that a State must provide assurances satisfactory to the Secretary that the payment methodology utilized by the State for payments to hospitals, SNFs, ICFs, and ICFs/MR can reasonably be expected not to increase these payments, solely as a result of a change of ownership, in excess of the increase that would result from the application of the Medicare requirements of section 1861(v)(1)(O) of the Act.

B. Consolidated Omnibus Budget Reconciliation Act of 1985

Section 9110 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99–272), enacted on April 7, 1986, amended section 1861(v)(1)(O) of the Act by adding a new provision applicable to changes in ownership of State hospitals to nonprofit corporations without monetary consideration. This new provision requires that, in the case of a transfer of ownership of a State hospital to a nonprofit corporation for which there was no monetary consideration, the basis of the assets to the new owner (the nonprofit corporation) to be used for the purpose of computing capital allowances is the book value of the assets as shown on the State's books at the time of the transfer.

Section 9509 of Public Law 99–272 of the Act also limited (B) to hospitals and added a new paragraph (C) to section 1902(a)(13) of the Act that is applicable to SNFs, ICFs, and ICFs/MR that change ownership on or after October 1, 1985. Prior to the enactment of section 2314 of Public Law 98–369 and section 9509 of Public Law 99–272, the only upper payment limit restriction imposed on States in establishing payment rates was the application of section 1902(a)(30) of the Act. This section required that State plan methods and standards used to determine payment rates result in payments that are consistent with efficiency, economy and quality, of care. Historically, through regulations, we interpreted this requirement to mean that a State's aggregate payment amounts cannot exceed payment amounts calculated based on Medicare payment principles. The new paragraph (C) of section 1902(a)(13) of the Act requires a State to provide assurances satisfactory to the Secretary that the valuation of capital assets for purposes of determining payment rates for SNFs, ICFs, and ICFs/MR will not be increased beyond certain levels. The valuation of the asset may not increase (as measured from the date of acquisition by the seller to the date of the change of ownership), solely as a result of a change of ownership, by more than the lesser of—

- One-half of the percentage increase (as measured over the same period of time specified above, or if necessary, as extrapolated retrospectively by the Secretary) in the Dodge construction index applied in the aggregate with respect to those facilities that have undergone a change of ownership during the Federal fiscal year; or
- One-half of the percentage increase (as measured using the same period of time stated above) in the Consumer Price Index for All Urban Consumers (United States city average).

Congress intended for section 1902(a)(13)(C) of the Act to impose a statutory ceiling on the revaluation of assets as the result of a change in ownership. This section does not set any specific payment level for capital costs. States are free to continue to apply payment rates and standards that are consistent with the more stringent payment ceiling imposed on hospitals by section 1902(a)(13)(B) of the Act. States may also require the recapture of depreciation, as is authorized by the reference to section 1861(v)(1)(O) of the Act in section 1902(a)(13)(B) of the Act, in order to assure that the Medicaid program pays for an asset only once.

Section 9509 of Public Law 99–272 further provides that if a change to the existing State plan methodology is necessary in order for the plan to meet the requirements of section 1902(a)(13)(C) of the Act, and this methodology change cannot be effectuated without a State legislative change, the State agency will not be regarded as failing to comply with the requirements of section 1902(a)(13)(C) solely on the basis of its failure to meet these section 1902(a)(13)(C) requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after April 7, 1986.

Both Public Law 98–369 and Public Law 99–272 impose specific effective dates that are set forth in section V.A of this preamble.

C. Omnibus Budget Reconciliation Act of 1987

Section 4211(h) (2)(C) of the Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100–203), enacted on December 22, 1987, amended section 1902(a)(13)(C) of the Act to reflect the elimination of

separate criteria for certifying SNFs and ICFs under Medicaid effective October 1, 1990. The Medicaid statute now recognizes one type of facility that provides long term care: nursing facilities (NFs). Consequently, States are required to provide needed assurances for NFs and ICFs/MR. We are revising the regulations to reflect this change in terminology.

II. Provisions in the Proposed Rule

On October 26, 1987, we published a proposed rule (52 FR 39927) that described new limitations on the valuation of assets acquired as the result of changes in ownership occurring on or after July 18, 1984. In the preamble of that proposed rule, we described our policies concerning allowable costs and patient-care-related capital costs prior to the enactment of Public Law 98–369 and Public Law 99–272, and proposed the following changes to the regulations that would implement the new provisions.

A. Medicare

1. Changes Resulting From Section 2314 of Public Law 98–369

a. *Sale and leaseback arrangements.* In § 413.130(b), which governs the inclusion of lease and rental costs in a provider's capital-related costs, we proposed, for sale and leaseback arrangements entered into by hospitals and SNFs on or after the effective date of this final rule, limiting the amount providers may include as patient-care-related capital costs for rental or lease expense to the amount a provider would have included in patient-care-related capital costs had the provider retained legal title to the asset. This proposed change was not explicitly required by law. However, based on the language of the conference report (H.R. Rep. No. 861, 98th Cong., 2nd Sess. 1339 (1984)), we believe that Congress recognized that this proposed change was needed to prevent circumvention of the revaluation of asset limitation imposed by section 1861(v)(1)(O).

In addition, we proposed new §§ 413.134(h) (1) through (3) that would govern the amount of lease or rental expense that providers may include in allowable costs under sale and leaseback transactions. Proposed §§ 413.134(h) (1) and (2) set forth our long-standing policy, currently in section 110.A of the Provider Reimbursement Manual, and applicable to all providers, governing the amount a provider may include in allowable costs under sale and leaseback agreements. Proposed § 415.134(h)(3), which is consistent with new § 413.130(b)(4), would apply to hospitals and SNFs only and would limit the amount of lease or rental expense that a hospital or SNF may include in allowable costs under a sale and leaseback transaction entered into on or after the effective date of this final rule to the amount the hospital or SNF would have included in allowable costs had the hospital or SNF retained legal title to the asset.

b. *Revaluation of a capital asset.* Congress enacted section 1861(v)(1)(O) of the Act to ensure that the Medicare program does not pay for the same capital asset more than once. This provision is intended to limit the revaluation of an asset for purposes of determining depreciation, interest expense of capital indebtedness, and (if applicable) return on equity capital to the allowable acquisition cost to the individual or entity who was the owner for Medicare purposes on July 18, 1984. The purchasing entity's valuation is the lesser of its own acquisition cost or the allowable acquisition cost of the previous owner (not reduced by accumulated depreciation). We proposed to amend § 413.134 to conform the regulations to the limitation on revaluation of assets set forth under section 1861(v)(1)(O) of the Act, as follows:

- We proposed revising § 413.134(b), which describes historical cost, by adding a new paragraph (b)(1)(ii) to implement the statutory limitation applicable to hospitals and SNFs for assets acquired on or after July 18, 1984 and not subject to an enforceable agreement entered into before that date.
- In a new § 413.134(b)(1)(ii)(B), we proposed that the term "asset not in existence as of July 18, 1984" include any asset that physically existed, but was not owned by a provider participating in the Medicare program as of July 18, 1984.
- For purposes of calculating the historical cost limitation, we proposed a new § 413.134(b)(1)(ii)(C) providing that the acquisition cost to the owner of record (the previous owner) on July 18, 1984 would be subject to any limitation on historical costs imposed by Medicare prior to that time, and that this cost would not be reduced by any depreciation taken by that owner of record. We also explained that the purchase of land, which is neither depreciable nor amortizable under any circumstances, would be subject to the historical cost limitation for the purpose of determining allowable interest expense for both proprietary and nonproprietary providers, and (if applicable) return on equity capital for proprietary providers only.
- In a new § 413.134(b)(1)(ii)(D), we proposed that, for application of the limitation, the cost to the owner of record would include the costs of betterments and improvements that extend the useful life of the asset at least two years beyond its original estimated useful life, or increases the productivity of an asset significantly over its original productivity.
- We proposed a new § 413.134(b)(1)(ii)(E), which provided that, for assets acquired prior to a provider's entrance into the Medicare program, the acquisition cost to the owner of record is the historical cost of the asset when acquired, rather than when the provider entered the program.
- In a new § 413.134(b)(1)(ii)(F), we proposed to further explain the determination of the acquisition cost to the owner of record for assets subject to the optional depreciation allowance described in § 413.139.
- In a new § 413.134(b)(1)(ii)(G), we proposed excluding from historical cost the costs attributable to the negotiation or settlement of the sale or purchase (by acquisition, merger, or consolidation) of any capital asset for which any payment was previously made by the Medicare program.
- Because the limitation set forth in § 413.134(b)(1)(ii) applies only to hospitals and SNFs, in a new § 413.134(b)(1)(iii), we proposed that if a change of ownership occurs that involves assets of a hospital-based provider other than a SNF or a SNF-based provider (to which section 1861(v)(1)(O) of the Act does not apply), a reasonable allocation of the purchase price must be made so that the non-hospital or non-SNF provider would not be affected by the limitation imposed by section 1861(v)(1)(O) of the Act, but rather would be subject to the limitations imposed prior to the implementation of that section that continue to control changes of ownership involving nonhospital and non-SNF providers.
- Finally, we proposed adding a new paragraph to § 413.134(g), which governs the establishment of the cost basis for assets obtained in the purchase of a facility as an ongoing operation, to limit the historical cost of assets of hospitals and SNFs acquired on or after July 18, 1984 and not subject to an enforceable agreement entered into before that date. Under proposed § 413.134(g)(3), the limit would be the lower of the allowable acquisition cost of the asset to the owner of record as of July 18, 1984, or the acquisition cost to the new owner.

2. Changes Resulting from Section 9100 of Public Law 99–272

Section 9110 of Public Law 99–272, enacted section 1861(v)(1)(O)(iv) of the Act to provide a special rule for valuing assets for Medicare purposes for State hospitals that are transferred without monetary consideration to nonprofit corporations. We proposed the following changes to implement this section:

- We proposed to add § 413.134(b)(8) that provides a rule for donated asset consistent with the discussion in section 104.15 of the Provider Reimbursement Manual. We also proposed clarifying in § 413.134(b)(8) that, if an asset is exchanged for new debt or the assumption of debt, then the transaction is considered a sale and not a donation.
- We proposed to consolidate, in § 413.134(j), the regulations governing donations to providers. This included a special rule to implement section 1861(v)(1)(O)(iv) of the Act, which governs the transfer of a State hospital to a nonprofit corporation without monetary consideration. This special rule provides that, in the case of a transfer of ownership of a State hospital to a nonprofit corporation for which there was no monetary consideration, the new owner's depreciable basis is the net book value of the assets as recorded on the State's books at the time of the transfer.

3. Other Changes

In §§ 413.130(b) (8) and (9), we proposed changes that would be applicable to lease purchase transactions entered into on or after the effective date of this final rule. Specifically, we proposed new criteria that would redefine lease purchase transactions. These criteria are the same as the criteria used to identify capital lease transactions under generally accepted accounting principles (GAAP) and, for that purpose, are also set forth in the Statement of Financial Accounting Standards Number 13, "Accounting for Leases," (SFAS 13) issued by the Financial Accounting Standards Board. In addition, we proposed that, for lease purchase transactions in which the lessee becomes the owner of the leased asset and subsequently disposes of the asset, the total amount considered as depreciation for the purpose of computing the limitation on allowable lease or rental costs (as required by new paragraph (b)(9)(i) of § 413.130) must be included in calculating the limitation on adjustments to depreciation for the purpose of determining any gain or loss realized upon disposal of the asset. We stated that the purpose of this latter provision was to prevent providers that obtained assets through lease purchase transactions and subsequently disposed of these assets from having an unfair advantage over providers that bought assets outright and subsequently disposed of them.

We proposed clarifying in § 413.134(f)(1) that the gain or loss on the disposition of depreciable assets has no retroactive effect on a proprietary provider's equity capital for years prior to the disposition.

We also proposed clarifying § 413.134(f)(4) to include donations in the category of asset dispositions for which gains or losses are not included in allowable costs.

We proposed new sections 413.134(h) (4) through (7) that would govern the amount a provider may include in allowable costs under lease purchase transactions. Proposed §§ 413.134(h) (4) and (5) set forth our long-standing policy, currently in section 110.B of the Provider Reimbursement Manual, governing the amount of lease or rental expense a provider may include in allowable costs under a lease purchase transaction. In addition, in new §§ 413.134(h) (6) and (7), we proposed changes applicable to lease purchase transactions entered into on or after the effective date of this final rule. These changes include new criteria to redefine lease purchase transactions and describe a special rule with respect to the determination of the gain or loss adjustment upon disposition of an asset acquired through a lease purchase transaction and are consistent with the changes for lease purchase transactions described for § 413.130(b), above.

We explained that we were considering applying the limitations on asset valuations under section 2314 of Pub. L. 98–369 to all providers under both Medicare and Medicaid programs, and we requested public comments on that proposal.

We also discussed the application of "fair market value" as an additional limitation on the valuation of an asset acquired on or after July 18, 1984. In that discussion, we pointed out that although the language of section 1861(v)(l)(O) of the Act does not explicitly include the fair market value of an asset in the historical cost limitation, it would be contrary to general reasonable cost principles in section 1861(v)(1)(A) of the Act for Medicare to recognize more than the fair market value of an asset. Therefore, we explained that in those instances in which the fair market value of an asset is less than both the allowable acquisition cost of the asset to the owner of record as of July 18, 1984 and the acquisition cost of the asset to the new owner, we would apply the regulations contained in §§ 413.134(g)(4) and 413.9 to limit the historical cost of the asset to the new owner to the fair market value for purposes of establishing an appropriate allowance under Medicare for depreciation, interest on capital indebtedness, and (if applicable) a return on equity capital.

B. Medicaid Changes Resulting From Sections 1902(a)(13) (B) and (C) of the Act

As described in section I.B above, sections 1902(a)(13) (B) and (C) of the Act limit State Medicaid payment for the patient-care-related capital costs associated with the sale or transfer of hospitals or nursing facilities. We proposed the following amendments to 42 CFR part 447, subpart C, which governs payment for inpatient hospital and long-term care facility services.

- We proposed amending § 447.250, which describes the basis and purpose of subpart C, by adding a new paragraph (c) that explains that §§ 447.253 (c) and (d) implement sections 1902(a)(13)(B) and 1902(a)(13)(C) of the Act.
- We proposed amending § 447.253, which describes other requirements concerning State assurances, to include the assurances required by sections 1902(a)(13)(B) and 1902(a)(13)(C) of the Act for changes in ownership. Congress intended that the assurances apply to increases that are solely a result of a change in ownership. We proposed that the assurance for each level of care (that is, hospital, SNF, ICF, and ICF/MR) be based on the increase in payments to all facilities within that class of facilities that have a change in ownership during a specified period.

With respect to section 1902(a)(13)(C) of the Act, section 9509 of Public Law 99–272 specifically states that the amendments mandated by this section shall apply to medical assistance furnished on or after October 1, 1985, but only with respect to changes of ownership occurring on or after such date that were not subject to an enforceable agreement entered into prior to October 1, 1985.

III. Discussion of Public Comments

In response to the October 26, 1987 proposed rule, we received 12 timely items of correspondence. The comments were submitted by three health care associations, four providers, a provider chain organization, a fiscal intermediary, an appraisal firm, and two State agencies. The specific comments

made by the commenters and our responses follow.

A. General

Comment: Two commenters suggested that failure to recognize fair market value of assets when change of ownership occurs is contrary to the movement of the Medicare program to a market-driven system. The commenters asserted that if Medicare does not recognize fair market costs, increased costs must be borne by non-Medicare patients. The commenters stated that section 1861(v)(1)(O) of the Act and the proposed regulations act as a disincentive for the health care delivery system to consolidate and to recognize the economies of scale as a means of spreading the risk inherent in a market-driven system. They asserted that this section of the Act should be repealed and the proposed regulations should not become effective.

Response: Since the enactment of section 2314 of Public Law 98–369, no evidence has been brought to our attention that would indicate that the new limitation on revaluation of assets has had a significant impact on provider decisions regarding mergers and acquisitions. We believe this is due to the weight of factors like tax incentives, increased buying power and increased market entry which, we believe, have offset any perceived disincentives caused by this provision. Moreover, we believe the rule, as proposed, fairly reflects the intent of Congress that the Medicare program should pay for the use of an asset only once. In effect, Congress has redefined Medicare's share of allowable costs to exclude excess costs that result solely from changes in ownership of assets. In any event, there are statutory provisions that we must implement and that only Congress can revise or repeal.

Comment: One commenter is concerned that the provisions of section 2314 of Public Law 98–369, combined with the capital reduction provisions of section 9303 of the Omnibus Budget Reconciliation Act of 1986 (Pub. L. 99–509) and section 4006 of the Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100–203) (which both reduce by specified percentages the amount payable for capital-related costs of most hospitals paid under the prospective payment system), represent a fragmented approach that will result in significant shortfalls in capital payment and lead to increased deficiencies in patient care. The commenter asserted that this approach will result in more providers being cited for building deficiencies. The commenter recommended that we implement the capital reduction factors expressed in Public Law 99–509, but not those expressed in Public Law 100–203. In addition, the commenter recommended that we do not implement section 2314 of Public Law 98–369. Rather, the commenter recommended that we use a local construction index as a limitation on asset revaluations. In other words, if an asset changed ownership after July 18, 1984, the new owner's basis would be limited to the lesser of the undepreciated historical costs as of July 18, 1984, inflated to the date of the change of ownership by a local construction index, or the acquisition cost to the new owner. The effect of this recommendation would be to permit limited upward revaluations of assets when the assets undergo a change of ownership.

Response: Congress has permitted no leeway in implementation of these very specific provisions from section 2314 of Public Law 98–369, section 9303 of Public Law 99–509, and section 4006 of Public Law 100–203. Since receipt of this comment, Congress has extended the capital-related cost reduction factor by enactment of section 6002 of the Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101–239) and section 4001(a) of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508). However, there is no evidence in the legislative history of these provisions that would suggest that Congress intended these capital-related cost reduction facors to supersede the limitation on asset revaluations expressed in section 2314 of Public Law 98–369.

Although the asset revaluation provisions and capital reduction provisions both have as their purpose the promotion of economies in the Medicare program, they affect the determination of reasonable costs in different ways. For example, section 2314 of Public Law 98–369 applies to both hospitals and SNFs and serves to limit the valuation of assets that undergo a change in ownership. On the other hand, the capital-related cost reduction provisions of Public Law 99–509 and Public Law 100–203 apply only to the inpatient capital-related costs of hospitals paid under the prospective payment system and do not affect payment for the capital-related costs of SNFs. With such distinct differences in the application and intended effect of these provisions, we have no reason to believe that the capital-related cost reduction factors were intended to replace the revaluation of assets limitation.

Comment: Three commenters urged that the final rule not be applied to all types of providers. They argued that to do otherwise would go beyond Congressional intent and would be contrary to a market-driven system. Further, they argued, it would hinder provider flexibility in financing and structuring services. However, one commenter, an intermediary, believes that the intent of Congress to pay for an asset only once can be accomplished only if the limitation is extended to all types of providers. The commenter stated that not to do so would place additional administrative and audit burdens on fiscal intermediaries to properly account for different limitations for each type of provider.

Response: We agree that extending this rule to all types of providers would make administration of the Medicare program easier. Moreover, extending the rule to cover all types of providers would increase the economies that Congress envisioned would result from this legislation. However, we are not taking such action at this time. Rather, we will continue to consider whether we should extend this rule to cover all types of providers and, if so, whether such an extension should be made through a further revision to the regulations or through further legislation.

B. Sale and Leaseback Arrangements and Lease Purchase Transactions—Effective Dates

Comment: Two commenters asked us to verify that the proposed changes to lease arrangements would be applied prospectively, and would be applied only to binding agreements entered into on or after 30 days following publication of the final rule. One of these commenters requested that the final rule clarify the prospective nature of the provisions regarding calculation of a gain or loss upon position of an asset that was acquired through a virtual purchase.

Response: As stated in the proposed rule (at 52 FR 39932), these changes take effect 30 days after publication of this final rule. Therefore, they apply only to binding agreements entered into on or after October 23, 1992. With respect to sale and leaseback agreements and lease purchase transactions entered into prior to the effective dates of these changes, the regulations at § 413.130(b)(2) through (5) and sections 110.A and B of the Provider Reimbursement Manual apply.

C. Sale and Leaseback Arrangements

Comment: Two commenters expressed their belief that our rules

regarding sale and leaseback arrangements that were in effect prior to this final rule provided adequate safeguards against the payment of unreasonable costs. Those rules, set forth in § 413.130(b) (2) and (3) and in section 110.A of the Provider Reimbursement Manual (HCFA Pub. 15–1), permitted a provider to include the full amount of the lease payments incurred under a sale and leaseback arrangement in its allowable costs if (1) the lease payments were reasonable, (2) adequate, alternate facilities were not available at a lower cost and (3) the leasing was based on economic and technical considerations. If these three criteria were not met, the provider would not be permitted to include the full amount of the lease payments in allowable costs. Rather, the allowable lease payments would be limited to the amount the provider could have included in allowable cost had it retained ownership of the assets (the "costs of ownership"). Further, if the provider and the lessor were considered related organizations under § 413.17, the lease payments would not be permitted at all, and instead the provider could include in allowable costs only the costs of ownership. The commenters stated that our proposed rule inappropriately treats all sale and leaseback transactions entered into by hospitals or SNFs as related organization transactions in that it would limit the costs that a provider may include in allowable costs to the costs that were incurred prior to the sale and leaseback (i.e., the costs of ownership). They believe our proposed treatment of sale and leaseback arrangements exceeds Congressional intent by applying the same restrictive regulatory provisions to both transactions involving related organizations and transactions involving organizations that are not related. The commenters believe that our proposal could have a serious and irreversible impact on many contemporary, cost-effective capital financing programs. As an alternative to our proposed rule, one of the commenters suggests that we not apply the proposed rule to transactions involving organizations that are unrelated, including arrangements with capital syndications and real estate investment trusts.

Response: We do not agree. In the conference report that accompanied Public Law 98–369, Congress expressed concern that the limitation on revaluation of assets could be circumvented by certain sale and leaseback arrangements and directed the Secretary to take into account the limitation on the revaluation of assets in determining the reasonableness of lease or rental costs. Specifically, the conference report states:

> The conferees recognize that the limitation on the revaluation of assets acquired by hospital or nursing homes could be circumvented by certain sale/lease-back or sale-rental agreements. The conferees expect that the Secretary will determine the reasonableness of any lease or rental costs involving a depreciable asset which has undergone a change in ownership taking into account the limitation on the revaluation of assets. (H.R. Rep. No. 861, 98th Cong., 2nd Sess. 1339 (1984).)

Moreover, the same conference report explains that the purpose of the revaluation of assets limitation is to prevent Medicare from paying for the same capital asset more than once. In a sale and leaseback arrangement, the asset is sold by the provider and then leased back, often, if not always, at an amount that exceeds the costs of ownership that the provider incurred prior to the sale. If Medicare recognized the full lease amount over the remaining life of the asset, Medicare would be paying more for the same asset solely as a result of the sale and leaseback transaction, contrary to the expressed intent of Congress. By limiting the amount that a hospital or SNF may include in allowable costs after a sale and leaseback to the same amount that was included in allowable costs before the transaction, we are ensuring that Medicare pays for the asset only once. Thus, we believe that the proposed rules do not exceed Congressional intent. Due to the prospective effective date of the rules governing sale and leaseback arrangements, we do not agree that the rules will negatively impact contemporary capital financing arrangements. Rather, by applying the rules prospectively, hospitals and SNFs will have the opportunity to consider the impact of the rules before entering into capital financing arrangements, including capital syndications and real estate investment trusts, that involve sale and leaseback arrangements.

Comment: One commenter believes that in a sale and leaseback situation, if the lessor sells the asset at the end of the lease period, the resultant gain or loss should be used to adjust the aggregate amount that a provider claimed as rental or lease expense over the life of the lease. Proposed §§ 413.130(b)(4) and 413.134(h)(3) provide that the amount a provider may include in its capital-related costs and allowable costs as rental or lease expense may not exceed the amount that the provider would have included in its capital-related costs and allowable costs had the provider retained legal title to the facilities or equipment. The commenter believes that if this adjustment is not made, Medicare payment could be more or less than the provider's original acquisition cost.

Response: We agree with the commenter that absent such an adjustment Medicare payment could be more or less than the provider's original acquisition cost. However, we do not believe that we have the authority to make the recommended adjustment unless the provider and the lessor are related organizations under the provisions of § 413.17. In a sale and leaseback arrangement, when the asset is sold by the provider to the entity that then becomes the lessor, an adjustment is made to the provider's allowable cost for any gain or loss incurred on the sale, in accordance with § 413.134(f), because the provider, having received the proceeds from the sale, incurs the gain or loss. However, if the lessor ultimately sells the asset at the end of the lease period, the lessor receives the proceeds from that subsequent sale, and thus incurs the gain or loss. Because the lessor incurs the gain or loss, rather than the provider, we believe that we should not adjust the provider's allowable costs for this gain or loss, unless, as stated above, the parties are related organizations.

Comment: One commenter stated that the rule should include a "carry forward" provision to provide for situations in which the rent paid in the early years of the lease is greater than the amount of rent allowed as a capital cost under the annual limitation. The commenter suggested the excess rent paid in the early years should be "carried forward" and allowed in any year in which lease cost is less than annual limitation.

Response: We agree with the commenter. Therefore, in this final rule, we explicitly provide that if, in the early years of the lease, the annual rental or lease costs exceed the annual costs of ownership, but in the later years of the lease, the annual rental or lease costs are less than the annual costs of ownership, the provider may carry forward amounts of rental or lease costs that were not included in capital-related costs or allowable costs in the early years of the lease due to the costs of ownership limitation, and include these amounts in capital-related costs or allowable costs in the years of the lease when the annual rental or lease costs are less than the annual costs of ownership. This new language is in §§ 413.130(b)(4)(ii) and 413.134(h)(3)(ii).

Comment: One commenter suggested that the final rule specify that the useful

life of an asset cannot be changed after the sale and leaseback transaction. Otherwise, he suggested, providers could circumvent the annual limitation by shortening the estimated useful life of the asset.

Response: A provider cannot change an asset's useful life after it has been sold because the provider no longer owns it.

D. Lease-purchase Transactions

Comment: Two commenters asserted that HCFA has used the term "program initiative" to expand the definition of when a lease is considered a lease purchase transaction, implying that the proposed revised definition did not come directly from section 2314 of Public Law 98–369. One of these commenters recommended that the costs of ownership under a virtual purchase should be allowed consistent with the costs allowed under a purchase of assets. The other commenter recommended that the final rule clarify the purpose of this new definition, its application, and its potential effects.

Response: The commenters are correct that the revised definition of a lease purchase transaction did not come from section 2314 of Public Law 98–369. Rather, the new definition is based on the criteria used to identify capital lease transactions under generally accepted accounting principles (GAAP), as reflected in the Statement of Financial Accounting Standards Number 13, "Accounting for Leases," (SFAS 13) issued by the Financial Accounting Standards Board. In the proposed rule (52 FR 39932), we inadvertently stated that the change is intended to prevent possible circumvention of the revaluation of assets limitation required by sections 1861(v)(1) and 1902(a)(13) of the Act. We should have characterized the change as a "program initiative" intended to provide a more objective standard for defining a lease purchase transaction and to end the disputes that have arisen under the current definition concerning whether particular lease arrangement constitute lease purchase transactions.

For reasons of consistency with generally accepted accounting principles, providers have urged us to adopt in its entirety the Statement of Financial Accounting Standards Number 13 (SFAS 13) for purposes of accounting for leases under Medicare. We continue to believe that we should not fully adopt SFAS 13 for Medicare payment purposes because SFAS 13 permits methods of accounting for leased assets that are not recognized by Medicare for owned assets. For example, SFAS 13 accounts for capital leases as if the asset were owned and, in so doing, permits the use of accelerated methods of depreciation. Medicare has prohibited the use of most accelerated methods of depreciation for owned assets since August 1, 1970. Therefore, if Medicare were to fully adopt SFAS 13, providers would use accelerated methods of depreciation on certain leased assets that they could not use if the asset were owned outright. We believe that this would create an inappropriate incentive toward leasing. Although we have not fully adopted SFAS 13, we have adopted the same criteria for identifying a lease purchase transaction as SFAS 13 uses for identifying a capital lease. Due to the objective nature of these criteria, their adoption should greatly reduce the number of disputes that have arisen in the past over whether particular leases are lease purchase transactions. This change should also reduce the administrative burden of both providers and fiscal intermediaries because a lease will have to be compared with only one set of criteria to determine whether it is a capital lease under GAAP and whether it is a lease purchase arrangement under Medicare. We will continue to treat the costs incurred under a lease purchase in the same manner as before this change, subject to the limitation on revaluations of assets. That is, we will limit the lease or rent expense to the costs that would have been incurred had the provider purchased the asset outright (that is, the costs of ownership).

Any excess of lease or rental payment over the costs of ownership will be deferred until either of two events occurs: (1) The leased asset is returned to the lessor, in which case the entire deferred amount will be allowed in the year the asset is returned; or (2) the provider obtains legal title to the asset, in which case the deferred amount becomes part of the historical cost of the asset, subject to the limitation on revaluations of assets, and is depreciated over the remaining useful life of the asset. Because we have no data on the number of leases that are considered capital leases for purposes of GAAP, but are currently not considered lease purchase transactions for Medicare purposes, we are unable to predict the impact of this change in the definition of lease purchase transactions.

Comment: One commenter is concerned that the rule computes the present value of the minimum lease payments using the lower of the lessee's incremental borrowing rate or the "lessor's implicit rate." The commenter suggests that the term "lessor's implicit rate" should be replaced with the term "interest rate implicit in the lease" to be consistent with generally accepted accounting principles.

Response: We agree with the commenter. Therefore, we have revised §§ 413.130(b)(8)(iv) and 413.134(h)(6)(iv) accordingly.

Comment: One commenter stated that when a lessee becomes the owner of a leased asset and subsequently sells the asset, requiring imputed depreciation to be included in the gain or loss computation conflicts with generally accepted accounting principles. The commenter recommends adopting SFAS 13 for administrative simplicity.

Response: We do not agree with the commenter. We have already explained our reason for not fully adopting SFAS 13. However, as indicated above, we have adopted SFAS 13 in part, and this partial adoption should make administration of the Medicare program easier.

E. Historical cost

Comment: One commenter is concerned that although the preamble to the proposed rule states that the historical cost will be limited to the fair market value if that value is less than the limitation in § 413.134(b)(1)(ii)(A), the regulations text does not seem to use fair market value as a limit for historical cost. The commenter recommends that, rather than relying exclusively on the general rule defining reasonable cost (§ 413.9(b)(1)) to establish a fair market value limitation, we include an explicit fair market valuation in § 413.134(b)(1)(ii)(A).

Response: Although Congress did not explicitly include a fair market value limitation in section 1861(v)(1)(O) of the Act, we do not believe that Congress intends that the Medicare program pay more than fair market value for an asset. For Medicare to recognize more than the fair market value would be inconsistent with section 1861(v)(1)(A) of the Act, since payments would exceed the cost actually incurred. Therefore, we proposed to apply the regulations at §§ 413.134(g)(4) and 413.9(b)(1), which have as their basis section 1861(v)(1)(A) of the Act, to impose a fair market value limitation in a situation in which the fair market value of the asset is less than the limitation in § 413.134(b)(1)(ii)(A). However, we agree with the commenter that including an explicit fair market value limitation in the regulations is preferable. Thus, we have revised §§ 413.134(b)(1)(ii)(A) and 413.134(g)(3) in this final rule to add the fair market value limitation.

Comment: One commenter is concerned that the proposed rule did not

include the assets of the home office of a nursing facility or hospital. The commenter suggests revising the rule to clarify that it applies to all assets, whether recorded on the books of the provider or the home office. Also, the commenter recommends revising the rule to make clear that the sale or purchase of individual assets is not covered by the proposed rule.

Response: The related organization rules at § 413.17 impose the same general limitations on related organization costs, including those costs of home offices of nursing facilities or hospitals, as are imposed on provider costs. Thus, the provisions of this final rule apply to assets of home offices of hospitals and nursing facilities, as well as other organizations related to hospitals and nursing facilities. Also, we believe that Congress clearly intended that the limitation apply not only to the sale or purchase of groups of assets, but also to the sale or purchase of individual assets.

F. Application to Hospitals or Nursing Facilities for Which Program Payments Have Been Suspended Under § 405.370

Comment: One commenter is concerned that the proposed rule inappropriately limits application of the law to exclude assets of a hospital or nursing facility for which program payments have been suspended under § 405.370. Specifically, the commenter believes that the language in proposed § 413.134(b)(1)(ii)(B), by including in the concept of "an asset not in existence" any asset that physically existed but was not owned by a hospital or nursing facility participating in the Medicare program, would preclude application of the law to assets of hospitals and nursing facilities for which program payment has been suspended under § 405.370.

Response: A hospital or nursing facility for which program payments have been suspended under § 405.370 is, nevertheless, participating in the Medicare program. Therefore, the language in proposed § 413.134(b)(1)(ii)(B) would not exclude the assets of these providers from application of the law.

G. Costs of Land

Comment: One commenter suggested that costs incurred for land be recognized as capital-related costs, and stated that there are a number of decisions by U.S. Courts of Appeals that have determined that there are allowable capital costs related to land. The commenter suggests that to deny that there are capital costs related to land, including land use costs, goes beyond the Congressional intent of sections 1861(v)(1) and 1902(a)(13) of the Act.

Response: The Medicare program has never allowed depreciation expense on land. This is consistent with Generally Accepted Accounting Principles that recognize land as a permanent asset, not subject to physical wear and tear. Although a few courts have allowed amortization of land use costs in cases where the provider's ownership was for a fixed period of time (for example, *Villa View Community Hospital* v. *Heckler,* 720 F.2d 1086 (9th Cir. 1983)), we think those cases are limited to their particular facts. Medicare does recognize certain capital costs related to land. We recognize land rental (or lease) costs, interest expense on the purchase of land, and for those providers entitled to a return on equity capital, we include the cost of land in the return on equity computation. However, we find nothing in the Congressional language of section 1861(v)(1) or 1902(a)(13) of the Act to suggest that Medicare should begin recognizing the depreciation or amortization of land costs.

Comment: One commenter stated that it is inappropriate to deny payment to a hospital for interest expense on debt used to purchase land that is priced at fair market value but is considered excessive based on the historical cost limitation. The commenter argues that because hospitals cannot avoid these costs, some of the financial burden will be shifted to other payors.

Response: We believe that the clear language of section 1861(v)(1)(O)(i) of the Act, "In establishing an appropriate allowance for * * * interest * * * with respect to an asset * * *" leaves us no discretion on this question. Land, although not a depreciable asset, is an asset of a hospital or an SNF. The statute does not limit the application of this provision to "depreciable" assets. Moreover, the prohibition against cost shifting is part of the definition of reasonable costs in section 1861(v)(1)(A) of the Act. Costs in excess of the limitation are unreasonable costs, and, as such, are not subject to the prohibition against cost shifting.

Comment: One commenter stated that the proposed rule is not clear as to whether leasing costs incurred on land would be considered payable. The commenter urged that the rule be clarified to state that the cost of leasing land from an unrelated party would be paid under a straight lease transaction.

Response: We agree with the commenter and have revised the language at § 413.130(b)(1) accordingly.

H. Costs Attributable to the Negotiation or Settlement

Comment: One commenter suggests that the term "for which any payment" in proposed § 413.134(b)(1)(ii)(G) should be revised to read "for which a particular type or category of payment" because Congress intended that each type or category of these costs (for example, legal fees, accounting and administrative costs, travel costs, feasibility study costs) be viewed individually. For example, the result of such an interpretation would be the following: If in a prior sale of a particular asset, the purchaser incurred, and consequently Medicare paid a share of, only legal fees and accounting costs, and in a subsequent sale of the same asset, the subsequent purchaser incurs feasibility study costs, Medicare should share in the costs of the feasibility study because this type of cost was not paid by Medicare previously.

Response: Section 1861(v)(1)(O)(iii) of the Act treats these negotiation and settlement costs as a homogeneous group. It states that the regulations "shall not recognize, as reasonable in the provision of health care services, costs * * * attributable to the negotiation or settlement of the sale or purchase of any capital asset (by acquisition or merger) for which any payment has previously been made under this title." We interpret this language to mean that if Medicare has previously paid for any of these costs, then no costs in this category will be recognized as reasonable. Therefore, we believe that excluding all subsequent negotiation or settlement costs, even if only one type was previously paid, is consistent with Congressional intent.

Comment: The commenter further believes that § 413.134(b)(1)(ii)(G) should be revised to allow payment for an appraisal if Medicare requires the appraisal for properly determining payment.

Response: We agree with the commenter and have revised § 413.134(b)(1)(ii)(G) accordingly.

Comment: One commenter believes that the proposed rule should provide examples of the type of administrative and accounting costs that are considered costs of negotiating and settling the sale and, thus, are not payable by Medicare. These costs are usually recorded as overhead costs and are not normally associated with a specific function.

Response: The proposed rule excludes from the historical cost of an asset the accounting and administrative costs attributable to the negotiation and

settlement of a sale or purchase. The very act of recording certain accounting and administrative costs as overhead (that is, as operating costs instead of as capital costs) excludes these costs from the historical cost of the asset. However, whether the costs are recorded as general overhead or as an element of the historical cost of the asset, these costs are not considered reasonable Medicare costs if they have been paid for previously under Medicare.

Comment: One commenter suggested that if part of a feasibility study addresses the sale or purchase of a facility, the cost of the study should be allocated between allowable and nonallowable cost. The commenter recommended that the regulations should specifically provide a mechanism for this allocation.

Response: We agree with the commenter that an allocation must be made in these cases, and we will include an allocation method in the program instructions.

Comment: One commenter pointed out that section 1861(v)(1)(O)(iii) of the Act uses the parenthetical phrase "(acquisition or merger)" to modify the phrase "sale or purchase of any capital asset", but the proposed rule has substituted the phrase "merger or consolidation" for the phrase "acquisition or merger." The commenter suggested that the final rule should use the statutory language or explain the difference in meaning between the language in regulations and the language in section 1861(v)(1)(O)(iii) of the Act.

Response: We agree with the commenter. Therefore, we will modify § 413.134(b)(1)(ii)(G) to read "acquisition, merger, or consolidation." This will not be inconsistent with the statutory language because consolidation is a form of acquisition; however, it will be more descriptive of the types of transactions applicable under this section of the regulations.

I. Hospital Based Providers Other Than SNFs

Comment: One commenter recommended that the final rule prescribe the method of allocation to be used for hospital-based providers other than SNFs.

Response: We do not currently specify a method of allocation (although the cost reporting forms "recommend" square feet), and we believe providers are better served if we continue the current flexibility. In general, this allocation is made on the basis of square feet, consistent with other space-related costs.

Comment: One commenter would like the title and text of § 413.134(b)(1)(iii), which concerns the hospital-based providers other than SNFs, to be revised to recognize SNF-based providers.

Response: We agree with the commenter and have revised the language accordingly.

J. Useful Life of Assets

Comment: One commenter stated that the proposed rule does not include a provision governing the useful life of the assets after a purchase and that a logical assumption would be to use the prior owner's remaining useful life. The commenter recommends including in regulations at § 413.134(b)(7) language similar to that set forth in the fifth paragraph of section 104.17 of the Provider Reimbursement Manual (HCFA Pub. 15–1), which states that a different useful life may be approved by the intermediary if the provider's request is properly supported by acceptable factors which affect the determination of useful life.

Response: Regulations at § 413.134(b)(7) comprise essentially the same language in section 104.17 of the Provider Reimbursement Manual. Thus, we do not believe that any purpose would be served by revising § 413.134(b)(7) at this time. Published useful life guidelines do not exist for used assets (which are the subject of this final rule). However, a logical starting point in establishing a useful life for a used asset is the original estimated useful life modified by those factors described in the regulations at § 413.134(b)(7). This is the approach we described in the preamble to the October 26, 1987 proposed rule.

K. Gains and Losses

Comment: Two commenters stated that the "program initiative" to clarify that a gain or loss incurred upon disposition of a depreciable asset has no retroactive effect on the prior year's equity capital should be applied prospectively. The commenters believe that to apply this change retroactively would violate the Administrative Procedure Act. They further stated that it is inconsistent to recapture a gain from a prior year's depreciation and not recompute the equity capital. The commenters suggested that this policy is both incongruous and unreasonable.

Response: As explained in the proposed rule, we are amending the regulations to codify our longstanding policy that a gain or loss on the disposal of depreciable assets has no effect on a proprietary provider's equity capital for years prior to the year of disposition. This policy has been in effect since the beginning of the Medicare program. In 1984, to clear up a misunderstanding of this policy, we issued a clarification to section 130 of the Provider Reimbursement Manual that included the same language that we are now codifying in the regulations. Since we are merely restating this longstanding policy in the regulations, we are not required to give it only prospective effect.

In addition, we do not agree that this policy is unreasonable. The basis for the policy is that a gain or loss does not exist until the year of disposal, and therefore cannot be taken into account in the computation of equity capital for prior years. This policy was recently upheld by the U.S. District Court for the District of Columbia in *Hassler Nursing Center* v. *Sullivan* (New Developments), Medicare and Medicaid Guide (CCH) paragraph 39,631 (D.D.C. Oct. 10, 1991). We continue to believe that it is reasonable.

Comment: One commenter asserted that the rules regarding recapture of depreciation should be revised to reflect the decision of the U.S. District Court for the Middle District of Florida in *Mercy Community Hospital* v. *Heckler* (1988 Transfer Binder), Medicare and Medicaid Guide (CCH) paragraph 36,716 (M.D. Fla. Nov. 24, 1987). That is, the commenter believes that Medicare should seek to recapture depreciation only to the extent that the depreciation claimed did not reflect actual consumption of assets used for patient care. The commenter believes that Medicare should exclude recapture of depreciation if the gain results from inflation or supply and demand characteristics.

Response: The decision cited resulted from remand in the case of *Mercy Community Hospital* v. *Heckler*, 781 F. 2d 1552 (11th Cir. 1986). However, we believe that a more recent decision of the United States Court of Appeals for the First Circuit, *Hoodkroft Convalescent Center* v. *the State of New Hampshire, Division of Human Resources, 879 F. 2d 968 (1st Cir. 1989), cert. denied* 110 S. Ct. 729 (1990), affirms our methodology with respect to adjusting for gains and losses. The First Circuit recognized that the approach urged by the commenters, in which Medicare would attempt to distinguish between gain attributable to less than expected wear-and-tear and gain attributable to inflation and various market factors, would pose substantial administrative problems. The *Hoodkroft* decision was recently followed by the U.S. District Court for the District of Columbia in *Whitecliff, Inc.* v. *Sullivan*

(New Developments), Medicare and Medicaid Guide (CCH) paragraph 39,630 (D.D.C. Oct. 10, 1991).

Section 1861(v)(1)(O)(ii) of the Act requires that our regulations provide for recapture of depreciation in the same manner as provided under the regulations in effect on June 1, 1984. The *Hoodkroft* and *Whitecliff* decisions affirm our policy in effect on June 1, 1984. Accordingly, we believe the statute authorizes continuation of the current method of adjusting for gains and losses.

L. Medicaid Comments

Comment: One commenter asked that the term "solely" (as used in the phrase in § 447.253 "* * * solely as a result of a change in ownership * * *") be defined.

Response: The use of the term "solely" is meant to apply the limit in increases in the valuation of assets only to those increases that are a direct result of a change of ownership. Increases resulting from other factors, such as an annual inflation adjustment applied to the rate, are not included under this term.

If a State's methodology provides for an increase in the valuation of an asset that is neutral with regard to changes of ownership, the increase in the valuation of the asset would not be limited by these provisions. When HCFA incorporates this provision into the State Medicaid Manual, this definition will be included.

Comment: One commenter asked that we specify in a regulation that fair rental value systems are excluded from limitation on the revaluation of assets.

Response: Sections 1902(a)(13) (B) and (C) of the Act require a State to submit an assurance regarding compliance with the limit on the revaluation of assets if there has been a change in ownership. Neither provision provides for an exception to this assurance requirement if a State has adopted a fair rental value system for the payment of capital costs.

These provisions only limit increases that result from a change in ownership. Therefore, in determining whether a State plan methodology is consistent with the statutory requirements, only increases in capital cost payment that have resulted from a change in ownership are subject to this limit. Thus, a State is still required to provide the required revaluation of asset assurance, even though it may be using a fair rental value methodology.

Comment: One commenter recommended that the new provisions in § 447.253 be moved to another location in the regulations to avoid confusion.

Response: These new provisions require that an assurance be submitted by a State regarding the revaluation of assets. This requirement adds another assurance to the existing list of assurances that a State must submit to HCFA before a plan amendment can be approved. The existing assurances are specified in the regulations at § 447.253. Therefore, it is appropriate to incorporate the newest assurance in the same section.

Comment: One commenter wants the final rule to specify that Medicaid capital cost payment for providers that have changed ownership on or after October 1, 1985, is no longer subject to the Medicare upper payment limit rule under § 447.253(b)(2).

Response: Prior to October 1, 1984, the only upper payment limit on Medicaid payment to nursing homes was the Medicare upper payment limit, as specified at § 447.253(b)(2). This limit was not applied to any individual cost item but rather was applied in the aggregate to payments made to long-term care facilities. Section 2314 of Public Law 98–369 established an additional limit for increases in payments for capital costs that result from a revaluation of assets due to a change in ownership.

The intent of Congress in enacting this provision was not to liberalize payment for capital costs for Medicaid providers; rather, the intent was to add an additional limit on a specific cost item. The Conference Report that accompanied Public Law 98–369 (H.R. Rep. No. 861, 98th Cong., 2nd Sess. 1339 (1984)) explains that Congress wished to prohibit artificial increases in capital costs that are due solely to a change in ownership.

In section 1902(a)(13)(C) of the Act as enacted effective October 1, 1985 by section 9509 of Public Law 99–272, Congress intended to allow partial recognition of increases in the valuation of assets limited to one-half of the percentage increase in a specified inflation index. The legislative history of this provision does not support an interpretation that Congress intended to remove capital costs from all of the prior limits. Rather, it is our belief that the purpose of Congress in adding section 1902(a)(13)(C) of the Act was to replace the stringent Medicaid limit required by section 2314 of Public Law 98–369 with a provision that would allow for a limited upward revaluation of assets when there has been a change in ownership. Again, we believe it important to emphasize that the revaluation of asset assurance pertaining to changes of ownership is an additional requirement, separate and distinct from the Medicare upper payment limit requirement described in § 447.253(b)(2).

IV. Regulatory Impact Analysis

A. Executive Order 12291 and Regulatory Flexibility Act

Executive Order (E.O.) 12291 requires us to prepare and publish a regulatory impact analysis for any final rule that meets one of the E.O. criteria for a "major" rule"; that is, that will be likely to result in:

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers, individual industries, Federal, State or local Government agencies, or any geographic regions; or
- Significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States—based enterprises to compete in domestic or export markets.

In addition, we generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), unless the Secretary certifies that a final rule will not have a significant economic impact on a substantial number of small entities. This final rule will affect hospitals and skilled nursing facilities under the Medicare program and hospitals, nursing facilities, and intermediate care facilities for the mentally retarded under the Medicaid program. For purposes of the RFA, we consider all of these provisions to be small entities.

This final rule revises the Medicare and Medicaid regulations that are affected by section 2314 of Public Law 98–369, enacted on July 18, 1984, and sections 9110 and 9509 of Public Law 99–272, enacted on April 7, 1986. This rule describes new limitations on the valuation of assets acquired as the result of changes in ownership occurring on or after July 18, 1984.

The statutory changes were largely self-implementing and have already created significant savings for the Medicare and Medicaid programs, starting in 1984. These regulations will create little incremental effect. The only consequential new effect will arise from provisions concerning lease purchase agreements entered into after the regulations become effective. We do not believe that a substantial savings will result from this, or that many such transactions will be significantly affected. Therefore, we certify that this final rule will not have a significant effect on a substantial number of small entities. However, we have prepared the following analysis covering the impact of the above statutory provisions and the final rule, taken together.

In the period beginning September 1, 1989 and ending March 31, 1991, there have been the following changes of ownership of active providers by facility type:

TABLE I.—CHANGES OF OWNERSHIP OF ACTIVE PROVIDERS BY FACILITY TYPE

[September 1, 1989 to March 31, 1991]

	Total No. of facilities	No. of facilities with changes of ownership
SNFs		
Medicare	723	15
Medicare/ Medicaid	8,709	661
NFs (Medicaid only)	6,394	395
ICFs/MR (Medicaid only)	5,800	136
Hospitals (Medicare or Medicare/Medicaid	6,531	162

1. Background

Since the beginning of the Medicare and Medicaid programs, providers increasingly have been involved in mergers and acquisitions. These transactions have involved both chain organizations and single facilities. Under current payment rules, mergers and acquisitions most often result in increased levels of Medicare and Medicaid payments. This occurs because the acquiring entity usually pays more for the acquired assets than the amount at which they are carried on the records of the prior owner. This higher amount, then, becomes the basis upon which Medicare and Medicaid payments are determined. There has been a justified concern that the Medicare and Medicaid programs are paying more for the same assets, solely as a result of changes in ownership, with no concurrent increase in patient care. The changes in this final rule are intended to promote economy in these programs. We have also gathered information on several of the recent major multifacility acquisitions. We are examining this information to determine the potential consequences of these mergers and acquisitions on Medicare and Medicaid program costs.

Effective October 1, 1991, the Medicare payment methodology for impatient capital-related costs for hospitals paid under the prospective payment system has been revised (56 FR 43196). A prospective payment methodology has replaced the reasonable cost-based payment methodology for capital-related costs. However, SNFs are still paid for their patient-care-related capital costs on a reasonable cost basis; that is, for SNFs, Medicare generally pays the percentage of capital costs that reflect the ratio of Medicare utilization to total utilization.

Available data indicate a great variation among hospitals in terms of the ratio of capital costs to total operating costs. For about one quarter of the hospitals, capital costs are less than 4 percent of operating costs. Slightly over one half of the hospitals claim capital costs between 4 and 10 percent. The remaining number of hospitals have capital cost to operating cost ratios of between 10 and 20 percent.

Currently, under Medicaid, States have broad discretion in designing payment methods and standards for hospital, nursing facility, and ICF/MR services. States have used that discretion to implement a wide variety of payment methodologies and policies to account for providers' capital expenditures. Only a few States reference and adopt Medicare principles in accounting for capital costs for long-term care payment. Some States have established their own limits on payment of these costs. Due to this variation in State practices and the absence of data about Medicaid capital expenditures, we are not able to estimate current Federal or State Medicaid expenditures for capital expenses.

2. Effect on Providers

It is clear that Congress intends to limit upward revaluations of assets upon a change of ownership of a hospital, SNF, nursing facility or an ICF/MR. Thus, these entities are affected by these provisions in several ways.

Since the enactment of section 2314 of Public Law 98–369, we have not been made aware of any evidence that would suggest that these provisions would have a significant effect on provider decisions regarding mergers and acquisitions. Mergers and acquisitions evolve from a pro-merger environment that is caused by factors such as excess bed capacity, new technologies, and changes in social demographics (for example, changes in the composition of the service area's population that, in turn, would affect utilization and have an effect on revenues). Consequently, the hospital and long-term care facility industries have been restructuring themselves primarily to take advantage of the current pro-merger environment.

Economics is often the driving force in mergers and acquisitions. For many providers facing financial difficulties and looking for sources of funding for the needs of operations and capital formation, mergers and acquisitions offer an attractive alternative to prolonged financial difficulty. Thus, we believe that factors like tax incentives, increased buying power, and market entry initiatives for corporate expansion, which were not affected by section 2314 of Public Law 98–369 and will not be affected by this final rule, have and will continue to offset in good measure any disincentives that might be created with respect to decisions to merge or acquire. Therefore, on balance, we believe that neither section 2314 of Public Law 98–369 nor this final rule will inhibit current levels of merger or acquisition activities.

However, providers have been and will continue to be affected by the reduction of Medicare and Medicaid payment for capital expenses as a result of the enactment of section 2314 of Public Law 98–369. We are not able to estimate the effect this provision has had or will have on Medicare payments to providers because we do not have data that would indicate the number of transactions involving revaluations of assets that have been affected by section 2314 of Public Law 98–369, nor do we have data that estimate the number of future transactions that will be affected by the provisions of the legislation in this final rule. Absent this information, we could not predict the value of the transactions, with the result that information concerning the original cost of each acquisition to determine depreciation costs is not available. Therefore, a detailed analysis of the effect of this final rule on the Medicare and Medicaid program expenditures is not possible at this time. Nonetheless, despite this limitation, program experience allows us to analyze and rank the potential effects of several of the key provisions of this rule, as follows:

a. *Depreciation and interest expense.* These provisions have had and will continue to have the most significant effect on the Medicare and Medicaid programs. Our experience indicates that many provider acquisitions are for amounts as much as two to five times the cost to the previous owner, who may not have been the owner of record under the proposed historical cost definitions. Eliminating the upward revaluation of assets in these acquisitions maintains a level historical cost basis for purposes of computing depreciation and interest expense. This change, coupled with the exclusion of costs attributable to the negotiation or settlement of the purchase or sale of any capital asset for which any Medicare payment has previously been made, has resulted and will continue to result in significant savings.

b. *Sale and leaseback arrangements and lease purchase transactions.* We believe that these provisions rank second in terms of potential program savings and could affect many providers. The provisions effecting sale and leaseback arrangements will avoid possible provider circumvention of the revaluation of assets limit that restricts payment of patient-care-related capital costs. Beginning with the effective date of this final rule, October 23, 1992, we are limiting allowable costs under all sale and leaseback arrangements entered into by hospitals and SNFs to the amount the provider would have included in its allowable costs had the provider retained legal title to the facilities or equipment. Also, as a program initiative not related to section 2314 of Public Law 98–369, we are implementing new criteria for defining lease purchase agreements. In addition, we explain that the limitation on adjustments to depreciation for the purpose of determining any gain or loss upon the disposal of lease purchase assets includes any amount considered as depreciation for the purpose of computing the limitation on allowable rental costs. It is our belief that savings will increase under these provisions.

c. *Return on equity capital of proprietary SNFs.* Nonprofit providers and proprietary providers other than SNFs are not subject to the return on equity changes, and, therefore, will not be affected by them. However, with respect to proprietary SNFs, limiting the historical cost of assets by prohibiting upward revaluations of assets has reduced the basis of the assets used in the computation of the return on equity capital. Moreover, we are continuing our existing policy that any loan, or portion thereof, that is made to finance the excess of the total acquisition cost over the allowable acquisition cost of a facility, or of any tangible assets of a facility, would be excluded from the equity capital computation, because such excess is not considered related to patient care. Thus, we are not paying for the increased financial liability incurred by proprietary SNFs in their mergers and acquisitions of other facilities and assets.

3. Medicaid Provisions

We do not have a basis on which to estimate or rank the effect of the Medicaid provisions. Most States have initiated a variety of actions to control provider payment, including payment for capital costs. We believe there will be Federal and State savings resulting from these actions, but due to the variation in State practices, and because of the absence of good data about the effect of State payment policies, we cannot estimate the budgetary effect on the Medicaid program.

B. Rural Hospital Impact Statement

Section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a final rule may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612). For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital with fewer than 50 beds located outside of a Metropolitan Statistical Area.

We are not preparing a rural hospital impact statement since we have determined, and the Secretary certifies, that this final rule will not have a significant economic impact on the operations of a substantial number of small rural hospitals.

C. Summary

In summary, we expect that this final rule, by limiting upward revaluations of assets upon a change of ownership of a hospital, SNF, nursing facility, or ICF/MR, will promote economy in the Medicare and Medicaid programs. Many of these policies are already in effect; the regulations text is merely being conformed to them. We have noted our limitations in estimating the effect of this final rule, but we are certain that both Medicare and Medicaid program savings will result from the implementation of this final rule. Further, the effect on hospitals in the Medicare program would be limited because the new prospective payment system for capital related costs is in effect for cost reporting periods beginning on or after October 1, 1991.

V. Other Required Information

Paperwork Reduction Act

Regulations at § 447.253(a) refer to § 447.255, which contains information collection requirements that are subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). The information collection requirements concern the revaluation of assets assurance required by sections 1902(a)(13)(B) and (C) of the Act. The respondents who will provide the information include Medicaid State agencies. Public reporting burden for this collection of information is estimated to be no more than one hour per State plan amendment. Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the OMB official whose name appears in the "ADDRESS" section of this preamble.

List of Subjects

42 CFR Part 413

Health facilities, Kidney diseases, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 447

Accounting, Clinics, Contracts (Agreements), Copayments, Drugs, Grant-in-Aid Program—Health, Health facilities, Health professions, Hospitals, Medicaid, Nursing homes, Payments for services: General, Payments: Timely claims, Reimbursement, Rural areas.

42 CFR chapter IV is amended as set forth below:

PART 413—PRINCIPLES OF REASONABLE COST REIMBURSEMENT; PAYMENT FOR END-STAGE RENAL DISEASE SERVICES

A. The authority citation for part 413 continues to read as follows:

Authority: Sec. 1102, 1814(b), 1815, 1833 (a), (i) and (n), 1861(v), 1871, 1881, 1883, and 1886, of the Social Security Act (42 U.S.C. 1302, 1395f(b), 1395g, 1395l (a), (i), and (n), 1395x(v), 1395hh, 1395rr, 1395tt, and 1395ww); sec. 104(c) of Pub. L. 100–360 as amended by sec. 608(d)(3) of Pub. L. 100–485 (42 U.S.C. 1395ww (note)); and sec. 101(c) of Pub. L. 101–234 (42 U.S.C. 1395ww (note)).

B. Part 413, subpart G is amended as follows:

Subpart G—Capital-Related Costs

1. In § 413.130, paragraphs (b)(1) and (b)(2) are revised; paragraphs (b)(4), (b)(5), and (b)(6) are redesignated as paragraphs (b)(5), (b)(6), and (b)(7) respectively; new paragraph (b)(4) is added; newly redesignated paragraph (b)(5) is revised; newly redesignated paragraph (b)(6)(i) is amended by revising the cross reference "(b)(4)" to read "(b)(5)"; and new paragraphs (b)(8) and (b)(9) are added to read as follows:

§ 413.130 Introduction to capital-related costs.

* * * * *

(b) *Leases and rentals.*

(1) Subject to the qualifications of paragraphs (b) (2), (4), (5), and (8) of this section, leases and rentals, including licenses and royalty fees, are includable in capital-related costs if they relate to the use of assets that would be depreciable if the provider owned them outright or they relate to land, which is neither depreciable nor amortizable if

owned outright. The terms *"leases"* and *"rentals of assets"* signify that a provider has possession, use, and enjoyment of the assets.

(2) For sale and leaseback agreements for hospitals and SNFs entered into before October 23, 1992 and for sale and leaseback agreements for other providers entered into at any time, a provider may include incurred rental charges in its capital-related costs, as specified in a sale and leaseback agreement with a nonrelated purchaser (including shared service organizations not related within the meaning of § 413.17) involving plant facilities or equipment only if the following conditions are met:

(i) The rental charges are reasonable based on the following—

(A) Consideration of rental charges of comparable facilities and market conditions in the area;

(B) The type, expected life, condition, and value of the facilities or equipment rented; and

(C) Other provisions of the rental agreements.

(ii) Adequate alternative facilities or equipment that would serve the purpose are not or were not available at lower cost.

(iii) The leasing was based on economic and technical considerations.

* * * * *

(4) For sale and leaseback agreements for hospitals and SNFs entered into on or after October 23, 1992, the amount a provider may include in its capital-related costs as rental or lease expense may not exceed the amount that the provider would have included in capital-related costs had the provider retained legal title to the facilities or equipment, such as interest expense on mortgages, taxes, depreciation, and insurance costs (the costs of ownership). This limitation applies both on an annual basis and over the useful life of the asset.

(i) If in the early years of the lease, the annual rental or lease costs are less than the annual costs of ownership, but in the later years of the lease the annual rental or lease costs are more than the annual costs of ownership, in the years that the annual rental or lease costs are more than the annual costs of ownership, the provider may include in capital-related costs annually the actual amount of rental or lease costs. The aggregate rental or lease costs included in capital-related costs may not exceed the aggregate costs of ownership that would have been included in capital-related costs over the useful life of the asset had the provider retained legal title to the asset.

(ii) If in the early years of the lease, the annual rental or lease costs exceed the annual costs of ownership, but in the later years of the lease the annual rental or lease costs are less than the annual costs of ownership, the provider may carry forward amounts of rental or lease costs that were not included in capital-related costs in the early years of the lease due to the costs of ownership limitation, and include these amounts in capital-related costs in the years of the lease when the annual rental or lease costs are less than the annual costs of ownership.

(iii) In any given year the amount of actual annual rental or lease costs plus the amount carried forward to that year may not exceed the amount of the costs of ownership for that year.

(iv) In the aggregate, the amount of rental or lease costs included in capital-related costs may not exceed the amount of the costs of ownership that the provider could have included in capital-related costs had the provider retained legal title to the asset.

(5) For lease purchase transactions entered into before October 23, 1992, a lease that meets the following conditions establishes a virtual purchase:

(i) The rental charge exceeds rental charges of comparable facilities or equipment in the area.

(ii) The term of the lease is less than the useful life of the facilities or equipment.

(iii) The provider has the option to renew the lease at a significantly reduced rental, or the provider has the right to purchase the facilities or equipment at a price that appears to be significantly less than what the fair market value of the facilities or equipment would be at the time acquisition by the provider is permitted.

* * * * *

(8) For lease purchase transactions entered into on or after October 23, 1992, a lease that meets any one of the following conditions establishes a virtual purchase:

(i) The lease transfers title of the facilities or equipment to the lessee during the lease term.

(ii) The lease contains a bargain purchase option.

(iii) The lease term is at least 75 percent of the useful life of the facilities or equipment. This provision is not applicable if the lease begins in the last 25 percent of the useful life of the facilities or equipment.

(iv) The present value of the minimum lease payments (payments to be made during the lease term including bargain purchase option, guaranteed residual value, and penalties for failure to renew) equals at least 90 percent of the fair market value of the leased property. This provision is not applicable if the lease begins in the last 25 percent of the useful life of the facilities or equipment. Present value is computed using the lessee's incremental borrowing rate, unless the interest rate implicit in the lease is known and is less than the lessee's incremental borrowing rate, in which case the interest rate implicit in the lease is used.

(9)(i) If a lease establishes a virtual purchase under paragraph (b)(8) of this section, the rental charge is includable in capital-related costs to the extent that it does not exceed the amount that the provider would have included in capital-related costs if it had legal title to the asset (the cost of ownership). The cost of ownership includes straight-line depreciation, insurance, and interest. For purposes of computing the limitation on allowable rental cost in this paragraph, a provider may not include accelerated depreciation.

(ii) The difference between the amount of rent paid and the amount of rent allowed as capital-related costs is considered a deferred charge and is capitalized as part of the historical cost of the asset when the asset is purchased.

(iii) If an asset is returned to the owner instead of being purchased, the deferred charge may be included in capital-related costs in the year the asset is returned.

(iv) If the term of the lease is extended for an additional period of time at a reduced lease cost and the option to purchase still exists, the deferred charge may be included in capital-related costs to the extent of increasing the reduced rental to an amount not in excess of the cost of ownership.

(v) If the term of the lease is extended for an additional period of time at a reduced lease cost and the option to purchase no longer exists, the deferred charge may be included in capital-related costs to the extent of increasing the reduced rental to a fair rental value.

(vi) If the lessee becomes the owner of the leased asset (either by operation of the lease or by other means), the amount considered as depreciation, for the purpose of having computed the limitation on rental charges in paragraph (b)(9)(i) of this section, must be used in calculating the limitation on adjustments for the purpose of determining any gain or loss under § 413.134(f) upon disposal of an asset.

* * * * *

2. In § 413.134, the introductory text of paragraph (a) is republished; paragraph (a)(2), the heading of paragraph (b), and

paragraph (b)(1) are revised; new paragraphs (b)(8) and (b)(9) are added; paragraphs (f)(1), (f)(4) and (g)(2) are revised; paragraph (g)(3) is redesignated as (g)(4) and revised; a new paragraph (g)(3) is added; newly redesignated paragraph (g)(4) is revised; current paragraphs (h) through (k) are redesignated as paragraphs (i) through (l), respectively; a new paragraph (h) is added; and newly redesignated paragraph (j) is revised to read as follows:

§ 413.134 Depreciation: Allowance for depreciation based on asset costs.

(a) *Principle.* An appropriate allowance for depreciation on buildings and equipment used in the provision of patient care is an allowable cost. The depreciation must be—

* * * * *

(2) Based on the historical cost of the asset, except as specified in paragraph (j) of this section regarding donated assets; and

* * * * *

(b) *General rules.*—(1) Historical cost. Historical cost is the cost incurred by the present owner in acquiring the asset.

(i) *All providers.* For depreciable assets acquired after July 31, 1970, and for a hospital or a SNF, acquired before July 18, 1984, the historical cost may not exceed the lower of current reproduction cost adjusted for straight-line depreciation over the life of the asset to the time of the purchase or the fair market value of the asset at the time of its purchase.

(ii) *Hospitals and SNFs only.* (A) For assets acquired on or after July 18, 1984 and not subject to an enforceable agreement entered into before that date, historical cost may not exceed the lowest of the following:

(*1*) The allowable acquisition cost of the asset to the owner of record as of July 18, 1984 (or, in the case of an asset not in existence as of July 18, 1984, the first owner of record of the asset after that date);

(*2*) The acquisition cost of the asset to the new owner; or

(*3*) The fair market value of the asset on the date of acquisition.

(B) For purposes of applying paragraph (b)(1)(ii)(A) of this section, an asset not in existence as of July 18, 1984 includes any asset that physically existed, but was not owned by a hospital or SNF participating in the Medicare program as of July 18, 1984.

(C) The acquisition cost to the owner of record is subject to any limitation on historical costs described in paragraphs (b)(1)(i) or (g)(1) and (2) of this section, and is not reduced by any depreciation taken by the owner of record. This limitation on historical cost is also applied to the purchase of land, a capital asset that is neither depreciable nor amortizable under any circumstances. (See §§ 413.153(d) and 413.157(b) for application of the limitation to the cost of land for purposes of determining allowable interest expense and return on equity capital or proprietary providers.)

(D) Acquisition cost to the owner of record includes the costs of betterments or improvements that extend the estimated useful life of an asset at least two years beyond its original estimated useful life or increase the productivity of an asset significantly over its original productivity.

(E) For assets acquired prior to a hospital's or SNF's entrance into the Medicare program, the acquisition cost to the owner of record is the historical cost of the asset when acquired, rather than when the hospital or SNF entered the program.

(F) For assets subject to the optional depreciation allowance as described in § 413.139, the acquisition cost to the owner of record is the historical cost established for those assets when the hospital or SNF changed to actual depreciation as described in § 413.139(e). If the hospital or SNF did not change to actual depreciation, as described in § 413.139(e), for optional allowance assets, the acquisition cost to the owner of record is established by reference to the hospital's or SNF's recorded historical cost of the asset when acquired. If the hospital or SNF has no historical cost records for optional allowance assets, the acquisition cost to the owner of record is established by appraisal.

(G) The historical cost of an asset acquired on or after July 18, 1984 may not include costs attributable to the negotiation or settlement of the sale or purchase (by acquisition, merger, or consolidation) of any capital asset for which any payment was previously made under the Medicare program. The costs to be excluded include, but are not limited to, appraisal costs (except those incurred at the request of the intermediary under paragraph (f)(2)(iv) of this section), legal fees, accounting and administrative costs, travel costs, and the costs of feasibility studies.

(iii) *Hospital-based providers other than SNFs and SNF-based providers.* For changes of ownership that involve assets of a hospital-based provider other than a SNF, or assets of a SNF-based provider, the provisions of paragraph (b)(1)(ii) of this section are not applicable. A reasonable allocation of the purchase price must be made, so that the hospital-based provider other than a SNF, or a SNF-based provider, is not affected by the limitations described in paragraph (b)(1)(ii) of this section. The historical cost of assets of providers other than hospitals and SNFs is governed by paragraph (b)(1)(i) of this section.

* * * * *

(8) *Donated asset.* An asset is considered donated when the provider acquires the asset without making payment in the form of cash, new debt, assumed debt, property or services. Exempt as provided in paragraph (j)(3) of this section, if a provider makes payment in any form to acquire an asset, the payment is considered the purchase price for the purpose of determining allowable historical cost.

(9) *Net book value.* The net book value of an asset is the depreciable basis used for the Medicare program by the asset's last participating owner less depreciation recognized under the Medicare program.

* * * * *

(f) *Gains and losses on disposal of assets—(1) General.* Depreciable assets may be disposed of through sale, scrapping, trade-in, exchange, demolition, abandonment, condemnation, fire, theft, or other casualty. If disposal of a depreciable asset results in a gain or loss, an adjustment is necessary in the provider's allowable cost. The amount of a gain included in the determination of allowable cost is limited to the amount of depreciation previously included in Medicare allowable costs. The amount of a loss to be included is limited to the undepreciated basis of the asset permitted under the program. The treatment of the gain or loss depends upon the manner of disposition of the asset, as specified in paragraphs (f) (2) through (6) of this section. The gain or loss on the disposition of depreciable assets has no retroactive effect on a proprietary provider's equity capital for years prior to the year of disposition.

* * * * *

(4) *Exchange, trade-in or donation.* Gains or losses realized from the exchange, trade-in, or donation of depreciable assets are not included in the determination of allowable cost. When the disposition of an asset is by means of exchange, trade-in, or donation, the historical cost of the new asset is the sum of the undepreciated cost of the asset disposed of and the additional cash or other assets transferred (or to be transferred) to acquire the new asset. However, if the asset disposed of was acquired by the provider before its participation in the

Medicare program and the sum of the undepreciated cost and the cash or other assets transferred (or to be transferred) exceed the list price or fair market value of the new asset, the historical cost of the new asset is limited to the lower of its list price or fair market value.

* * * * *

(g) *Establishment of cost basis on purchase of facility as an ongoing operation.* * * *

(2) *Assets acquired after July 31, 1970 and, for hospitals and SNFs, before July 18, 1984.*

For depreciable assets acquired after July 31, 1970 and, for hospitals and SNFs, before July 18, 1984, in addition to the limitations specified in paragraph (g)(1) of this section, the cost basis of the depreciable assets may not exceed the current reproduction cost depreciated on a straight-line basis over the life of the asset to the time of the sale.

(3) *Assets acquired by hospitals and SNFs on or after July 18, 1984 and not subject to an enforceable agreement entered into before that date.*

Subject to paragraphs (b)(1)(ii) (B) through (G) and (b)(1)(iii) of this section, historical cost may not exceed the lowest of the following:

(i) The allowable acquisition cost of the asset to the owner of record as of July 18, 1984 (or, in the case of an asset not in existence as of July 18, 1984, the first owner of record of the asset);

(ii) The acquisition cost to the new owner; or

(iii) The fair market value of the asset on the date of acquisition.

(4) *Transactions other than bona fide.* If the purchaser cannot demonstrate that the sale was bona fide, in addition to the limitations specified in paragraph (g)(1), (2), and (3) of this section, the purchaser's cost basis may not exceed the seller's cost basis, less accumulated depreciation.

(h) *Sale and leaseback agreements and other lease transactions.* (1) For sale and leaseback agreements for all providers, and for sale and leaseback agreements for hospitals and SNFs entered into before October 23, 1992, a provider may include in its allowable costs incurred rental charges, as specified in a sale and leaseback agreement with a nonrelated purchaser involving plant facilities or equipment, only if—

(i) The rental charges are reasonable based on consideration of rental charges of comparable facilities and market conditions in the area; the type, expected life, condition, and value of the facilities or equipment rented; and other provisions of the rental agreement;

(ii) Adequate alternate facilities or equipment that would serve the purpose are not or were not available at lower cost; and

(iii) The leasing was based on economic and technical considerations.

(2) If the conditions of paragraph (h)(1) of this section are not met, the amount a provider may include in its allowable costs as rental or lease expense under a sale and leaseback agreement may not exceed the amount that the provider would have included in its allowable costs had the provider retained legal title to the facilities or equipment such as interest expense on mortgages, taxes, depreciation, and insurance costs.

(3) For hospitals and SNFs entering into sale and leaseback agreements on or after October 23, 1992, the amount a provider may include in its allowable costs as rental or lease expense may not exceed the amount that the provider would have included in its allowable costs had the provider retained legal title to the facilities or equipment for costs such as interest expense on mortgages, taxes, depreciation, and insurance costs (the costs of ownership). This limitation applies both on an annual basis and over the useful life of the asset.

(i) If in the early years of the lease, the annual rental or lease costs are less than the annually costs of ownership, but in the later years of the lease the annual rental or lease costs are more than the annual costs of ownership, in the years that the annual rental or lease costs are more than the costs of ownership the provider may include in allowable costs annually the actual amount of rental or lease costs. The aggregate rental or lease costs included in allowable costs may not exceed the aggregate costs of ownership that would have been included in allowable costs over the useful life of the asset had the provider retained legal title to the asset.

(ii) If in the early years of the lease, the annual rental or lease costs exceed the annual costs of ownership, but in the later years of the lease the annual rental or lease costs are less than the annual costs of ownership, the provider may carry forward amounts of rental or lease costs that were not included in allowable costs in the early years of the lease due to the costs of ownership limitation, and include these amounts in allowable costs in the years of the lease when the annual rental or lease costs are less than the annual costs of ownership. In any given year the amount of actual annual rental or lease costs plus the amount carried forward to that year may not exceed the amount of the costs of ownership for that year.

(iii) In the aggregate, the amount of rental or lease costs included in allowable costs may not exceed the amount of the costs of ownership that the provider could have included in allowable costs had the provider retained legal title to the asset.

(4) For lease transactions of all providers entered into before October 23, 1992, a lease that meets the following conditions establishes a virtual purchase:

(i) The rental charge exceeds rental charges of comparable facilities or equipment in the area.

(ii) The term of the lease is less than the useful life of the facilities or equipment.

(iii) The provider has the option to renew the lease at a significantly reduced rental, or the provider has the right to purchase the facilities or equipment at a price that appears to be significantly less than what the fair market value of the facilities or equipment would be at the time acquisition by the provider is permitted.

(5)(i) If a lease is a virtual purchase under paragraph (h)(4) of this section, the rental charge is includable in allowable costs only to the extent that it does not exceed the amount that the provider would have included in allowable costs if it had legal title to the asset (the cost of ownership), such as straight-line depreciation, insurance, and interest. For purposes of computing the limitation on allowable rental cost in this paragraph, a provider may not include accelerated depreciation.

(ii) The difference between the amount of rent paid and the amount of rent allowed as rental expense is considered a deferred charge and must be capitalized as part of the historical cost of the asset when the asset is purchased.

(iii) If an asset is returned to the owner instead of being purchased, the deferred charge may be expensed in the year the asset is returned.

(iv) If the term of the lease is extended for an additional period of time at a reduced lease cost and the option to purchase still exists, the deferred charge may be expensed to the extent of increasing the reduced rental to an amount not in excess of the cost of ownership.

(v) If the term of the lease is extended for an additional period of time at a reduced lease cost and the option to purchase no longer exists, the deferred charge may be expensed to the extent of increasing the reduced rental to a fair rental value.

(6) For lease transactions entered into on or after October 23, 1992, a lease that meets any one of the following

conditions establishes a virtual purchase:

(i) The lease transfers title of the facilities or equipment to the lessee during the lease term.

(ii) The lease contains a bargain purchase option.

(iii) The lease term is 75 percent or more of the useful life of the facilities or equipment. This provision is not applicable if the lease begins in the last 25 percent of the useful life of the facilities or equipment.

(iv) The present value of the minimum lease payments (that is, payments to be made during the lease term, including bargain purchase option, guaranteed residual value, or penalties for failure to renew) equals 90 percent or more of the fair market value of the leased property. This provision is not applicable if the lease begins in the last 25 percent of the useful life of the facilities or equipment. The present value is computed using the lessee's incremental borrowing rate, unless the interest rate implicit in the lease is known and is less than the lessee's incremental borrowing rate, in which case, the interest rate implicit in the lease is used.

(7)(i) If a lease is a virtual purchase under paragraph (h)(6) of this section, the rental charge is includable in allowable costs only to the extent that it does not exceed the amount that the provider would have included in allowable costs if it had legal title to the asset (the costs of ownership), such as straight-line depreciation, insurance, and interest. For purposes of computing the limitation on allowable rental cost as described in this paragraph, a provider may not include accelerated depreciation in its allowable costs.

(ii) The difference between the amount of rent paid and the amount of rent allowed as rental expense is considered a deferred charge and is capitalized as part of the historical cost of the asset when the asset is purchased.

(iii) If an asset is returned to the owner instead of being purchased, the deferred charge may be expensed in the year the asset is returned.

(iv) If the term of the lease is extended for an additional period of time at a reduced lease cost and the option to purchase still exists, the deferred charge may be expensed to the extent of increasing the reduced rental to an amount not in excess of the cost of ownership.

(v) If the term of the lease is extended for an additional period of time at a reduced lease cost and the option to purchase no longer exists, the deferred charge may be expensed to the extent of increasing the reduced rental to a fair rental value.

(vi) If the lessee becomes the owner of the leased asset (either by operation of the lease or by other means), the amount considered as depreciation, for the purpose of having computed the limitation expressed in paragraph (h)(7)(i) of this section, must be used in calculating the limitation on adjustments to depreciation for the purpose of determining any gain or loss upon disposal of an asset under paragraph (f) of this section.

* * * * *

(j) *Basis of assets donated to a provider*—(1) Assets not used or depreciated under the Medicare program. If an asset has never been used or depreciated under the Medicare program and is donated to a provider, the basis for the purpose of calculating depreciation and equity capital (if applicable) is the fair market value of the asset at the time of donation.

(2) *Assets used or depreciated under the Medicare program.* If an asset has been used or depreciated under the Medicare program and is donated to a provider, the basis for the purpose of calculating depreciation and equity capital (if applicable) is the lesser of—

(i) The fair market value at the time of donation; or

(ii) The net book value in the hands of the owner last participating in the Medicare program.

(3) *Transfers of State hospitals to nonprofit corporations without monetary consideration.* If a State transfers a hospital to a nonprofit corporation without monetary consideration on or after July 18, 1984, the depreciable basis of the assets to the new owner is the net book value of the assets as recorded on the State's books at the time of the transfer. For purposes of this section, monetary consideration includes cash, new debt, and assumed debt.

* * * * *

C. Part 447, subpart C is amended as set forth below:

PART 447—PAYMENTS FOR SERVICES

Subpart C—Payment for Inpatient Hospital and Long-Term Care Facility Services

1. The authority citation for part 447 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. In § 447.250, paragraph (c) and (d) are redesignated as paragraphs (d) and (e), respectively; and a new paragraph (c) is added to read as follows:

§ 447.250 Basis and purpose.

* * * * *

(c) Sections 447.253 (c) and (d) implement sections 1902(a)(13)(B) and 1902(a)(13)(C) of the Act, which require a State Medicaid agency to make certain assurances to the Secretary regarding increases in payments resulting solely from changes in ownerships of hospitals, NFs, and ICFs/MR.

* * * * *

3. In § 447.253, paragraph (a) is amended by changing "paragraphs (b) through (g)" to "paragraphs (b) through (i);" paragraphs (c) through (g) are redesignated as paragraphs (e) through (i), respectively; and new paragraphs (c) and (d) are added to read as follows:

* * * * *

(c) *Changes in ownership of hospitals.* In determining payment when there has been a sale or transfer of the assets of a hospital, the State's methods and standards must provide that payment rates can reasonably be expected not to increase in the aggregate solely as a result of changes of ownership, more than the payments would increase under Medicare under §§ 413.130, 413.134, 413.153, and 413.157 of this chapter, insofar as these sections affect payments for depreciation, interest on capital indebtedness, return on equity capital (if applicable), acquisition costs for which payments were previously made to prior owners, and the recapture of depreciation.

(d) *Changes in ownership of NFs and ICFs/MR.* In determining payment when there has been a sale or transfer of assets of an NF or ICF/MR, the State's methods and standards must provide the following depending upon the date of the transfer.

(1) For transfers on or after July 18, 1984 but before October 1, 1985, the State's methods and standards must provide that payment rates can reasonably be expected not to increase in the aggregate, solely as the result of a change in ownership, more than payments would increase under Medicare under §§ 413.130, 413.134, 413.153 and 413.157 of this chapter, insofar as these sections affect payment for depreciation, interest on capital indebtedness, return on equity capital (if applicable), acquisition costs for which payments were previously made to prior owners, and the recapture of depreciation.

(2) For transfers on or after October 1, 1985, the State's methods and standards must provide that the valuation of capital assets for purposes of determining payment rates for NFs and ICFs/MR is not to increase (as measured

from the date of acquisition by the seller to the date of the change of ownership) solely as a result of a change of ownership, by more than the lesser of—

(i) One-half of the percentage increase (as measured from the date of acquisition by the seller to the date of the change of ownership, or, if necessary, as extrapolated retrospectively by the Secretary) in the Dodge construction index applied in the aggregate with respect to those facilities that have undergone a change of ownership during the fiscal year; or

(ii) One-half of the percentage increase (as measured from the date of acquisition by the seller to the date of the change of ownership) in the Consumer Price Index for All Urban Consumers (CPI-U) (United States city average) applied in the aggregate with respect to those facilities that have undergone a change of ownership during the fiscal year.

* * * * *

(Catalog of Federal Domestic Assistance Programs No. 93.773, Medicare-Hospital Insurance Program and No. 93.778, Medical Assistance Program)

Dated: November 9, 1991.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

Approved: March 3, 1992.

Louis W. Sullivan,

Secretary.

[FR Doc. 92-22582 Filed 9-22-92; 8:45 am]

BILLING CODE 4120-01-M

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42 CFR Parts 431, 442, 447, 483, 488, 489, and 498

[BPD-396-F]

RIN 0938-AD 12

Medicare and Medicaid; Requirements for Long Term Care Facilities

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: In Federal Register document 91-22274, published on Thursday, September 26, 1991, beginning on page 48826, we amended Medicare and Medicaid rules applicable to requirements for long term care facilities. In addition to correcting typographical errors, we are making a limited number of technical corrections to our September 26, 1991 document to take into account changes made by other regulations, but not included in the document, or inconsistencies between preamble statements and the regulations text. All such technical corrections are explained in the preamble to this rule.

EFFECTIVE DATES: This final rule is effective on September 23, 1992.

FOR FURTHER INFORMATION CONTACT: Gwendolyn Lindsay, (410) 966-4673.

SUPPLEMENTARY INFORMATION: On September 26, 1991, in the **Federal Register** document 91-22274, we published a final rule, Requirements for Long Term Care Facilities, that included revisions to 42 CFR parts 442, 447, 483, 488, 489, and 498. The document contained a number of typographical errors and inadvertent omissions. This final rule corrects those obvious errors.

We are deleting § 431.610(g)(1)(ii) from the Medicaid regulations as a conforming technical correction, since the corresponding § 488.11(d) was removed from the Medicaid regulations by the final rule (56 FR 48879). The long term care facility staffing information required by this regulation is no longer required of the facility. States must still submit some full-time equivalent staffing information as part of their submission of HCFA Form 671, which in turn is reviewed by the survey team and input into the Health Care Financing Administration Online Survey Certification and Reporting System.

In preparing the final rule, we failed to take into account changes made to part 442, Standards for Payment for Skilled Nursing and Intermediate Care Facility Services, by a final rule entitled, Correction and Reduction Plans for Intermediate Care Facilities for the Mentally Retarded, published on July 5, 1991 (56 FR 30696). As a result, we inadvertently included obsolete regulatory text in §§ 442.105(e) and 442.110(a) and we are deleting that material.

In our review of the correctness of part 442, we determined that an error had occurred in a final rule with comment, Requirements for Long Term Care Facilities (54 FR 5316), that we published on February 2, 1989. In that rule, we deleted § 442.251 which had required that intermediate care facilities (ICFs) meet requirements for State licensure, because the requirements for ICFs had been subsumed by the new requirements for nursing facilities (NFs). However, we failed to note that the deleted requirement not only applied to ICFs but to ICFs for the mentally retarded (ICFs/MR) as well. As a result of this deletion, there is no regulation requiring ICFs/MR to be licensed. Because this subject is now included in part 483, Requirements for States and Long Term Care Facilities, we are adding a new § 483.410(e) to restore this requirement.

We are making a technical correction to § 483.10, Resident Rights. In paragraph (b)(2)(i), which concerns notice of rights and services, we reflect a statutory clarification (enacted in sections 4008(h)(2)(H) and 4801(e)(9) of the Omnibus Budget Reconciliation Act of 1990) that was inadvertently omitted from the regulations. The correction clarifies that the resident's right of access to clinical records within 24 hours of request refers to all current records pertaining to the resident, and excludes weekends and holidays in determining the 24-hour period. In addition, we are correcting § 483.10(c)(4)(ii) by adding the word "and" before the phrase "on request" to comply with the change explained in the preamble on 56 FR 48838. That is, in addition to providing information concerning a resident's personal funds on request to the resident and his or her legal representative, a nursing facility must also provide this information on a quarterly basis. We are also making a technical correction to § 483.10(g)(1), regarding examination of survey results, to include a clarification discussed in the preamble to the interim final rule published on February 2, 1989 (54 FR 5348). We clarify that, while a facility must make survey results available in a readable form for examination in a place readily accessible to residents, the facility need only "post" (i.e., affix to a wall) a notice of the availability of the survey results, rather than the entire set of documents comprising the results themselves.

We are making a technical correction to § 483.20(d)(1), by revising unclear language in the second sentence. This language was intended to explain the relationship of the plan of care to the requirement contained in the introductory statement to § 483.25. The latter provision reflects provisions in sections 1819(b)(2) and 1919(b)(2) of the Act, which require a facility to provide the services and activities to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, in accordance with a written plan of care. In attempting to meet this broad mandate, a facility may sometimes encounter conflicts between its overall responsibility to provide services and the resident's exercise of specific rights under § 483.10. For example, a resident, in exercising the right to refuse treatment (§ 483.10(b)(4)), may decline a particular service for which the facility would normally be responsible under § 483.25. However, we note that § 483.25 mandates the facility to provide services only to the extent that such action is in accordance with the resident's plan of care. Further, § 483.20(d)(2)(ii) provides

that, to the extent practicable, each resident participates in preparing his or her own plan of care. Thus, while a facility cannot induce residents to refuse needed care, routine resident participation in developing and updating the care plan can enable the facility to ascertain any preferences residents themselves may have regarding services they do not wish to receive. When a resident refuses necessary services, and that refusal is documented in the plan of care, the facility is not obligated under the regulations (§ 483.25) to provide those services. In situations where a resident refuses a service, the facility must continue to meet the requirements of § 483.25 with respect to other services. We also suggest that in such situations, the facility assess the reasons for the resident's refusal, educate the resident as to the consequences of his or her refusal, and offer alternative treatment to alleviate those consequences.

We are making a technical correction to § 483.70, Physical Environment. In paragraph (a)(2), which concerns life safety from fire, we delete the phrase ", or in the case of a nursing facility (including a dually participating facility), the State survey agency", in order to make this provision consistent with section 1919(d)(2)(B) of the Act, which provides that only the Secretary can grant Life Safety code waivers. We are also making a technical correction to paragraph (d), Resident Rooms. In paragraph (d)(1)(v) we correct the certification date to March 31, 1992. As discussed in the preamble to the final rule (56 FR 48861), we are making this change to carry out our intention that this provision apply to facilities certified when these regulations are effective, i.e., on April 1, 1992.

We are making a technical correction to § 483.75, Administration. In paragraph (o), which concerns quality assessment and assurance, we add a new paragraph (o)(4) to specify that good faith attempts by the committee to identify and correct quality deficiencies will not be used as a basis for sanctions. In the preamble to the final rule (56 FR 48862), we stated that we were adding this language, but inadvertently omitted it from the regulations.

We are making a number of technical corrections in part 498, Appeals Procedures for Determinations that Affect Participation in the Medicare Program. We make a technical correction to substitute "ICF/MR" for "SNF" (Skilled Nursing Facility) and "ICF" (Intermediate Care Facility) in §§ 498.3(b) (Scope and Applicability, Initial Determinations by HCFA) and 498.5(j) (Appeal Rights for Medicaid SNFs and ICFs terminated by HCFA) to reflect the nomenclature required by the Omnibus Budget Reconciliation Act of 1987 (OBRA 87). We are also updating the statutory citation found in § 498.3(b)(8). Former section 1910(c) of the Act was redesignated as section 1910(b) by section 4212(e)(3)(C) of OBRA 87, but this change was inadvertently omitted from the regulations.

Waiver of Notice of Proposed Rulemaking and Delay of Effective Date

We ordinarily publish a general notice of proposed rulemaking in the **Federal Register** and invite prior public comment on a proposed rule. Final rules generally have a 30 day or longer prospective effective date. However, this final rule only makes typographical and a limited number of technical corrections to final rules published on September 26, 1991 (56 FR 48826), July 5, 1991 (56 FR 30696) and a final rule with comment published on February 2, 1989 (54 FR 5316). It would be impracticable, unnecessary and contrary to the public interest to publish a proposed rule and solicit comments since this rule is designed to conform the regulations to statutory provisions and other regulations already in effect. Similarly, it would serve no useful purpose to delay the effective date of corrections, since the rules they correct are already in effect. We, therefore, find good cause to waive notice of proposed rulemaking and our usual delay in the effective date.

List of Subjects

42 CFR Part 431

Grant programs-health, Health facilities, Medicaid, Privacy, Reporting and recordkeeping requirements.

42 CFR Part 442

Grant programs-health, Health facilities, Health professions, Medicaid, Nursing homes, Reporting and recordkeeping requirements.

42 CFR Part 447

Accounting, Administrative practice and procedure, Drugs, Grant programs-health, Health facilities, Health professions, Medicaid, Reporting and recordkeeping requirements, Rural areas.

42 CFR Part 483

Grant programs-health, Health facilities, Health professions, Health records, Medicaid, Medicare, Nursing homes, Nutrition, Reporting and recordkeeping requirements, Safety.

42 CFR Part 488

Health facilities, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 489

Health facilities, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 498

Administrative practice and procedure, Health facilities, Health professions, Medicare, Reporting and recordkeeping requirements.

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR chapter IV is amended as follows:

A. Part 431 is amended as follows:

PART 431—STATE ORGANIZATION AND GENERAL ADMINISTRATION

1. The authority citation for part 431 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act, (42 U.S.C. 1302).

2. In subpart M, § 431.610(g), the introductory text is republished and paragraph (g)(1) is revised to read as follows:

Subpart M—Relations With Other Agencies

§ 431.610 Relations with standard-setting and survey agencies.

* * * * *

(g) *Responsibilities of survey agency.* The plan must provide that, in certifying skilled nursing and intermediate care facilities, the survey agency designated under paragraph (e) of this section will—(1) Review and evaluate medical and independent professional review team reports obtained under part 456 of this subchapter as they relate to health and safety requirements;

* * * * *

B. Part 442 is amended as follows:

PART 442—CONDITIONS FOR PAYMENT FOR NURSING FACILITY SERVICES AND FOR INTERMEDIATE CARE FACILITY SERVICES FOR THE MENTALLY RETARDED

1. The authority citation for part 442 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302), unless otherwise noted.

2. In part 442, we are making the following amendments:

(a) In § 442.1(a), the entries for sections 1905 (c) and (d) and 1913 are revised and a separate entry for section 1905(d) is added to read as follows:

§ 442.1 Basis and purpose.

* * * * *

Section 1905(c), definition of nursing facility; Section 1905(d), definition of intermediate care facility for the mentally retarded;

* * * * *

Section 1913, hospital providers of nursing facility services; and

* * * * *

(b) Section 442.13(c)(2) is revised to read as follows:

§ 442.13 Effective date of agreement.

* * * * *

(c) * * *

(2) The date on which a NF is found to meet the applicable requirements or an ICF/MR is found to meet all conditions of participation, and the facility submits an acceptable correction plan for lower level deficiencies, or an approvable waiver request, or both.

§ 442.40 [Amended]

(c) In § 442.40, paragraph (b)(1), "not been" is substituted for "not be".

§ 442.101 [Amended]

(d) In § 442.101, paragraph (c), "ICFs/MR.". is substituted for "ICF/MR.".

§ 442.105 [Amended]

(e) In § 442.105, paragraph (e) is removed.

§ 442.110 [Amended]

(f) In § 442.110, paragraph (a), the second sentence is removed.

C. Part 447 is amended as follows:

PART 447—PAYMENTS FOR SERVICES

1. The authority citation for part 447 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. In Part 447 we are making the following revisions:

§ 447.255 [Amended]

(a) In § 447.255, paragraph (a), the phrase "rate for each type of provider" is submitted for "rate for each type of provider".

§ 447.272 [Amended]

(b) In § 447.272, paragraph (a), "(ICFs/MR))" is substituted for "(ICFs/MR)".

SUBCHAPTER E—STANDARDS AND CERTIFICATION

D. Part 483 is amended as follows:

PART 483—REQUIREMENTS FOR STATES AND LONG TERM CARE FACILITIES

1. The authority citation for part 483 is revised to read as follows:

Authority: Sec. 1102, 1819(a)–(f), 1861(j) and (1), 1863, 1871, 1902(a)(28), 1905(a), (c) and (d), and 1919(a)–(f) of the Social Security Act (42 U.S.C. 1302, 1395(i)(3)(a)–(f), 1395x (j) and (l) 1395hh, 1395z, 1396(a)(a)(28), and 1396d (c) and (d), and 1396r(a)–(f), unless otherwise noted.

§ 483.1 [Amended]

2. In § 483.1, paragraph (a)(1), the phrase "Sections 1819 (a), (b), (c), and (d) of the Act" is substituted for "Sections of the Act 1819(a), (b), (c), and (d)".

§ 483.5 [Amended]

3. In § 483.5, the phrase "sections 1819 or 1919" is substituted for "sections 1819 and 1919"; the phrase "or § 440.150" is removed and "§ 440.150" is substituted for "§ 440.150(c)".

§ 483.10 [Amended]

4. Section 483.10 is amended as follows:

(a) In paragraph (b)(2)(i), the phrase "including current clinical records within 24 hours (excluding weekends and holidays); and" is substituted for "including clinical records within 24 hours; and".

(b) In paragraph (c)(4)(ii), the word "and" is added before the phrase "on request" so that this paragraph reads as follows: "The individual financial record must be available through quarterly statements and on request to the resident or his or her legal representative."

(c) In paragraph (g)(1), the phrase "The facility must make the results available for examination in a place readily accessible to residents, and must post a notice of their availability; and" is substituted for the phrase "The results must be made available for examination by the facility in a place readily accessible to residents; and".

(d) In paragraph (g)(2), "contract" should read "contact".

(e) In paragraph (j)(1)(iv), "State" should read "State".

(f) In paragraph (j)(2), "anytime." should read "any time.".

(g) In paragraph (m), "arrangement" should read "arrangement.".

(h) In paragraph (o)(1), "facility" should be changed to "institution" every place it appears.

(i) In paragraph (o)(1)(ii), "If a resident" should read "A resident".

(j) In paragraph (o)(2), "Medicaid benefits" should read "Medicare or Medicaid benefits".

§ 483.12 [Amended]

5. Section 483.12 is amended as follows:

(a) In paragraph (a)(5)(D), "(a)(2)(ii)" should read "(a)(2)(i)".

(b) In paragraph (a)(6), "For nursing facilities, the written notice" should read "The written notice".

(c) In paragraph (d)(1)(ii), "Medicare benefits" should read "Medicare or Medicaid benefits".

§ 483.13 [Amended]

6. Section 483.13 is amended as follows:

(a) In paragraph (c)(1)(ii)(A), "mistreating individuals" should read "mistreating residents".

(b) In paragraph (c)(1)(iii), "other NF staff" should read "other facility staff".

§ 483.15 [Amended]

7. Section 483.15 is amended as follows:

(a) In paragraph (a), "individuality" should read "individuality.".

(b) In paragraph (f)(2)(i), "who is—" should read "who—".

(c) In paragraph (f)(2)(i)(A), "Licensed" should read "Is licensed".

(d) In paragraph (f)(2)(i)(B), "Eligible" should read "Is eligible".

(e) In paragraph (f)(2)(i)(B), "on Ocotber 1, 1990" should read "on or after October 1, 1990".

§ 483.20 [Amended]

8. Section 483.20 is amended by:

(a) Substituting in paragraph (e) the phrase "anticipates discharge," for "anticipates discharges".

(b) Substituting in paragraph (f)(1)(i)(B), the phrase "whether the individual requires specialized services; or" for "whether specialized services the individual requires active treatment for mental illness; or".

(c) Substituting in paragraph (f)(1)(ii)(B), "specialized services" for "active treatment".

(d) Revising paragraph (d)(1) to read as follows:

§ 483.20 Resident assessment.

* * * * *

(d) *Comprehensive care plans.* (1) The facility must develop a comprehensive care plan for each resident that includes measurable objectives and timetables to meet a resident's medical, nursing, and mental and psychosocial needs that are identified in the comprehensive assessment. The care plan must describer the following—

(i) The services that are to be furnished to attain or maintain the resident's highest practicable physical, mental, and psychosocial well-being as required under § 483.25; and

(ii) Any services that would otherwise be required under § 483.25 but are not provided due to the resident's exercise of rights under § 483.10, including the

right to refuse treatment under § 483.10(b)(4).

* * * * *

§ 483.25 [Amended]

9. Section 483.25 is amended as follows:

(a) In paragraph (g)(2), "feeding function." should read "eating skills.".

(b) In paragraph (1), "*Unnecessary drug.*" should read "*Unnecessary drugs.*".

§ 483.30 [Amended]

10. In § 483.30. paragraph (d)(1)(iv), "Americans" is substituted for "American".

§ 483.45 [Amended]

11. Section 483.45 is amended as follows:

(a) In paragraph (a), "and health rehabilitative services" should read "and mental health rehabilitative services".

(b) In paragraph (a)(2), "§ 483.75(j) of this part)" should read "§ 483.75(h) of this part)".

§ 483.60 [Amended]

12. In § 483.60, paragraph (d), "and include" is substituted for "and including".

§ 483.65 [Amended]

13. In § 483.65, paragraph (c), "infection." is substituted for "infection".

§ 483.70 [Amended]

14. Section 483.70 is amended as follows:

(a) In paragraph (a)(1)(ii), "wavers" should read "waivers".

(b) In paragraph (a)(2), after "HCFA" remove ", or in the case of a nursing facility (including a dually participating facility), the State survey agency". As corrected, § 483.70(a)(2) reads as follows: "After consideration of State survey agency findings, HCFA may waive specific provisions of the Life Safety Code which, if rigidly applied would result in unreasonable hardship upon the facility, but only if the waiver does not adversely affect the health and safety of residents or personnel."

(c) In paragraph (d)(1)(v), "March 31, 1992" is substituted for "September 30, 1990".

§ 483.75 [Amended]

15. Section 483.75 is amended as follows:

(a) In paragraph (j)(2)(i), "attending physicians;" should read "attending physician;".

(b) In paragraph (j)(2)(iii), "needs assistance." should read "needs assistance; and".

(c) In § 483.75, a new paragraph (o)(4) is added to read as follows:

§ 483.75 Administration.

* * * * *

(o) * * *

(4) Good faith attempts by the committee to identify and correct quality deficiencies will not be used as a basis for sanctions.

* * * * *

16. In § 483.410, a new paragraph (e) is added to read as follows:

§ 483.410 Condition of participation: Governing body and management.

* * * * *

(e) *Standard: Licensure.* The facility must be licensed under applicable State and local law.

E. Part 488 is amended as follows:

PART 488—SURVEY AND CERTIFICATION PROCEDURES

1. The authority citation for part 488 is revised to read follows:

Authority: Secs. 1102, 1814, 1861, 1865, 1866, 1871, 1880, 1881, 1883, and 1913 of the Social Security Act (42 U.S.C. 1302, 1395f, 1395x, 1395bb, 1395cc, 1395hh, 1395qq, 1395rr, 1395tt, and 1396l).

§ 488.56 [Amended]

2. Section 488.56 is amended as follows:

(a) In paragraph (a) introductory text, the reference "483.20" should read "483.30".

(b) In paragraphs (b) introductory text and (b)(2) the reference "§ 488.75(k)" should read "§ 483.75(i)".

F. Part 498 is amended as follows:

PART 498—APPEALS PROCEDURES FOR DETERMINATIONS THAT AFFECT PARTICIPATION IN THE MEDICARE PROGRAM

1. The authority citation for part 498 continues to read as follows.

Authority: Secs. 205(a), 1102, 1869(c), 1871, and 1872 of the Social Security Act (42 U.S.C. 405(a), 1302, 1395ff(c), 1395hh, and 1395ii), unless otherwise noted.

2. The part heading is revised to read as follows:

PART 498—APPEALS PROCEDURES FOR DETERMINATIONS THAT AFFECT PARTICIPATION IN THE MEDICARE PROGRAM

§ 498.3 [Amended]

3. In § 498.3, paragraph (b)(8), "ICF/MR" is substituted for "SNF or ICF" and "1910(c)" should read "1910(b)".

§ 498.5 [Amended]

4. In § 498.5, paragraph (j), "ICF/MR" is substituted for the phrase "SNF or ICF" every place it appears.

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare Hospital Insurance, No. 93.778, Medical Assistance Program)

Dated: May 12, 1992.

William Toby,

Acting Deputy Administrator, Health Care Financing Administration.

Approved: June 5, 1992.

Louis W. Sullivan,

Secretary.

[FR Doc. 92–22313 Filed 9–22–92; 8:45 am]

BILLING CODE 4120–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1321

[Ex Parte No. MC–208]

Nonoperating Motor Carriers—Collection of Undercharges

AGENCY: Interstate Commerce Commission.

ACTION: Final rules; delay of effective date.

SUMMARY: To facilitate consideration of various petitions for administrative stay pending judicial review, the Commission on September 18, 1992, extended the date at which the regulations promulgated in this proceeding will become effective until October 8, 1992. The rules were previously to become effective on September 23, 1992. The final rules were published on September 8, 1992 at 57 FR 40857.

EFFECTIVE DATE: The final rules are effective on October 8, 1992.

FOR FURTHER INFORMATION CONTACT: Richard Felder, (202) 927–5610, (TDD for hearing impaired: (202) 927–5721).

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423 or call (202) 289–4357.

Authority: 49 U.S.C. 10322(g).

Decided: September 18, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and Emmett.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92–23084 Filed 9–22–92; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 672 and 675

[Docket No. 920531-2221]

RIN 0648-AD76

Groundfish of the Gulf of Alaska, and Groundfish Fishery of the Bering Sea and Aleutian Islands Area

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

ACTION: Final rule.

SUMMARY: NMFS issues final regulations to implement Amendment 19 to the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (BSAI) and Amendment 24 to the FMP for Groundfish of the Gulf of Alaska (GOA). These regulations implement FMP amendments which establish 1992 Pacific halibut bycatch limits for trawl and non-trawl gear in the BSAI and authorize regulatory amendments that would provide for inseason time/area closures to further reduce prohibited species bycatch rates. In addition, existing regulations are amended to revise the management and monitoring of prohibited species bycatch amounts and the vessel incentive program to reduce prohibited species bycatch rates. These actions are intended to promote management and conservation of groundfish and other fish resources and to further the goals and objectives contained in the FMPs that govern these fisheries.

EFFECTIVE DATES: Effective September 30, 1992, except for changes to regulations at §§ 672.26 and 675.26, which will become effective at 12 noon, Alaska local time, January 20, 1993. Regulations at § 675.21(a)(5) are suspended effective September 30, 1992. This suspension will terminate December 31, 1992.

ADDRESSES: Copies of the environmental assessment/regulatory impact review/final regulatory flexibility analysis (EA/RIR/FRFA) may be obtained from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510 (telephone 907-271-2809).

FOR FURTHER INFORMATION CONTACT: Susan J. Salveson, Fisheries Management Division, Alaska Region, NMFS, 907-586-7230.

SUPPLEMENTARY INFORMATION:

Background

The domestic and foreign groundfish fisheries in the exclusive economic zone (EEZ) off Alaska are managed by the Secretary of Commerce (Secretary) in accordance with the BSAI and GOA FMPs prepared by the North Pacific Fishery Management Council (Council) under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The FMPs are implemented by regulations for the foreign fishery at 50 CFR part 611 and for the U.S. fishery at 50 CFR parts 672 and 675. General regulations that also pertain to U.S. fisheries are implemented at 50 CFR part 620.

During its December 3–9, 1991, meeting, the Council adopted Amendments 19/24 for review by the Secretary under section 304(b) of the Magnuson Act. Section 304(b) requires the Secretary or her designee to approve, disapprove, or partially disapprove FMPs or FMP amendments any time after the 60th day from receipt and before the close of the 95th day following receipt. During its December 1991 meeting, the Council also adopted for Secretarial review regulatory amendments that would revise the management and monitoring of prohibited species bycatch and the vessel incentive program to reduce prohibited species bycatch rates. A notice of availability of Amendments 19/24 was published in the **Federal Register** (57 FR 17879, April 28, 1992). It invited review of, and comment on, the amendments until June 22, 1992. A notice of proposed rulemaking was published in the **Federal Register** on May 29, 1992 (57 FR 22695). It invited comments on the proposed rule implementing Amendments 19 and 24 and associated regulatory amendments. The comment period ended July 13, 1992. Twenty-one letters of comments were received. They are summarized and responded to below in the "Response to comments" section.

The final rule implementing Amendments 19 and 24 will:

(1) For 1992, reduce the Pacific halibut prohibited species catch (PSC) limit established for BSAI trawl gear from 5,333 metric tons (mt) to 5,033 mt, but retain the primary halibut PSC limit at 4,400 mt;

(2) For 1992, establish a 750 mt Pacific halibut bycatch mortality limit for BSAI fixed gear; and

(3) Establish FMP authority to develop and implement regulatory amendments that provide for time/area closures to reduce prohibited species bycatch rates.

In addition to the above FMP amendments, the following amendments to current regulations are implemented:

(1) Revise BSAI fishery definitions for purposes of monitoring fishery specific bycatch allowances and assigning vessels to fisheries for purposes of the vessel incentive program;

(2) Revise the definition and accountability of BSAI trawl fishery categories that are eligible to receive prohibited species bycatch allowances;

(3) Expand the vessel incentive program to address halibut bycatch rates in all trawl fisheries;

(4) Delay the season opening date of the BSAI and GOA groundfish trawl fisheries to January 20 of each fishing year to reduce chinook salmon and halibut bycatch rates;

(5) Further delay the season opening date of the GOA trawl rockfish fishery to the beginning of the weekly reporting period closest to July 1 to reduce halibut and chinook salmon bycatch rates; and

(6) Change directed fishing standards to further limit halibut bycatch associated with bottom trawl fisheries.

A full description of these measures and their justification is presented in the May 29, 1992, notice of proposed rulemaking (57 FR 22695). The prohibited species bycatch allowances implemented for the 1992 BSAI trawl fisheries under this action are listed in Table 1. Table 1 includes the adjustment to the 1992 Pacific herring bycatch limit and associated fishery apportionments that were implemented on August 3, 1992 (57 FR 35489, August 10, 1992). The 1992 seasonal apportionments of the 5,033 mt halibut bycatch limit established for the BSAI trawl fisheries are listed in Table 2.

For purposes of monitoring the 750 mt halibut PSC limit for non-trawl gear, the Director, Alaska Region, NMFS (Regional Director), will use observed halibut bycatch rates and reported groundfish catch to project when the 750 mt mortality limit is reached. For purposes of this rule, non-trawl gear means hook-and-line, jig, and groundfish pot gear. Based on information contained in the final 1992 Stock Assessment and Fishery Evaluation (SAFE) report, dated November 1991, the assumed mortality rate of Pacific halibut that are caught as bycatch in the hook-and-line and jig gear fisheries is 16 percent. The assumed mortality rate of halibut incidentally taken in the groundfish pot gear fisheries is 10 percent. Staff of the International Pacific Halibut Commission (IPHC) have recently asserted that the assumed halibut mortality rate in the hook-and-line fisheries may be further reduced by

50 percent if halibut are not brought on board a vessel to remove the hook but are released by cutting the gangion line. Therefore, the Regional Director will assume an 8 percent mortality rate for those halibut that are observed by NMFS certified observers to be released using this method. Based on these mortality rates, the 750 mt halibut mortality limit established by Amendment 19 has been reached.

The Council recommended that the 5,033 mt halibut PSC limit for trawl gear and several of the regulatory measures listed above be implemented under emergency interim rulemaking during the period the Secretary was reviewing Amendments 19/24 and associated regulatory amendments. The first emergency rule was implemented on March 30, 1992 (57 FR 11433, April 3, 1992), and was extended for an additional period of 90 days (57 FR 29223, July 1, 1992). A correction to the emergency rule was published on April 22, 1992 (57 FR 14667). A technical amendment to the emergency rule was published May 20, 1992 (57 FR 21355). A second emergency rule was implemented May 21, 1992 (57 FR 22182, May 27, 1992) to respond to unexpectedly high bycatch amounts in the BSAI pollock fishery and to maintain halibut bycatch amounts within the halibut bycatch limit established for the 1992 trawl fisheries.

The Secretary has reviewed each of the measures under Amendments 19 and 24 and associated regulatory amendments and the reasons for them. She has determined that each measure is necessary for conservation and management of the groundfish fisheries off Alaska and has approved them.

The effective date of the amendments to regulations that implement the vessel incentive program (§§ 672.26 and 675.26) is delayed until January 20, 1993, when the 1993 trawl season opens under §§ 672.23 and 675.23. The Secretary has delayed the effective date of the revised incentive program until such time that standard product recovery rates (PRRs) are published in the Federal Register. For the purposes of the vessel incentive program, standard PRRs must be promulgated by regulations to support amended fishery definitions that was based on retained catch composition rather than observed total catch composition. Standard PRRs will be used to estimate catch weights of retained species. Based on this information, vessels will be assigned to vessel incentive program fisheries under the revised fishery definitions at §§ 672.26(b) and 675.26(b) to facilitate the enforcement of the incentive program and the prosecution of violation. At this time, NMFS anticipates that a final rule implementing standard PRRs will be effective by the start of the 1993 trawl season on January 20, 1993. Until then, the current vessel incentive program will remain in place.

Numerous trawl fishery closures have been implemented under the March 30, 1992, emergency rule (57 FR 11433, April 3, 1992), as corrected and amended (57 FR 14667, April 22, 1992 and 57 FR 21355, May 20, 1992). These closures became effective upon the attainment of fishery prohibited species bycatch allowances specified under the emergency rule and will remain in effect under the same bycatch allowances specified under the final rule. Federal Register citations for each of the closures implemented under the emergency rule are as follows: 57 FR 18093, April 29, 1992; 57 FR 20207, May 12, 1992; 57 FR 20655, May 14, 1992; 57 FR 23347, June 3, 1992; 57 FR 24559, June 10, 1992; 57 FR 29656, July 6, 1992; 57 FR 29806, July 7, 1992; 57 FR 31129, July 14, 1992; 57 FR 35489, August 10, 1992).

When effective, the final rule implementing Amendments 19/24 and associated regulatory amendments will supersede the March 30, 1992, emergency rule, which is effective through September 30, 1992.

Changes in the Final Rule From the Proposed Rule

This final rule includes changes from the proposed rule. These changes are described as follows:

1. In § 672.20(f), references to joint venture processing (JVP) apportionments of halibut bycatch limits are no longer applicable to the groundfish fishery and are deleted. Also, the term "seasonal allocation" of halibut bycatch allowances is changed to "seasonal apportionment" for regulatory consistency of terms. Technical amendments to implement these editorial changes are found at § 672.20 (f)(1)(i), (f)(1) (iii) through (v), (f)(2)(ii), (f)(2)(iii), and (f)(2)(v).

2. The directed fishing standard for GOA rockfish at § 672.20(g)(2) is changed to expand its application to all gear types and to clarify that this standard excludes demersal shelf rockfish species that are addressed under existing directed fishing standards at § 672.20(g)(1)(ii) and (g)(2)(ii).

3. Editorial changes are made to directed fishing standards at §§ 672.20(g)(3) and 675.20(h)(1) to clarify that these standards apply to groundfish species caught with pelagic trawl gear rather than to vessels using pelagic trawl gear.

4. The definition of the midwater pollock fishery for purposes of the vessel incentive program at 50 CFR 672.26(b) is changed to clarify that the halibut bycatch rate standard specified for the midwater pollock fishery will become effective only after directed fishing is closed for pollock by vessels using trawl gear other than pelagic trawl gear. This intent was set forth in the preamble to the proposed rule and was inadvertently deleted from the proposed rule itself.

5. The definition of trawl fisheries included under the BSAI vessel incentive program at 50 CFR 675.26(b) is revised by removing reference to fishery definitions at § 675.21(b) and adding revised fishery definitions that aggregate fisheries with similar halibut and red king crab bycatch rates. The purpose of this change is to provide more sampled hauls per vessel to support statistically valid estimates of monthly bycatch rates relative to the expanded incentive program.

Public comment on the aggregation of BSAI trawl fisheries for purposes of the vessel incentive program was specifically solicited in the preamble to the proposed rule. During its June 24–28, 1992, meeting, the Council commented that the 7 incentive program fisheries set forth under the proposed rule should be reduced to 4 fisheries (midwater pollock, yellowfin sole, bottom pollock, and other trawl fisheries), and that the final rule implementing the revised incentive program should be changed accordingly. Additional public comment on the proposed rule further supported this change. Without this change, implementation of the expanded incentive program would be less effective.

6. Consistent with the above change, 50 CFR 675.26(a)(2)(ii)(A) and (B) are revised to refer to appropriate fishery definitions for purposes of the incentive program.

7. In § 675.26(d)(3)(i)(C), reference to chinook salmon bycatch rates was erroneously included in the proposed rule and is deleted in the final rule because this species is not addressed under the current vessel incentive program.

8. A new paragraph is added to 50 CFR 672.7 and 675.7 to clarify and facilitate the enforcement of directed fishing closures that are implemented when either directed fishing allowances or prohibited species bycatch allowances are reached. When a directed fishery closure is implemented under existing regulations, fishing operations are allowed to continue if retained amounts of groundfish do not

exceed specified bycatch levels. The ability of vessels to continue to fish under directed fishing closures makes these closures difficult to monitor and enforce except by intrusive and costly at-sea boarding or by observing shoreside landings of catch. Regulations are clarified so that when directed fishing in an area for all groundfish species by vessels using a specified gear type is closed, fishing for groundfish with that gear type will also be prohibited in that area. Under this prohibition, no gear of the affected type could be deployed by a Federally permitted vessel in the area, thus facilitating effective and efficient aerial surveillance of fishery closures. Exceptions to this prohibition are made for vessels participating in the Pacific halibut fishery using hook-and-line gear.

9. The values stated in Table 1 under the section for Pacific herring prohibited species bycatch allowances for midwater pollock and yellowfin sole in the BSAI were increased from 573 and 134 mt to 1,668 and 391 mt, respectively, as a result of an inseason Pacific herring bycatch management measure (57 FR 35490, August 10, 1992).

Response to Comments

Twenty-one letters of comments were received during the comment period. Fifteen of these letters addressed the 750 mt halibut bycatch mortality limit proposed for non-trawl gear. Four letters were submitted by government agencies that expressed no comment on the proposed rule. Two letters were submitted on proposed changes to the vessel incentive program and enhancement of enforcement of directed fishing closures. The Council also commented on these last two issues during its June 24–28, 1992, meeting. Comments are summarized and responded to below:

Comment 1: A 750 mt halibut bycatch mortality limit is too constraining to non-trawl gear fisheries during the current developmental phase of these fisheries. Halibut bycatch rates and handling mortality will decrease with fleet experience and with incorporation of "sanctioned" methods for decreasing handling mortality. Domestic trawl fisheries were able to develop in the early 1980's without the encumbrance of burdensome management measures to control halibut bycatch. Management of the developing non-trawl fisheries should be provided the same latitude as that provided for the trawl fisheries.

Response: The 750 mt halibut bycatch mortality limit is only implemented for 1992. This limit was adopted by the Council under the assumption that it would not significantly constrain the hook-and-line fishery for Pacific cod during 1992 based on bycatch rates experienced by the hook-and-line fishery during 1991. The Council further intended that actual bycatch needs experienced by the 1992 fisheries would provide guidance in the development of bycatch management measures implemented for 1993 and beyond. Although recent halibut bycatch rates experienced in the 1992 hook-and-line fishery for Pacific cod are higher than expected, the initial total allowable catch (TAC) of Pacific cod will be harvested prior to the effective date of the 750 mt mortality limit. The harvest of Pacific cod by the non-trawl fisheries has significantly increased during the past 3 years due to premature closures of the Pacific cod trawl fishery that resulted from the attainment of trawl bycatch allowances of prohibited species.

NMFS anticipates that the 1992 harvest of Pacific cod by non-trawl gear will be about 130 percent of the total 1991 non-trawl harvest of this species. The Council has also initiated analyses of management measures that would provide the authority to allocate preferentially Pacific cod to non-trawl gear fisheries. If implemented, these measures would provide additional support for the developing non-trawl fisheries in a manner that approaches that provided to domestic trawl operations in the early 1980's.

Comment 2: The Amendment 19 halibut bycatch mortality limit for non-trawl gear, 750 mt, is arbitrary and unfair. The amount was not tied to groundfish harvest projections for 1992, does not support the current fleet groundfish harvest needs, and does not allow the non-trawl harvest of Pacific cod to increase.

Response: The non-trawl halibut limit, 750 mt, is neither arbitrary nor unfair. It was derived from the amount of halibut bycatch mortality accrued by non-trawl gear in 1991, plus an additional amount which would allow a 1992 harvest of Pacific cod at 150 percent of 1991 levels, at similar bycatch rates. Some growth of the BSAI non-trawl fleet and associated groundfish harvest was anticipated, although the magnitude of increase, particularly of the Pacific cod fishery, could not be quantified with any certainty. As mentioned in the response to Comment 1, constraints to the non-trawl fisheries arise primarily from the competition with the trawl fleet for the available amounts of Pacific cod under TAC limitations, not 1992 halibut bycatch restrictions. Amendment 19 does not constrain future expansion of the non-trawl fleet or associated groundfish harvest because the halibut limit on non-trawl gear is only implemented for 1992.

Comment 3: The 750 mt halibut bycatch mortality limit proposed for non-trawl gear is too low, and is unduly restrictive. The Council did not intend the 1992 halibut bycatch mortality limit to constrain non-trawl fisheries. Non-trawl fisheries are unable to harvest available Pacific cod TAC with a 750 mt halibut mortality limit.

Response: The 750 mt mortality limit established for the 1992 non-trawl fisheries will be reached because segments of the hook-and-line fleet experienced bycatch rates that were much higher than rates experienced in 1991. See also responses to Comments 1 and 2.

Prohibited species bycatch limits have been implemented to control the take of halibut, crabs, and herring in groundfish fisheries. The Council has the task of allocating bycatch limits among competing fisheries, with the understanding that such policies might constrain certain gears or target fisheries, but that bycatch amounts cannot be limited under existing management regimes without such constraints. The Council has also made a commitment to further reduce the bycatch mortality of halibut in all groundfish fisheries.

Comment 4: National standard 1 mandates the achievement of optimum yield (OY). The judicious use of longline gear and improved halibut handling techniques offer the only practical conservation-oriented method of achieving the BSAI Pacific cod OY in 1992. A 750 mt bycatch mortality limit for the 1992 longline fishery will constrain the ability of the longline fleet to take the Pacific cod OY.

Response: The 750 mt bycatch mortality limit established for non-trawl gear in 1992 is consistent with national standard 1. This standard requires that conservation and management measures prevent overfishing while achieving, on a continuing basis, the OY from each fishery for the U.S. fishing industry. NMFS anticipates that the 1992 Pacific cod fishery will harvest the initial TAC by late August 1992, prior to the effective date of regulations implementing the 750 mt mortality limit. Therefore, with respect to Pacific cod the Secretary finds that regulations implementing the 750 mt bycatch limit, by themselves, will not jeopardize achievement of the OY.

Comment 5: Imposition of the 750 mt bycatch mortality limit for the 1992 non-trawl fisheries will cause a net economic loss to the nation. The value of halibut as bycatch mortality in non-trawl

groundfish fisheries is much greater than the value of halibut taken in a directed halibut fishery, and also greater than the same differential calculated for trawl gear.

Response: The United States has assumed international obligations to support the directed Pacific halibut fishery. These obligations are met, in part, by the implementation and enforcement of halibut bycatch restrictions in the Alaska groundfish fisheries. The EA/RIR/FRFA developed in support of Amendment 19 acknowledges that prohibited species bycatch limits are costly to the Alaska groundfish industry. The Council recognized these costs when it adopted the halibut bycatch limits implemented under Amendment 19. The Secretary also acknowledges that the halibut bycatch limits established for the Alaska groundfish fisheries are an expensive way to control halibut bycatch mortality in these fisheries. She has determined, however, that the bycatch limits implemented under Amendment 19 and the resulting allocation of Pacific halibut among groundfish fishermen using trawl and non-trawl gear, and among halibut fishermen, are consistent with the national standards and with international agreements to support the traditional setline halibut fishery.

Comment 6: Implementing a halibut bycatch mortality limit for non-trawl gear in the BSAI will cause serious economic disruption to a segment of the groundfish industry. Closure of the hook-and-line fishery for Pacific cod under a halibut bycatch mortality limit will impose serious economic hardship for individuals and companies who recently entered the BSAI Pacific cod fishery. Additional economic hardship will be incurred by individuals who made investments in harvesting, processing, or marketing operations, and by support industries depending on a stable and growing fishery, including overseas markets and an emerging squid fishery that supplies bait for the hook-and-line cod fishery.

Response: One of the Council's stated management objectives for the BSAI groundfish fishery is to "minimize the impact of groundfish fisheries on prohibited species and continue the rebuilding of the Pacific halibut resource." Consistent with this objective, numerous management measures have been implemented to control prohibited species bycatch amounts with the understanding that such actions might be constraining to the groundfish industry. The non-trawl fishery for BSAI groundfish, particularly for Pacific cod, has entered a growth phase at a time when the Council is considering action to restrict additional entry into what is widely considered to be a substantially overcapitalized fishery. At present, Pacific cod is available to the non-trawl gear fleet because of prohibited species bycatch controls placed on the established trawl fishery. Open access fisheries offer no guarantee of available groundfish TAC, of prohibited species bycatch to support fishing operations, or of freedom from competition from other harvesters and suppliers of similar products. A decision to enter the industry at any given time places an investment risk on each individual fishing, processing, marketing, or support operation.

Comment 7: The 750 mt limit is discriminatory against the non-trawl groundfish fleet for the following reasons: (1) trawl gear fisheries have a disproportionate share of halibut mortality; (2) trawl gear fisheries have many target species options and the ability to "self allocate" halibut among targets to mitigate economic effects on the fleet, whereas the non-trawl gear fisheries, which are primarily dependent on Pacific cod, have a single bycatch allowance; and (3) trawl gear fisheries are allowed to accrue halibut bycatch designated limits, but the non-trawl gear fisheries are not.

Response: The 750 mt bycatch mortality limit is not discriminatory. Allocations of groundfish TAC amounts and supporting prohibited species bycatch limits are established through the Council process after consultation with scientists, industry, and the general public. Under this process, the 1992 BSAI halibut bycatch limit established for trawl gear fisheries was reduced from 5,333 mt to 5,033 mt for 1992. This reduction was partially intended to provide amounts of halibut bycatch mortality for non-trawl fisheries under Amendment 19. The 750 mt bycatch mortality limit for non-trawl gear fisheries established under this amendment provides substantially more halibut for non-trawl fisheries than needed for these fisheries the previous year. Conversely, the historical magnitude of groundfish harvest in established trawl fisheries warrants the larger share of available bycatch.

Most vessels using non-trawl gear to fish for BSAI groundfish target on Pacific cod, although sablefish, Greenland turbot, and arrowtooth flounder have also been harvested by non-trawl gear during recent years. The 1992 bycatch mortality limit established for non-trawl gear under Amendment 19 is not apportioned among different non-trawl gear fisheries. The Council did not recommend separate bycatch allowances for the 1992 non-trawl gear fisheries, because vessels were expected to continue to fish predominantly for Pacific cod. At its June 24–28, 1992, meeting, however, the Council adopted FMP authority to exempt specified non-trawl gear fisheries from halibut bycatch restrictions under the criteria set forth under proposed Amendment 21 to the BSAI FMP. If approved by the Secretary, this amendment would provide the authority to establish separate halibut bycatch allowances for the non-trawl fisheries and exempt specified non-trawl gear fisheries from bycatch restrictions in 1993 and beyond.

Although regulatory provisions are made to exempt the pelagic trawl pollock fishery from halibut and crab bycatch restrictions to account for the fishery's low bycatch rates, vessels participating in this fishery must not exceed a 0.1 percent halibut bycatch rate standard under the vessel incentive program.

Comment 8: The 16 percent mortality assumption for halibut bycatch in hook-and-line fisheries is too high. Handling mortality is greatly reduced when fish are released by cutting gangions or by shaking or twisting fish off hooks. Many vessels have been using such practices in 1992, and estimates of halibut bycatch mortality should be adjusted downward accordingly.

Response: The IPHC has recently asserted that assumed mortality assumptions for halibut taken in the hook-and-line fisheries may be reduced to 8 percent if halibut are not brought on board a vessel to remove the hook but instead, fish are released by cutting the gangion line. In response, NMFS has initiated the collection of observer data that allows for an 8 percent mortality assessment for those halibut observed to be released by cutting of gangions. A 16 percent assumption is retained for unobserved halibut or halibut observed to be released by other methods. NMFS will continue to work with the IPHC in assessing halibut mortality and deriving the best estimate available for assumed mortality rates in the hook-and-line fishery. Consistent, observed action taken by the hook-and-line fleet to reduce halibut handling mortality may be reflected in future downward adjustments of assumed mortality rates.

Comment 9: Halibut which are not brought on board a vessel and which are released by cutting of gangions or by carefully removing the hook should not be considered as bycatch.

Response: As noted in the response to Comment 8, NMFS will adjust mortality

assumptions for halibut observed to be released by cutting of gangions. Other methods of releasing halibut are observed, but vary too much in technique and accompanying mortality for consistent use in inseason mortality adjustments. NMFS will continue to monitor the amount of all halibut taken in the non-trawl fisheries, not just those halibut brought on board a vessel. Appropriate mortality assumptions will be applied against estimated bycatch amounts and the hook-and-line fleet will benefit from taking action to reduce handling mortality by cutting gangions.

Comment 10: The proposed changes to the vessel incentive program for the BSAI trawl fisheries should be revised so that bycatch rate standards are specified for the following three fisheries: yellowfin sole, midwater trawl pollock, and bottom trawl pollock. A global default standard should be specified for all other trawl fisheries. Assignment of vessels to these 4 fishery categories should be based on retained catch composition.

Response: For reasons discussed under "Changes in the final rule from the proposed rule," the Secretary has approved changes in the final rule that will establish four trawl fishery categories for purposes of the expanded vessel incentive program. The intent of this change is to provide sufficient numbers of sampled hauls to provide statistically reliable information about each vessel's monthly bycatch rate. As stated in the preamble to the proposed rule, NMFS recognizes the importance of using retained catch to assign vessels to fishery categories under the incentive program. Effective enforcement of bycatch rates calculated from retained catch will require that standard PRRs be established to calculate round weight equivalents of retained catch. Therefore, NMFS intends to delay the effective date of the expanded vessel incentive program until such time that standard product recovery rates are published in the **Federal Register**. NMFS anticipates that a final rule will be effective by the start of the 1993 trawl season on January 20.

Comment 11: Enforcement efforts require that fishing regulations facilitate investigations of fishing violations using methods which are cost-effective and minimally intrusive to fishing operations. Prohibiting fishing with a gear type and in an area for which all directed fisheries are closed would allow simplified monitoring and enforcement of fishing activity using aerial surveillance.

Reponse: The Secretary concurs. As described under "Changes in the final rule from the proposed rule," the intent of this comment will be implemented under §§ 672.7 and 675.7 of the final rule.

Comment 12: Prohibiting all fishing with a gear type in an area for which all directed fisheries are closed could preclude non-groundfish fisheries, such as those for shrimp and saffron cod, which might use that gear type in that area.

Response: At present, the only significant non-groundfish fishery which might be adversely affected by a prohibition of groundfish gear deployment in an area is the hook-and-line fishery for Pacific halibut. Therefore, the final rule exempts this fishery from such closures under §§ 672.2 and 675.7. Nonetheless, the Secretary concurs that fishermen using trawl, hook-and-line, or groundfish pot gear to participate in other non-groundfish fisheries could be prevented from doing so if the use of that gear is prohibited in an area to support directed fishing closures for groundfish. The Secretary, however, has determined that this clarification of directed fishing closures is necessary to simplify and reduce the burden to industry of surveillance and enforcement of groundfish fishery regulations. If required in the future, additional regulatory amendments may be implemented to provide exemptions to other non-groundfish fisheries. A proposed rule is in preparation which will provide trawl gear test areas for use during periods when the deployment of trawl gear may be prohibited.

Classification

NMFS determined that Amendments 19/24 and associated regulatory amendments are necessary for the conservation and management of the groundfish fisheries off Alaska. This final rule implementing Amendments 19/24 is published under section 305(a)(1) of the Magnuson Act that requires the Secretary to publish regulations that are necessary to carry out a plan or plan amendment. The Secretary has determined that Amendments 19/24 and associated regulatory amendments are consistent with the national standards, other provisions of the Magnuson Act, and other applicable law.

NMFS has determined that delaying the effectiveness of this final rule for the entire 30 days under the Administrative Procedure Act, 5 U.S.C. 552(d), is impracticable and contrary to the public interest in orderly conduct of the fisheries in the EEZ. This rule implements regulations and associated regulatory amendments to supersede the March 30, 1992, emergency rule, as corrected and amended (57 FR 14667, April 22, 1992 and 57 FR 21355, May 20, 1992), which is effective through September 30, 1992. Without implementing regulations in place, NMFS has determined that the same fishery conservation and management problem that Amendment 19/24 was intended to resolve, would occur. Therefore, NMFS is waiving a portion of the 30-day delayed effectiveness period for this final rule to correspond with the expiration of the emergency rule.

The Council prepared an EA for Amendments 19/24 and associated regulatory amendments. The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), found that no significant impact on the quality of the human environment will result from this rule. A copy of the EA may be obtained from the Council (See **ADDRESSES**).

NMFS has determined that none of the management measures implemented under the final rule would adversely affect endangered or threatened species. Therefore, formal consultation pursuant to section 7 of the Endangered Species Act is not required for the implementation of this rule.

The Assistant Administrator determined that this rule is not a "major rule" requiring a regulatory impact analysis under E.O. 12291. This determination is based on the EA/RIR/FRFA prepared by the Council. A copy of the EA/RIR/FRFA may be obtained from the Council (See **ADDRESSES**).

The Assistant Administrator concluded that this rule will have significant effects on small entities. These effects have been discussed in the EA/RIR/FRFA, a copy of which may be obtained from the Council (See **ADDRESSES**).

This rule contains no collection-of-information requirements for purposes of the Paperwork Reduction Act.

The Council determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal management program of the State of Alaska. This determination has been submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act. Consistency is automatically inferred, because the appropriate State agency did not reply within the statutory time period.

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

List of Subjects in 50 CFR Parts 672 and 675

Fisheries, Reporting and recordkeeping requirements.

Dated: September 16, 1992.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

Note: Tables 1 and 2 will not appear in the Code of Federal Regulations.

TABLE 1.—1992 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL FISHERIES

Fisheries	Zone 1	Zone 2	Zones 1+2H	BSAI-wide
Yellowfin sole	75,000			
Rcksol/oth. flat [1]	85,000			
Turb/arrow/sab. [2]	0			
Rockfish	0			
Pacific cod	10,000			
Plck/Atka/othr [3]	30,000			
Total	200,000			
C. bairdi Tanner crab, number of animals:				
Yellowfin sole	100,000	1,225,000		
Rcksol/othr flat	700,000	300,000		
Turb/arrow/sabl	0	0		
Rockfish	0	50,000		
Pacific cod	75,000	712,500		
Plck/Atka/othr	125,000	712,500		
Total	1,000,000	3,000,000		
			Primary halibut	Secondary halibut
Pacific halibut, metric tons:				
Yellowfin sole			743	649
Rcksol/othr flat			660	755
Turb/arrow/sabl			0	0
Rockfish			175	200
Pacific cod			1,343	1,537
Plck/Atka/othr			1,479	1,692
Total			4,400	5,033
Pacific herring, metric tons:				
Midwater pollock				1,668
Yellowfin sole				391
Rcksol/othr flat				0
Turb/arrow/sabl				0
Rockfish				10
Pacific cod				29
Plck/Atka/othr [4]				210
Total				2,308

[1] Rock sole and other flatfish fishery category.
[2] Greenland turbot, arrowtooth flounder, and sablefish fishery category.
[3] Pollock, Atka mackerel, and "other species" fishery category.
[4] Pollock other than midwater pollock, Atka mackerel, and "other species" fishery category.

TABLE 2.—SEASONAL APPORTIONMENT OF THE 1992 HALIBUT BYCATCH ALLOWANCES

Fishery	Seasonal bycatch allowance (mt halibut)
Yellowfin sole:	
May 01–Aug. 02	424
Aug. 03–Dec. 31	425
Total	849
Rock sole/"other flatfish":	
Jan. 01–Mar. 29	566
Mar. 30–Jun. 28	95
Jun. 29–Sep. 27	94
Sep. 28–Dec. 31	remainder
Total	755
Turbot/arrowtooth flounder/ sablefish:	
Jan. 01–Dec. 31	0
Rockfish:	
Jan. 01–Mar. 29	20
Mar. 30–Jun. 28	60
Jun. 29–Sep 27	120
Sep. 28–Dec. 31	remainder

TABLE 2.—SEASONAL APPORTIONMENT OF THE 1992 HALIBUT BYCATCH ALLOWANCES—Continued

Fishery	Seasonal bycatch allowance (mt halibut)
Total	200
Pacific cod:	
Jan. 01–Jun. 28	1,301
Jun. 29–Sep. 27	236
Sep. 28–Dec. 31	remainder
Total	1,537
Pollock/Atka mackerel/ "other species":	
Jan. 01–Apr. 15	1,221
Apr. 16–May 31	0
Jun. 01–Dec. 31	471
Total	1,692
Total 1992 Halibut bycatch limit.	5,033

For the reasons set out in the preamble, 50 CFR parts 672 and 675 are amended as follows:

PART 672—GROUNDFISH OF THE GULF OF ALASKA

1. The authority citation for 50 CFR part 672 continues to read as follows:

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

2. In § 672.7, paragraphs (g), (h), and (i) are redesignated as paragraphs (h), (i), and (j), and a new paragraph (g) is added to read as follows:

§ 672.7 Prohibitions.

* * * * *

(g) Fish for groundfish in an area with a vessel using a specified gear type when directed fishing for all groundfish by vessels using that gear type is closed

under §§ 672.20(c)(2) or 672.20(f)(1) of this part, except that fishing for Pacific halibut by vessels using hook-and-line gear will be permitted during seasons governed by 50 CFR part 301. This means that when fishing for groundfish by vessels using a specified gear type is prohibited in an area, that gear type shall not be deployed in that area.

* * * * *

3. In § 672.20, paragraphs (g)(2) and (g)(3) are redesignated as paragraphs (g)(4) and (g)(5) respectively, newly redesignated paragraphs (g)(5) and existing paragraphs (f)(1)(i), (f)(1)(iii) through (v), the first sentence of (f)(2)(ii), the introductory text of (f)(2)(iii), the first sentence of the introductory text of (f)(2)(v), and (h)(2) are revised, and new paragraphs (g)(2) and (g)(3) are added to read as follows:

§ 672.20 General limitations.

* * * * *

(f) * * *

(1) * * *

(i) *Trawl gear.* If, during the fishing year, the Regional Director determines that the catch of halibut by operators of vessels using trawl gear to participate in a directed fishery for groundfish will reach the halibut PSC limit, or seasonal apportionment thereof, provided for under paragraph (f)(2) of this section, NMFS will publish a notice in the **Federal Register** prohibiting directed fishing for groundfish by vessels using trawl gear, except for pollock by vessels using pelagic trawl gear, for the remainder of the season to which the halibut PSC limit or seasonal apportionment applies.

* * * * *

(iii) *Pot gear.* If, during the fishing year, the Regional Director determines that the catch of halibut by operators of vessels using pot gear to participate in a directed fishery for groundfish will reach the halibut PSC limit, or seasonal apportionment thereof, provided for under paragraph (f)(2) of this section, NMFS will publish a notice in the **Federal Register** prohibiting directed fishing for groundfish by vessels using pot gear for the remainder of the season to which the halibut PSC limit or seasonal apportionment applies.

(iv) Unused seasonal apportionments of halibut PSC limits specified for trawl, hook-and-line, or pot gear will be added to the respective seasonal apportionment for the next season during a current fishing year.

(v) If a seasonal apportionment of a halibut PSC limit specified for trawl, hook-and-line, or pot gear is exceeded, the amount by which the seasonal apportionment is exceeded will be deducted from the respective apportionment for the next season during a current fishing year.

(2) * * *

(ii) *Notices of final halibut PSC limits.* The Secretary will consider comments received on proposed halibut PSC limits and, after consultation with the Council, will publish a notice in the **Federal Register** specifying the final halibut PSC limits and seasonal apportionments thereof. * * *

(iii) The Secretary will base any seasonal apportionment of the halibut PSC limits on the following types of information: * * *

* * * * *

(v) When the vessels to which a halibut PSC limit applies have caught an amount of halibut equal to that PSC, the Regional Director may, by notice in the **Federal Register**, allow some or all of those vessels to continue to fish for groundfish using non-pelagic trawl gear under specified conditions, subject to the other provisions of this part. * * *

* * * * *

(g) * * *

(2) *Rockfish of the genera Sebastes and Sebastolobus, except demersal shelf rockfish.* The operator of a vessel is engaged in directed fishing for rockfish if he retains at any particular time during a trip an aggregate amount of rockfish species for which a directed fishery closure applies except for demersal shelf rockfish, that is equal to or greater than the sum of 15 percent of the aggregate amount of deep-water flatfish, flathead sole, sablefish, and other rockfish species for which directed fisheries are open, retained at the same time on the vessel during the same trip, and 5 percent of the total amount of other fish species retained at the same time on the vessel during the same trip.

(3) *Using pelagic trawl gear for groundfish species closed to directed fishing.* The operator of a vessel is engaged in directed fishing for groundfish species or species groups for which directed fishing is closed under paragraphs (c)(2) or (f)(1) of this section, if he retains at any time during a trip an aggregate amount of these groundfish species or species groups caught using pelagic trawl gear equal to or greater than 7 percent of the amount of other fish or fish products, in round weight equivalents, retained at the same time on the vessel during the same trip.

* * * * *

(5) *Other.* Except as provided under paragraphs (g)(1) through (g)(4) of this section, the operator of a vessel is engaged in directed fishing for a specific species or species group if he retains at any particular time during a trip that species or species group in an amount equal to or greater than 20 percent of the amount of all other fish species retained at the same time on the vessel during the same trip.

(h) * * *

(2) *Trip.* For purposes of this section, the operator of a vessel is engaged in a single fishing trip in an area from the commencement of, or continuation of, fishing after the effective date of a notice prohibiting directed fishing in the area under paragraphs (c)(2) or (f)(1) of this section until:

(i) The end of a weekly reporting period;

(ii) The vessel enters or leaves an area to which a directed fishing prohibition applies; or

(iii) Until any offload or transfer of any fish or fish product from that vessel, whichever occurs first.

* * * * *

4. In § 672.22, paragraphs (b) and (c) are redesignated as paragraphs (c) and (d), respectively, paragraph (a) is revised, and a new paragraph (b) is added, to read as follows:

§ 672.22 Inseason adjustments.

(a) *General.*

(1) Inseason adjustments issued by the Secretary under this paragraph include:

(i) The closure, extension, or opening of a season in all or part of a management area;

(ii) Modification of the allowable gear to be used in all or part of a management area;

(iii) The adjustment of TAC and PSC limits; and

(iv) Interim closures of statistical areas, or portions thereof, to directed fishing for specified groundfish species.

(2) Any inseason adjustment taken under paragraphs (a)(1)(i), (ii), or (iii) of this section must be based on a determination that such adjustments are necessary to prevent:

(i) The overfishing of any species or stock of fish or shellfish; or

(ii) The harvest of a TAC for any groundfish species or the taking of a PSC limit for any prohibited species that, on the basis of the best available scientific information, is found by the Secretary to be incorrectly specified; or

(iii) The underharvest of a TAC or gear share of a TAC for any groundfish species when catch information indicates that the TAC or gear share has not been reached.

(3) Any inseason closure of a statistical area, or portion thereof, under paragraph (a)(1)(iv) of this section, must be based upon a determination that such closures are necessary to prevent:

(i) A continuation of relatively high bycatch rates of prohibited species specified under § 672.20(e) of this part in a statistical area, or portion thereof;

(ii) The take of an excessive share of PSC limits or bycatch allowances established under § 672.20(f)(2) of this part by vessels fishing in a statistical area, or portion thereof;

(iii) The closure of one or more directed fisheries for groundfish due to excessive prohibited species bycatch rates occurring in a specified fishery operating within all or part of a statistical area; or

(iv) The premature attainment of established PSC limits or bycatch allowances and associated loss of opportunity to harvest the groundfish OY.

(4) The selection of the appropriate inseason management adjustments under paragraphs (a)(1)(i) and (a)(1)(ii) of this section must be from the following authorized management measures and must be based upon a determination by the Regional Director that the management adjustment selected is the least restrictive necessary to achieve the purpose of the adjustment:

(i) Any gear modification that would protect the species in need of conservation, but which would still allow other fisheries to continue; or

(ii) An inseason adjustment which would allow other fisheries to continue in noncritical areas and time periods; or

(iii) Closure of a management area and season to all groundfish fishing; or

(iv) Reopening of a management area or season to achieve the TAC or gear share of a TAC for any of the target species or the "other species" category.

(5) The adjustment of a TAC or PSC limit for any species under paragraph (a)(1)(iii) of this section must be based upon a determination by the Regional Director that the adjustment is based upon the best available scientific information concerning the biological stock status of the species in question and that the currently specified TAC or PSC limit is incorrect. Any adjustment to a TAC or PSC limit must be reasonably related to the change in biological stock status.

(6) The inseason closure of a statistical area, or a portion thereof, under paragraph (a)(1)(iv) of this section shall not extend beyond a 60-day period unless information considered under paragraph (b) of this section warrants an extended closure period. Any closure of a statistical area, or portion thereof, to reduce prohibited species bycatch rates requires a determination by the Regional Director that the closure is based on the best available scientific information concerning the seasonal distribution and abundance of prohibited species and bycatch rates of prohibited species associated with various groundfish fisheries.

(b) *Data.* All information relevant to one or more of the following factors may be considered in making the determinations required under paragraphs (a) (2) and (3) of this section:

(1) The effect of overall fishing effort within a statistical area;

(2) Catch per unit of effort and rate of harvest;

(3) Relative distribution and abundance of stocks of groundfish species and prohibited species within all or part of a statistical area;

(4) The condition of a stock in all or part of a statistical area;

(5) Inseason prohibited species bycatch rates observed in groundfish fisheries in all or part of a statistical area;

(6) Historical prohibited species bycatch rates observed in groundfish fisheries in all or part of a statistical area;

(7) Economic impacts on fishing businesses affected; or

(8) Any other factor relevant to the conservation and management of groundfish species or any incidentally caught species that are designated as prohibited species or for which a PSC limit has been specified.

* * * * *

5. In § 672.23, paragraph (a) is revised, and new paragraphs (d) and (e) are added to read as follows:

§ 672.23 Seasons.

(a) Fishing for groundfish in the regulatory areas and districts of the Gulf of Alaska is authorized from 00:01 a.m., Alaska local time (A.l.t.), January 1, through 12 midnight, A.l.t., December 31, subject to the other provisions of this part, except as provided in paragraphs (c) through (e) of this section.

* * * * *

(d) Directed fishing for rockfish of the genera *Sebastes* and *Sebastolobus* with trawl gear is authorized from 12 noon, A.l.t., on the first day of the third quarterly reporting period of a fishing year, through 12 midnight, A.l.t., December 31, subject to other provisions of this part.

(e) Notwithstanding other provisions of this part, fishing for groundfish with trawl gear in the Gulf of Alaska is prohibited from 00:01 a.m., A.l.t. on January 1, through 12 noon, A.l.t., January 20.

6. In § 672.26, paragraphs (a)(2)(ii) and (b) are revised as follows:

§ 672.26 Program to reduce prohibited species bycatch rates.

(a) * * *

(2) * * *

(ii) *Bycatch rate* refers to the ratio of the total round weight of halibut, in kilograms, to the total round weight, in metric tons, of groundfish for which a TAC has been specified under § 672.20 of this part while participating in the midwater pollock or "other trawl" fisheries as defined in paragraph (b) of this section.

* * * * *

(b) *Fisheries.* A vessel will be subject to this section if the groundfish catch of the vessel is observed on board the vessel, or on board a mothership processor that receives unsorted codends from the vessel, at any time during a weekly reporting period, and the vessel is assigned under paragraph (d)(3)(i)(A) of this section to either the midwater pollock fishery or the "other trawl" fishery as defined in paragraphs (b) (1) and (2) of this section. During any weekly reporting period, a vessel's observed catch composition of groundfish species for which a TAC has been specified under § 672.20 of this part will determine the fishery to which the vessel is assigned, as follows:

(1) The *midwater pollock fishery* means fishing with trawl gear that results in an observed groundfish catch during any weekly reporting period that is composed of 95 percent or more of pollock when the directed fishery for pollock by vessels using trawl gear other than pelagic trawl gear is closed.

(2) The *other trawl* fishery means fishing with trawl gear that results in an observed groundfish catch during any weekly reporting period that does not qualify as a midwater pollock fishery under paragraph (b)(1) of this section.

* * * * *

PART 675—GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

7. The authority citation for part 675 continues to read as follows:

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

8. In § 675.7, paragraphs (h), (i), and (j) are redesignated as paragraphs (i), (j), and (k) and a new paragraph (h) is added to read as follows:

§ 675.7 Prohibitions.

* * * * *

(h) Fish for groundfish in an area with a vessel using a specified gear type when directed fishing for all groundfish by vessels using that gear type is closed under §§ 675.20(a)(8) or 675.21 (c) or (d)

of this part, except that fishing for Pacific halibut by vessels using hook-and-line gear will be permitted during seasons governed by 50 CFR part 301. This means that when fishing for groundfish by vessels using a specified gear type is prohibited in an area, that gear type shall not be deployed in that area.

* * * * *

9. In § 675.20, paragraphs (h)(1) and (i)(2) are revised as follows:

§ 675.20 General limitations.

* * * * *

(h) * * *

(1) *Using pelagic trawl gear for groundfish species closed to directed fishing.* The operator of a vessel is engaged in directed fishing for groundfish species or species groups for which directed fishing is closed under paragraph (a)(8) of this section or § 675.21(c) of this part, if he retains at any time during a trip an aggregate amount of these groundfish species or species groups caught with pelagic trawl gear equal to or greater than 7 percent of the amount of other fish or fish products, in round weight equivalents, retained on the vessel at the same time during the same trip.

* * * * *

(i) * * *

(2) *Trip.* For purposes of this section, the operator of a vessel is engaged in a single fishing trip in an area from the commencement of, or continuation of, fishing after the effective date of a notice prohibiting directed fishing in the area under paragraph (a)(8) of this section or § 675.21 (c) or (d) of this part until:

(i) The end of a weekly reporting period;

(ii) The vessel enters or leaves an area to which a directed fishing prohibition applies; or

(iii) Until any offload or transfer of any fish or fish product from that vessel, whichever occurs first.

* * * * *

10. In § 675.21, paragraph (a)(5) is suspended through December 31, 1992; paragraph (b) heading and paragraphs (b)(1), (b)(2), (b)(4), (c) and (d) are revised; paragraphs (e) and (f) are removed; and new paragraphs (a)(7) and (a)(8), are added to read as follows:

§ 675.21 Prohibited species catch (PSC) limitations.

(a) * * *

(8) *Applicable through December 31, 1992.* The secondary PSC limit of Pacific halibut caught while conducting any trawl fishery for groundfish in the Bering Sea and Aleutian Islands Management Area during 1992 is an amount of Pacific halibut equivalent to 5,033 mt.

(9) *Applicable through December 31, 1992.* The PSC limit of Pacific halibut caught while conducting any non-trawl fishery for groundfish in the Bering Sea and Aleutian Islands Management Area during 1992 is an amount of Pacific halibut equivalent to 750 mt of halibut mortality.

(b) *Apportionment of PSC limits established for trawl gear fisheries.* (1) *Apportionment to trawl fishery categories.* The Secretary, after consultation with the Council, will apportion each PSC limit into bycatch allowances that will be assigned to fishery categories specified in paragraph (b)(4) of this section, based on each category's proportional share of the anticipated incidental catch during a fishing year of prohibited species for which a PSC limit is specified and the need to optimize the amount of total groundfish harvested under established PSC limits. The sum of all bycatch allowances of any prohibited species will equal its PSC limit.

(i) For purposes of this section, the trawl PSC limits for red king crab, *C. bairdi* Tanner crab, and Pacific halibut will be apportioned to the fishery categories listed at paragraphs (b)(4) (ii) through (vi) of this section. Any amount of red king crab, *C. bairdi* Tanner crab, or Pacific halibut that is incidentally taken in the midwater pollock fishery, as defined at paragraph (b)(4)(i) of this section, will be counted against the bycatch allowances specified for the pollock/Atka mackerel/"other species" category defined at paragraph (b)(4)(vi) of this section.

(ii) For purposes of this section, the PSC limit for Pacific herring will be apportioned to the fishery categories listed at paragraphs (b)(4) (i) through (vi) of this section.

(2) *Seasonal apportionments of bycatch allowances.*

(i) The Secretary, after consultation with the Council, may apportion fishery bycatch allowances on a seasonal basis. The Secretary will base any seasonal apportionment of a bycatch allowance on the following types of information:

(A) Seasonal distribution of prohibited species;

(B) Seasonal distribution of target groundfish species relative to prohibited species distribution;

(C) Expected prohibited species bycatch needs on a seasonal basis relevant to change in prohibited species biomass and expected catches of target groundfish species;

(D) Expected variations in bycatch rates throughout the fishing year;

(E) Expected changes in directed groundfish fishing seasons;

(F) Expected start of fishing effort; or

(G) Economic effects of establishing seasonal prohibited species apportionments on segments of the target groundfish industry.

(ii) Unused seasonal apportionments of fishery bycatch allowances made under paragraph (b)(2)(i) of this section will be added to its respective fishery bycatch allowance for the next season during a current fishing year.

(iii) If a seasonal apportionment of a fishery bycatch allowance made under paragraph (b)(2)(i) of this section is exceeded, the amount by which the seasonal apportionment is exceeded will be deducted from its respective apportionment for the next season during a current fishing year.

* * * * *

(4) For purposes of apportioning trawl PSC limits among fisheries, the following fishery categories are specified and defined in terms of round weight equivalents of those groundfish species or species groups for which a TAC has been specified under § 675.20.

(i) *Midwater pollock fishery.* Fishing with trawl gear during any weekly reporting period that results in a catch of pollock that is 95 percent or more of the total amount of groundfish caught during the week.

(ii) *Flatfish fishery.* Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of rock sole, "other flatfish," and yellowfin sole that is greater than the retained amount of any other fishery category defined under paragraph (b)(4) of this section.

(A) *Yellowfin sole fishery.* Fishing with trawl gear during any weekly reporting period that is defined as a flatfish fishery under paragraph (b)(4)(ii) of this section and results in a retained amount of yellowfin sole that is 70 percent or more of the retained aggregate amount of rock sole, "other flatfish," and yellowfin sole.

(B) *Rock sole/"other flatfish" fishery.* Fishing with trawl gear during any weekly reporting period that is defined as a flatfish fishery under paragraph (b)(4)(ii) of this section and is not a yellowfin sole fishery as defined under paragraph (b)(4)(ii)(A) of this section.

(iii) *Greenland turbot/arrowtooth flounder/sablefish fishery.* Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of Greenland turbot, arrowtooth flounder, and sablefish that is greater than the retained amount of any other fishery category defined under paragraph (b)(4) of this section.

(iv) *Rockfish fishery.* Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of rockfish species of the genera *Sebastes* and *Sebastolobus* that is greater than the retained amount of any other fishery category defined under paragraph (b)(4) of this section.

(v) *Pacific cod fishery.* Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of Pacific cod that is greater than the retained amount of any other groundfish category defined under paragraph (b)(4) of this section.

(vi) *Pollock/Atka mackerel/"other species."* Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of pollock other than pollock harvested in the midwater pollock fishery defined at paragraph (b)(4)(i) of this section, Atka mackerel, and "other species" that is greater than the retained amount of any other fishery category defined under paragraph (b)(4) of this section.

(c) *Attainment of a trawl fishery bycatch allowance.*

(1) *Attainment of a trawl bycatch allowance for red king crab, C. bairdi Tanner crab, or Pacific halibut.*

(i) *Zone 1 red king crab or C. bairdi Tanner crab bycatch allowance.* If, during the fishing year, the Regional Director determines that U.S. fishing vessels participating in any of the fishery categories listed in paragraphs (b)(4) (ii) through (vi) of this section will catch the Zone 1 bycatch allowance, or seasonal apportionment thereof, of red king crab or *C. bairdi* Tanner crab specified for that fishery category under paragraphs (b) (1) through (3) of this section, NMFS will publish a notice in the **Federal Register** closing Zone 1 to directed fishing for aggregate species within that fishery category for the remainder of the year or for the remainder of the season, except that when a bycatch allowance, or seasonal apportionment thereof, specified for the pollock/Atka mackerel/"other species" fishery category is reached, only directed fishing for pollock is closed to trawl vessels using non-pelagic trawl gear.

(ii) *Zone 2 red king crab or C. bairdi crab bycatch allowance.* If, during the fishing year, the Regional Director determines that U.S. fishing vessels participating in any of the fishery categories listed in paragraphs (b)(4) (ii) through (vi) of this section will catch the Zone 2 bycatch allowance, or seasonal apportionment thereof, of red king crab or *C. bairdi* crab specified for that fishery category under paragraphs (b) (1) through (3) of this section, NMFS will publish a notice in the **Federal Register** closing Zone 2 to directed fishing for aggregate species within that fishery category for the remainder of the year or for the remainder of the season, except that when a bycatch allowance, or seasonal apportionment thereof, specified for the pollock/Atka mackerel/"other species" fishery category is reached, only directed fishing for pollock is closed to trawl vessels using non-pelagic trawl gear.

(iii) *Primary halibut bycatch allowance.* If, during the fishing year, the Regional Director determines that U.S. fishing vessels participating in any of the fishery categories listed in paragraphs (b)(4) (ii) through (vi) of this section in the Bering Sea and Aleutian Islands Management Area will catch the primary halibut bycatch allowance, or seasonal apportionment thereof, specified for that fishery category under paragraphs (b) (1) through (3) of this section, NMFS will publish a notice in the **Federal Register** closing Zones 1 and 2H to directed fishing for aggregate species within that fishery category for the remainder of the year or for the remainder of the season, except that when a bycatch allowance, or seasonal apportionment thereof, specified for the pollock/Atka mackerel/"other species" fishery category is reached, only directed fishing for pollock is closed to trawl vessels using non-pelagic trawl gear.

(iv) *Secondary halibut bycatch allowance.* If, during the fishing year, the Regional Director determines that U.S. fishing vessels participating in any of the trawl fishery categories listed in paragraphs (b)(4) (ii) through (vi) of this section in the Bering Sea and Aleutian Islands Management Area will catch the secondary halibut bycatch allowance, or seasonal apportionment thereof, specified for that fishery category under paragraphs (b) (1) through (3) of this section, NMFS will publish a notice in the **Federal Register** closing the entire Bering Sea and Aleutian Islands Management Area to directed fishing for aggregate species within that fishery category for the remainder of the year or for the remainder of the season, except that when a bycatch allowance, or seasonal apportionment thereof, specified for pollock/Atka mackerel/"other species" fishery category is reached, only directed fishing for pollock is closed to trawl vessels using non-pelagic trawl gear.

(2) *Attainment of a trawl bycatch allowance for Pacific herring.* If, during the fishing year, the Regional Director determines that U.S. fishing vessels participating in any of the fishery categories listed in paragraphs (b)(4) (i) through (vi) of this section in the Bering Sea and Aleutian Islands Management Area will catch the herring bycatch allowance, or seasonal apportionment thereof, specified for that fishery category under paragraphs (b) (1) through (3) of this section, NMFS will publish a notice in the **Federal Register** closing the Herring Savings Areas to directed fishing for aggregate species within that fishery category, except that:

(i) When the midwater pollock fishery category reaches its specified bycatch allowance, or seasonal apportionment thereof, the Herring Savings Areas are closed to directed fishing for pollock with trawl gear; and

(ii) When the pollock/Atka mackerel/"other species" fishery category reaches its specified bycatch allowance, or seasonal apportionment thereof, only the Herring Savings Areas are closed for directed fishing for pollock to trawl vessels using nonpelagic trawl gear.

(d) *Applicable through December 31, 1992. Attainment of the halibut PSC limited established for non-trawl gear.* If, during the 1992 fishing year, the Regional Director determines that U.S. fishing vessels participating in any non-trawl gear fishery will catch the Pacific halibut PSC limit established for non-trawl gear at paragraph (a)(9) of this section, NMFS will publish a notice in the **Federal Register** closing the entire Bering Sea and Aleutian Islands Management Area to directed fishing for groundfish by vessels using non-trawl gear for the remainder of the year.

11. In § 675.23, paragraph (a) is revised, and new paragraph (d) is added as follows:

§ 675.23 Seasons.

(a) Fishing for groundfish in the subareas and statistical areas of the Bering Sea and Aleutian Islands is authorized from 00:01 a.m., Alaska local time (A.l.t.), on January 1, through 12 midnight, A.l.t., December 31, subject to the other provisions of this part, except as provided in paragraphs (c) through (d) of this section.

* * * * *

(d) Notwithstanding other provisions of this part, fishing for groundfish with trawl gear in the Bering Sea and Aleutian Islands is prohibited from 00:01 a.m., A.l.t. on January 1, through 12 noon, A.l.t., January 20.

12. In § 675.26, paragraphs (a)(2)(ii)(A), (a)(2)(ii)(B), (b), (d)(3)(i)(A), (d)(3)(i)(B), and (d)(3)(i)(C) are revised to read as follows:

§ 675.26 Program to reduce prohibited species bycatch rates.

(a) * * *

(2) * * *

(ii) * * *

(A) The ratio of total round weight of halibut, in kilograms, to the total round weight, in metric tons (mt), of groundfish for which a TAC has been specified under § 675.20 of this part while participating in any of the trawl fisheries defined under § 675.26(b) of this section;

(B) The ratio of number of red king crab to the total round weight, in mt, of groundfish for which a TAC has been specified under § 675.20 of this part while participating in the yellowfin sole and "other trawl" fisheries, as defined under § 675.26(b) of this section.

* * * * *

(b) *Fisheries.* A vessel will be subject to this section if the groundfish catch of the vessel is observed on board the vessel, or on board a mothership processor that receives unsorted codends from the vessel, at any time during a weekly reporting period, and the vessel is assigned under paragraph (d)(3)(i)(A) of this section to the midwater pollock fishery, the yellowfin sole fishery, the "bottom pollock" fishery or the "other trawl" fishery as defined in paragraphs (b) (1) through (4) of this section. During any weekly reporting period, a vessel's observed catch composition of groundfish species or species groups for which a TAC has been specified under § 675.20 of this part, in round weight equivalents, will determine the fishery to which the vessel is assigned, as follows:

(1) *Midwater pollock fishery.* Fishing with trawl gear that results in an observed groundfish catch during any weekly reporting period that is composed of 95 percent or more of pollock when the directed fishery for pollock by vessels using trawl gear other than pelagic trawl gear is closed.

(2) *Yellowfin sole fishery.* Fishing with trawl gear that results in a retained aggregate amount of rock sole, "other flatfish," and yellowfin sole during any weekly reporting period that is greater than the retained amount of any other fishery defined under paragraph (b) of this section and results in a retained amount of yellowfin sole that is 70 percent or more of the retained aggregate amount of rock sole, "other flatfish," and yellowfin sole.

(3) *"Bottom pollock" fishery.* Fishing with trawl gear that results in a retained amount of pollock during any weekly reporting period other than pollock harvested in the midwater pollock fishery defined at paragraph (b)(1) of this section, that is greater than the retained amount of any other fishery defined under paragraph (b) of this section.

(4) *"Other trawl" fishery.* Fishery with trawl gear that results in a retained amount of groundfish during any weekly reporting period that does not qualify as a midwater pollock, yellowfin sole, or "bottom pollock" fishery under paragraphs (b) (1) through (3) of this section.

* * * * *

(d) * * *

(3) * * *

(i) * * *

(A) *Assignment of vessels to fisheries.* (*1*) Catcher processor vessels will be assigned to fisheries at the end of each weekly reporting period based on the round weight equivalent of the retained groundfish catch composition reporting on a vessel's weekly production report that is submitted to the Regional Director under § 675.5(c)(2) of this part.

(*2*) Catcher vessels that deliver to mothership processors in Federal waters during a weekly reporting period will be assigned to fisheries based on the round weight equivalent of the retained groundfish catch composition reported on the weekly production report submitted to the Regional Director for that week by the mothership under § 672.5(c)(2) of this part.

(*3*) Catcher vessels delivering groundfish to shoreside processors or to mothership processors in Alaska State waters during a weekly reporting period will be assigned to fisheries based on the round weight equivalent of the groundfish retained by the processor and reported on an Alaska Department of Fish and Game fish ticket as required under Alaska State regulations at A.S. 16.05.690.

(B) At the end of each fishing month during which an observer sampled at least 50 percent of a vessel's total number of trawl hauls retrieved while an observer was on board (as recorded in the vessel's daily logbook required under § 675.5 of this part), the Regional Director will calculate the vessel's bycatch rate based on observer data for each fishery specified in paragraph (b) of this section to which the vessel was assigned for any weekly reporting period during that fishing month. Only observed data that have been checked, verified, and analyzed by NMFS will be used to calculate vessel bycatch rates for purposes of this section.

(C) The bycatch rate of a vessel for a fishery described under paragraph (b) of this section during a fishing month is a ratio of halibut to groundfish that is calculated by using the total round weight of halibut (in kilograms), or total number of red king crab or chinook salmon, in samples during all weekly reporting periods in which the vessel was assigned to that fishery and the total round weight of the groundfish (in metric tons) for which a TAC has been specified under § 675.20 in samples taken during all such periods.

* * * * *

[FR Doc. 92-22800 Filed 9-22-92; 8:45 am]

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Proposed Rules

Federal Register
Vol. 57, No. 185
Wednesday, September 23, 1992

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

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 780

Administrative Review Regulations

AGENCIES: Agricultural Stabilization and Conservation Service and Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: This rule proposes changes to the interim rule published in the **Federal Register** on November 25, 1991 (56 FR 59207). This proposed rule implements changes made by the Food, Agriculture, Conservation, and Trade Act of 1990 (the 1990 Act) (enacted November 25, 1990), which amended title IV of the Agricultural Act of 1949 (the 1949 Act) with respect to the Agricultural Stabilization and Conservation Service (ASCS) administrative review process. This rule amends the ASCS appeal regulations to provide for:

(1) The procedures for the filing of requests for administrative reviews of adverse determinations issued by county and State Agricultural Stabilization and Conservation (ASC) Committees (county and State committees), the Deputy Administrator State and County Operations (DASCO), and the National Appeals Division (NAD); (2) procedures for administrative review hearings; and (3) the delegation of powers to hearing officers of NAD.

DATES: Comments must be received by November 23, 1992 in order to be assured of consideration.

ADDRESSES: Send comments on this proposed rule to Director, National Appeals Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, P.O. Box 2415, Washington, DC 20013–2415. All written submissions made pursuant to this rule will be available for further inspection in room 2741, South Building, USDA, between the hours of 8:15 a.m. and 4:45 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Carolyn A. Burchett, Director, National Appeals Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, P.O. Box 2415, Washington, DC 20013–2415; telephone 202–720–5533.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA procedures which implement Executive Order 12291 and Departmental Regulation No. 1512–1 and has been classified as "not major." It has been determined that this proposed rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State, or local Government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete in domestic or export markets.

The Executive Vice President of the Commodity Credit Corporation (CCC) (Administrator of ASCS) certifies that this rule will not have a significant impact on a substantial number of participating individuals and entities because the procedure set out in this rule would not increase, but would rather decrease, the time and paperwork necessary to process an administrative review.

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 Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

This proposed rule has been reviewed in accordance with Executive Order 12778. This proposed rule does not have any preemptive effect with respect to State laws and is not retroactive.

The information collections required by this rule have been approved for use through September 30, 1994, by the Office of Management and Budget (OMB), and assigned OMB No. 0560–0137. Public reporting for these collections is estimated to average 2 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.

An interim rule was published in the **Federal Register** on November 25, 1991 (56 FR 59207) to implement changes made by the 1990 Act (enacted on November 28, 1990), which amended title IV of the 1949 Act with respect to the ASCS administrative appeal process. The interim rule amended the ASCS appeal regulations at 7 CFR part 780 to: (1) Provide for the establishment of NAD within ASCS; (2) establish the authority for the Director of NAD to issue final appeal determinations; and (3) provide specific procedures for filing requests for reconsiderations and appeals to county and State committees and NAD.

The public was given 30 days to submit written comments on the interim rule published in the **Federal Register** on November 25, 1991 (56 FR 59207).

The Department received one timely-filed comment.

Background

Section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended (16 U.S.C. 590h(b)), provides for the establishment of "local and State committees" to be used in carrying out the provisions of that act. These local committees are commonly referred to as county committees. County and State committees have been used extensively in the past to implement various other programs that are conducted by CCC and the Department of Agriculture, including the price support and production adjustment programs of CCC. The method for selecting these committees and their general duties are set forth in 7 CFR part 7.

A major function of county and State committees is to serve as a decision-making and reviewing authority with respect to the implementation and administration of the various conservation, price support, and production adjustment programs. Included in this function is the participation of county and State committees in the administrative review process that is made available to

producers and other program participants who believe that an erroneous determination concerning their participation in such a program has been made. The administrative appeal process is set forth at 7 CFR part 780. These regulations generally provide that if a program participant is dissatisfied with the initial determination by either the county or State committee, such participant may request that the determination be reconsidered by the authority which issued the initial determination. If the program participant is dissatisfied with this subsequent determination, an appeal may be filed with the next higher reviewing authority. Prior to implementation of the provisions of section 426 of the 1949 Act, DASCO was the final reviewing authority.

Throughout the current appeal procedure, the participant pursuing the appeal is entitled to an informal hearing. Upon appeal, the appropriate reviewing authority convenes a hearing in which the appellant is provided the opportunity to present relevant facts and evidence.

Interim Rule

Under the interim rule published in the **Federal Register** on November 25, 1991 (56 FR 59207), an appeal determination of a State committee or an initial determination rendered by DASCO, or any other employee or agent of ASCS or CCC, may be appealed to NAD, which constitutes the final level of appeal.

This rule amended the prior provisions of 7 CFR part 780 in several respects for clarity and deleted obsolete references. This rule also made editorial changes to all sections of 7 CFR part 780, and reorganized the information in a more logical sequence. The following is a summary of the major amendments made by the interim rule.

Section 780.1 was amended to conform to changes required under the Act and established the effective date for changes required in the administrative review process.

Section 780.2 was amended to specify that the provisions of this part are applicable to any determinations made by county or State committees, DASCO, or any other employee or agent of ASCS or CCC. Appealable issues were also specified in this section.

Section 780.3 was expanded to include additional definitions for terminology used in this part, including new definitions for changes required under the Act.

Sections 780.4 through 780.6 were reserved for future use.

Section 780.7 provided for reconsideration by a county committee, appeal of the county committee determination to the State committee, and reconsideration by the State committee.

Section 780.8 was added to specify conditions under which an appeal may be filed with NAD.

Section 780.9 specified the general procedure for appeal hearings before the county and State committee and NAD.

Sections 780.10 through 780.14 were reserved for future use.

Sections 780.15 and 780.16 specified the applicable time limitations and requisite form for filing an appeal.

Section 780.17 set forth the purpose and effect of appeal determinations by the county or State committee or by NAD. Section 780.17 also specified those technical decisions and determinations which were not appealable.

Section 780.18 specified when a hearing could be reopened at the discretion of ASCS or CCC for good cause.

Section 780.19 was added to specify the additional requirements included in the Act for proceedings for appeals to NAD with respect to the duties and responsibilities of the Director, including, if appropriate, the authority to require the attendance of witnesses and the production of documentary evidence by subpoena. This section also specified the authority for the Director to issue final determinations.

Section 780.20 was added to specify the conditions under which a participant may request the Director of NAD to issue subpoenas for the attendance of witnesses or for the production of documentary evidence.

Section 780.21 and 780.22 were reserved for future use.

Section 780.23 stated the authority of the Administrator of ASCS or the Executive Vice President of CCC to review and in any way modify any determination made by a county or State committee. New provisions were included in this section to allow either the Administrator of ASCS or the Executive Vice President of CCC to review and in any way modify determinations made by the Director of NAD.

Proposed Rule

This rule proposes to amend the current provisions of 7 CFR part 780 in several respects. The primary purpose of the proposed rule is to give participants a clearer description of this administrative review process. The proposed rule describes in greater detail: (1) The various levels of administrative review; (2) the options for seeking further review of a particular determination; and (3) the procedures governing reviews. The proposed rule also makes editorial changes and reorganizes the information contained in the interim rule in a more logical sequence. The following is a summary of the major amendments proposed by this rule.

Section 780.1 is amended to remove the reference to "Chapters VII and XIV" because the provisions of this part are applicable to regulations which are codified outside of Chapters VII and XIV of this title, such as the swampbuster and sodbuster regulations which are currently codified in part 12, subtitle A, of this title.

Section 780.2 is amended to combine paragraphs (a)(3) and (a)(4) into one shorter paragraph. This section was also amended by redesignating §§ 780.17 (b), (b)(2) as §§ 780.2 (b)(1), and (c), (c)(1), and (c)(2), respectively. This was done to emphasize the fact that technical determinations of the Forest Service or the Soil Conservation Service, as well as determinations regarding the content of general provisions or statutory requirements that are applicable to all participants, are not subject to review pursuant to the provisions of this part.

Section 780.3 is amended by revising the definitions of the terms "Appeal," "Hearing Officer," "Participant," and "Verbatim Transcript." This section also adds definitions of the terms "Person," "Relief," "Review," "Reviewing Authority," and "Secretary." These definitions are added to clarify the meaning of these terms for the purposes of this part. This section is also amended by adding a definition of the term "Cooperative" as part of an amendment proposed by the timely comment received during the comment period for the interim rule. A more detailed discussion of this amendment is provided below.

Section 780.7 is revised to describe more clearly the procedures applicable to appeals and reconsiderations of determinations issued by individual reviewing authorities. In general, determinations issued by county committees are appealable to the applicable State committee; determinations issued by State committees are appealable to NAD; and determinations issued by agents or employees of ASCS or CCC at the National level are appealable to NAD. However, initial determinations issued by a county committee must be reconsidered by the county committee before such determinations may be appealed to the State committee; initial determinations issued by a State

committee must be reconsidered by the State committee before it may be appealed to NAD; and initial determinations issued by agents or employees of ASCS or CCC at the National level must be reconsidered by such agents or employees before it may be appealed to NAD. In addition to those instances where a participant must request that a determination be reconsidered before it can be appealed to a higher level, a participant in most cases has the option of requesting a reconsideration of any determination regarding program eligibility issued by a reviewing authority, with the exception of determinations issued by the Secretary of Agriculture, Administrator of ASCS, or the Executive Vice President of CCC, as well as most reconsideration determinations issued by NAD. This section also provides that reviewing authorities conducting reconsideration reviews have the discretion to offer the participant a hearing.

Section 780.8 is redesignated as §§ 780.7 (a) (2) and (3) and (b) (2) and (3) and revised. Accordingly, § 780.9 is redesignated as § 780.8. Section 780.8 is amended by emphasizing in paragraph (b) that all reviews conducted pursuant to the provisions of this part are *de novo*. Thus, the reviewing authority's scope of review of a matter under review is not limited to the issues raised by the participant, by the determination of a lower reviewing authority, or by the previous determination of the reviewing authority. Paragraph (i) was added to emphasize that participants are not entitled to hearings when a review is being conducted by the Secretary, the Administrator of ASCS, or the Executive Vice President of CCC.

Sections 780.17 (b), (b)(1), and (b)(2) are redesignated as §§ 780.2 (c), (c)(1), and (c)(2), respectively. Section 780.17(b)(3) is removed. Accordingly, § 780.17(c) is redesignated as § 780.17(b); § 780.17(d) is redesignated as § 780.17(c).

Section 780.19 was revised to list specifically the powers given to hearing officers by the Director to conduct NAD hearings. Sections 780.19(a) (7) and (8) are redesignated as §§ 780.19(a) (6) and (7), respectively. Paragraph (d) has been added to this section to provide the address at which to obtain the administrative procedures governing NAD hearings.

Section 780.20 is amended to include the procedures governing requests by participants that the Director of NAD issue subpoenas on their behalf to obtain documents or to require the testimony of a third party at NAD hearings. This section also is amended to include the procedures governing requests by participants to the Director requesting the appearance of USDA employees or representatives at NAD hearings.

Section 780.22 is added to describe the procedures governing the review of requests for relief. This section has been added to clarify the distinction between:

(1) Appeals, which are requests for review based on a claim of eligibility to benefits pursuant to the provisions of the program; and (2) requests for relief, which are requests for review based on a claim to benefits even though the participant failed to meet applicable program requirements. This distinction, and the separate procedures contained in the proposed rule, stem from the different powers reviewing authorities have in granting requests for relief as opposed to appeals. This section also clarifies the fact that the Director of NAD has broad powers to grant relief during a NAD review.

During the comment period for the interim rule, a comment was received from a cotton cooperative. The cotton cooperative requested that § 780.7 be revised to extend the same administrative review rights afforded to individual participants to cooperatives and the collective membership of cooperatives. The comment stated that cooperatives need a similar review process, and that cooperatives often have to request reviews from the authority which issued the initial determination.

Cooperatives have previously had the right to request a review of adverse determinations made by the initial decision-maker. Under the prior appeal regulations, some issues were handled as reviews with hearings conducted before representatives of DASCO under the prior appeal regulations. The only specific reference to cooperatives' administrative review rights was published at 7 CFR part 1425, which afforded the rights to pursue an adverse determination in accordance with 7 CFR part 780.

As a result, the proposed rule defines the term "participant" to include cooperatives. Thus, under the proposed rule, a cooperative will have the right under § 780.7 to request an administrative review to the appropriate reviewing authority on behalf of its collective membership. If the review is pursued by a cooperative and the determination is adverse, the individual members will not have further review rights with respect to the issue under review, except at the discretion of the Director of NAD.

List of Subjects in 7 CFR Part 780

Administrative practices and procedures.

Proposed Rule

Accordingly, 7 CFR part 780 is revised to read as follows:

PART 780—ADMINISTRATIVE REVIEW REGULATIONS

Sec.

780.1 General statement.
780.2 Applicability.
780.3 Definitions.
780.4–780.6 [Reserved]
780.7 Requests for review.
780.8 Hearing procedures.
780.9–780.14 [Reserved]
780.15 Time limitations for filing requests for review.
780.16 Form of request for review.
780.17 Determinations.
780.18 Reopening of hearing.
780.19 Procedure governing reviews by National Appeals Division.
780.20 Participant requests for exercise of subpoena powers for the appearance of USDA representatives.
780.21 [Reserved]
780.22 Authority to grant relief.
780.23 Delegation of authority.
780.24 OMB-control numbers assigned pursuant to Paperwork Reduction Act.

Authority: 7 U.S.C. 1433e; 15 U.S.C. 714b and 714c; 16 U.S.C. 590h .

§ 780.1 General statement.

This part sets forth the regulations to provide for an administrative review process for adverse determinations issued with respect to programs which are administered by the Agricultural Stabilization and Conservation Service (ASCS). These programs also include programs administered by ASCS on behalf of the Commodity Credit Corporation (CCC) and are generally set forth in 7 CFR. This part also establishes the National Appeals Division (NAD) within ASCS, which will administer the provisions of this part. This part is applicable to any adverse determination made by any State or county Agricultural Stabilization and Conservation Committee (State committee and county committee, respectively) or personnel of ASCS or agents of CCC after November 28, 1990, which had not otherwise become final by November 25, 1991.

§ 780.2 Applicability.

(a) The regulations contained in this part are applicable to determinations made by county and State committees and any other personnel of ASCS or by agents of CCC, except as otherwise may be provided in individual program regulations. These regulations prescribe the rules and procedures that must be

followed by a person who seeks review of a determination made with respect to:

(1) Denial of participation in such a program;

(2) Compliance with program requirements; and

(3) The making of payments or other programs benefits.

(b) Reviews under this part are limited to individual program determinations made with respect to those persons meeting the requirements of paragraph (a) of this section. Accordingly, there is no right to review under this part with respect to general program requirements which are applicable to all program participants or procedures.

(c) Except as provided in § 780.23, notwithstanding any other provision in this part, determinations:

(1) Made under a conservation or environmental program involving a finding or certification by a representative of the Soil Conservation Service or Forest Service, or determinations of a technical nature by any Federal agency, other than a determination made by ASCS, shall not be reviewable; and

(2) Which are solely due to the general program provisions or statutory requirements which are applicable to all participants or producers are not reviewable.

§ 780.3 Definitions.

Appeal means a written request by a participant asking a reviewing authority to review an adverse determination made by a subordinate reviewing authority concerning the participant's eligibility for benefits issued under programs governed by this part, pursuant to the applicable program requirements.

CCC means the Commodity Credit Corporation, a wholly-owned Government corporation within the United States Department of Agriculture.

Cooperative means a cooperative that has been approved by CCC under the provisions of 7 CFR 1425 to participate in price support programs with respect to one or more authorized commodities, and which acts on behalf of its collective membership.

County Committee means a county Agricultural Stabilization and Conservation (ASC) committee established in accordance with section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)).

DASCO means the Deputy Administrator, State and County Operations of ASCS.

Director means the Director of NAD.

Hearing means an informal proceeding to afford a participant the opportunity to present testimony or documentary evidence or both, to have a previous determination reversed, and to show why an adverse determination was not proper. Hearings before NAD may include compulsory attendance of witnesses, compulsory production of documentary evidence, and the administering of oaths and affirmations if the Director of NAD or other designated authority determines such requirements are necessary.

Hearing Officer means an individual who is a representative of NAD and is assigned the responsibility of conducting a hearing for a request for review filed by a participant with the Director or other appropriate official in accordance with this part.

Initial Determination means the first program determination that contains a particular finding which adversely affects a participant as provided in § 780.2.

NAD means the National Appeals Division, the ASCS division established for the purpose of hearing and reviewing requests for reviews under this part.

Participant means any person whose right to participate in, or to receive payments or other benefits in accordance with, any of the programs to which these regulations apply is affected. An authorized representative of the participant, including a cooperative acting on behalf of its collective membership, shall be considered to be a participant.

Person means an individual, partnership, association, corporation, estate, or trust, or other business enterprise or other legal entity and, whenever applicable, a State, political subdivision of a State or any agency thereof.

Reconsideration is a subsequent review of a prior determination made by the same reviewing authority which issued the prior determination.

Relief is the right to receive a benefit in accordance with a program governed by this part, even though the participant has not satisfied all applicable program requirements.

Review is the consideration of a participant's right to receive benefits in accordance with a program governed by this part. Reviews include appeals, reconsiderations, and considerations of requests for relief.

Reviewing Authority is any county committee, State committee, DASCO, or NAD which is responsible under this part for examining and determining any matter under a request for a review. The Secretary, the Administrator of ASCS, or the Executive Vice President of CCC, may on their own motion serve as final reviewing authorities.

Secretary means the Secretary of Agriculture.

State Committee means a State ASC committee established in accordance with section (8b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) including, insofar as is practical, the Director of the Caribbean Area ASCS Office for Puerto Rico and the Virgin Islands.

Verbatim Transcript is an official, written record of proceedings in a hearing which has been transcribed by a transcription service whose appearance is arranged for in accordance with these regulations.

§ 780.4–780.6 [Reserved]

§ 780.7 Requests for review.

(a) *Appeals.* (1) A participant that believes an initial determination by a county committee, that has been reconsidered by the same county committee, was not proper may appeal the determination and request a hearing by filing a written appeal with the appropriate State committee.

(2) A participant that believes an initial determination by a State committee that has been reconsidered by the same State committee was not proper, that any other determination by a State committee was not proper, the participant may appeal the determination and request a hearing by filing a written appeal with NAD.

(3) A participant that believes a determination by an agent or representative of ASCS or CCC at the National level, after being reconsidered by such agent or representative, may appeal the determination and request a hearing by filing a written appeal with NAD.

(b) *Reconsideration.* (1) A participant that believes an initial determination by a county committee was not proper must timely request in writing a reconsideration of such determination by the county committee before it may be appealed to the applicable State committee.

(2) A participant that believes an initial determination by a State committee was not proper must timely request in writing a reconsideration of such determination by the State committee before it may be appealed to NAD.

(3) A participant that believes an initial determination by an agent or representative of ASCS or CCC at the National level was not proper must timely request in writing a reconsideration of such determination

by the agent or representative who issued the initial determination before it may be appealed to NAD.

(4) A participant may request a reconsideration of any determination made by a reviewing authority. Such request will be granted at the discretion of the reviewing authority.

(5) A request for reconsideration must be in writing and must:

(i) Explain why the determination was not proper and not made in accordance with applicable program regulations; or

(ii) Identify facts that were not considered with respect to the determination.

(6) Unless the determination otherwise indicates, reconsideration is not available from:

(i) A determination issued by the Secretary, the Administrator of ASCS, or the Executive Vice President of CCC;

(ii) A reconsidered determination issued by NAD, provided such determination does not contain an initial determination; or

(iii) A determination with respect to requests for relief.

(7) The party conducting the reconsideration pursuant to the provision of this part has the discretion to allow the participant to make an oral presentation in support of its request for reconsideration.

§ 780.8 Hearing procedures.

(a) The hearing shall be held at the time and place designated by the reviewing authority.

(b) The hearing shall be part of a *de novo* review of the participant's case conducted by the reviewing authority, or a representative of the reviewing authority, in the manner determined by CCC or ASCS to be most likely to obtain the facts relevant to the matter at issue. The reviewing authority may confine the presentation of facts and evidence to pertinent matters and may exclude irrelevant, immaterial, or unduly repetitious evidence, information, or questions.

(c) When the participant requests copies of documents, information, or evidence upon which a determination is made or which will form the basis of the determination, copies of all program documents, information or evidence, including minutes from county committee or State committee proceedings, shall be made available to the participant.

(d) The reviewing authority shall, before the hearing, prepare a written record which contains a clear, concise statement of the facts as asserted by the participant and the material facts found by the reviewing authority. The names of interested individuals appearing at the hearing shall be included.

(e) A verbatim transcript of the hearing may be made if:

(1) The participant requests, not later than 7 calendar days before the date of the scheduled hearing, that the reviewing authority arrange for such a transcript and agrees to pay the expense thereof; or

(2) The reviewing authority determines that such a transcript is appropriate.

(f) Unofficial recording of a hearing by an audio or video recorder or by an unauthorized transcription service is prohibited.

(g) The participant shall be given a full opportunity to present facts and information relevant to the matter at issue and may present oral or documentary evidence. At its discretion, the reviewing authority may request or permit individuals other than those appearing on behalf of the participant to present information or evidence at such hearing, and, in such event, may permit the participant to question such individuals.

(h) If, by the time the hearing is scheduled to begin, the participant is absent and no appearance is made on behalf of the participant or no arrangements have been made for rescheduling the hearing, the reviewing authority shall, after a reasonable period of time, conclude the hearing or may, at its discretion, accept information and evidence submitted by other individuals present at the hearing.

(i) The provisions of this section shall not be applicable to reviews conducted by the Secretary, the Administrator of ASCS, or the Executive Vice President of CCC.

§ 780.9–780.14 [Reserved]

§ 780.15 Time limitations for filing requests for review.

(a) A request for review shall be filed within 15 calendar days after written notice of the determination which is the subject of such request is mailed to or otherwise made available to the participant. Such a request shall be considered to have been "filed" when personally delivered in writing to the appropriate reviewing authority or when postmarked.

(b) Whenever the final date for filing a request for review prescribed in paragraph (a) of this section falls on a Saturday, Sunday, legal holiday or other day on which the appropriate office is not open for the transaction of business during normal workhours, the time for filing shall be extended to the close of business on the next workday.

(c) Any request for review may be accepted and acted upon even though it is not filed within the time prescribed in paragraph (a) or (b) of this section if, in the judgment of the reviewing authority with whom such request is filed, the circumstances warrant such action. If the applicable reviewing authority declines acceptance of a late-filed request, such refusal is not subject to further review.

§ 780.16 Form of request for review.

Each request for review shall be in writing and signed by the participant. Each request shall be supported by a written statement of facts, which may be submitted with, or as a part of, the request or at any time before the scheduled hearing. The participant may request that a determination be made by the reviewing authority without a hearing on the basis of the written statement submitted and other information available to the reviewing authority. If the participant does not appear at the scheduled hearing or otherwise make arrangements for a rescheduled hearing, the reviewing authority shall make its determination based on the facts available, including any additional material subsequently submitted by the participant.

§ 780.17 Determinations.

(a) The reviewing authority, before making a determination, may request the participant to produce additional evidence which it may deem relevant, or develop additional evidence from other sources. Upon review and within program authorities, the reviewing authority may affirm, modify, or reverse any determination made by it initially or made by a lower reviewing authority, or may remand the matter to a lower reviewing authority for such further consideration as is deemed appropriate. The participant shall be notified in writing of the determination. The notification shall clearly set forth the basis for the determination, as established by applicable regulations, and the facts and circumstances in the case record. Any other persons identified as being adversely affected directly by the determination shall be notified in writing of the determination.

(b) Program determinations issued by a State or county committee, or employees of such committees, made in good faith in the absence of misrepresentation, false statements, fraud, or willful misconduct by the participant, unless otherwise reviewed under these regulations or modified under § 780.23 within 90 calendar days, shall be final, and no action shall be

taken to recover amounts found to have been disbursed thereon in error unless the person had reason to believe that the determination was erroneous.

(c) Notwithstanding the provision of paragraph (b) of this section, representatives of ASCS and CCC may correct all errors in entering data on program contracts, loan agreements, and other program documents as well as the results of computations or calculations made pursuant to the contract or agreement.

§ 780.18 Reopening of hearing.

The reviewing authority, at its discretion, may for any reason it deems appropriate, or upon request of the participant when such request is accompanied by production of new and substantive information which could have a bearing on the prior determination, reopen any hearing for the purposes of conducting a further review of a prior determination unless the matter has been or is being appealed to a higher reviewing authority or is otherwise being considered by the appropriate ASCS or CCC official in accordance with the general program provisions set forth in 7 CFR.

§ 780.19 Procedure governing reviews by National Appeals Division.

(a) The Director:

(1) Upon request, shall have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available that relate to programs and operations with respect to which a request for review has been taken;

(2) May request such information or assistance as may be deemed necessary from any Federal, State, or local governmental agency or unit thereof;

(3) May require the attendance of witnesses, the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary to the proper resolution of reviews;

(4) May, if appropriate, require the attendance of witnesses and production of documentary evidence by subpoena, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court;

(5) May administer oaths and affirmations, whenever necessary in the process of a hearing;

(6) Shall make all determinations with respect to reviews to NAD based on a copy of the record, certified and presented by the hearing officer to the Director; and

(7) May order further proceedings in order that the record presented for review may be complete or in order to hear new or additional evidence.

(b) Hearing officers are authorized to:

(1) Request access to all records, reports, audits, reviews, documents, papers, recommendations, or other available material that relate to the programs and operations with respect to which a review has been taken;

(2) Request such information or assistance as may be necessary from any Federal, State, or local governmental agency;

(3) Require the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence; and

(4) Administer oaths and affirmations.

(c) In addition to the requirements set forth at section 780.8, additional requirements, as determined necessary, may be established by the Director.

(d) A copy of the administrative procedures governing NAD hearings can be obtained from the Director at the following address: Director, NAD, ASCS, USDA, P.O. Box 2415, Washington, DC 20013–2415.

§ 780.20 Participant requests for exercise of subpoena powers or for appearance of USDA representatives.

(a) A participant may request that the Director of NAD issue a subpoena as provided in section 780.19 to obtain documents and the testimony of witnesses, if:

(1) The request is made in writing to the Director of NAD within 15 calendar days of the date of NAD's notification of review to the participant;

(2) The request establishes that:

(i) Production of documentary or oral evidence pursuant to the subpoena is reasonably calculated to lead to information which would affect the final determination, or is necessary to fully present the participant's case before NAD;

(ii) The NAD subpoena is the only reasonable way this information can be presented to NAD; and

(3) The participant pays for the costs of serving the subpoena, copying costs for the production of documents subpoenaed, and travel costs of witnesses subpoenaed.

(b) A participant may request the Director of NAD to require the appearance of USDA representatives at a hearing before NAD if:

(1) The request is made in writing to the Director of NAD within 15 calendar days of the date of NAD's notification of review to the participant; and

(2) The request establishes that a representative of USDA possesses information that is pertinent and necessary for the disclosure of all relevant facts which could affect the final determination and the information cannot be obtained except through the testimony of the USDA representative.

(c) Testimony by USDA representatives may, at the discretion of the Director of NAD, be presented in person or by telephone.

§ 780.21 [Reserved]

§ 780.22 Authority to grant relief.

(a) In accordance with this section, a participant may request that relief be granted by a county committee, State committee, or NAD regarding a determination made by any official of ASCS or CCC (excluding the Administrator, ASCS, or the Executive Vice President, CCC). If such reviewing authority lacks the authority to grant relief, it may seek authority to grant the requested relief from an appropriate representative of ASCS or CCC.

(b) If the county committee denies a participant's request for relief, the participant may make a written request to the State committee to review that determination.

(c) If the State committee or any other representative of ASCS or CCC (excluding the Administrator, ASCS, and the Executive Vice President, CCC) denies the request for relief, the participant may make a written request to NAD to review that determination.

(d) The Director of NAD may grant requests for relief to the same extent as is delegated to any other representative of CCC or ASCS, excluding the authority granted to the Administrator, ASCS, and the Executive Vice President, CCC.

(e) The provisions of this part shall not preclude DASCO or its designee from making determinations regarding requests for the authority to grant relief submitted and approved by State committees.

§ 780.23 Delegation of authority.

Nothing contained in the regulations of this part shall preclude the Secretary, the Administrator of ASCS, or the Executive Vice President of CCC, or a designee, from determining at any time any question arising under the programs

to which the regulations in this part apply, or from reversing or modifying in writing, with sufficient reason given therefore, any determination made by a county committee, State committee, the Director of NAD, or any other employee or representative of ASCS or CCC.

§ 780.24 OMB-control numbers assigned pursuant to Paperwork Reduction Act.

The information collection requirements contained in these regulations (7 CFR part 780) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35, and assigned OMB No. 0560–0137.

Signed on September 16, 1992 at Washington, DC.

John A. Stevenson,

Acting Administrator, Agricultural Stabilization and Conservation Service, Executive Vice President, Commodity Credit Corporation.

[FR Doc. 92–23012 Filed 9–22–92; 8:45 am]

BILLING CODE 3710–04–M

Agricultural Marketing Service

7 CFR Part 910

[Docket No. FV–92–076]

Lemons Grown in California and Arizona; Proposed Weekly Volume Regulations; Correction

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed Rule; Correction.

SUMMARY: This action corrects a proposed rule which invites comments on the quantities of fresh California-Arizona lemons that may be shipped weekly to domestic markets.

FOR FURTHER INFORMATION CONTACT: Kenneth G. Johnson (202) 690–3670.

SUPPLEMENTARY INFORMATION: This action corrects a proposed rule which appeared in the **Federal Register** (57 FR 39368, August 31, 1992). The meeting date, time, and location on page 39370, item 4, is corrected to read as follows:

"4. Committee Meeting Date: September 29, 1992.

Time: 1 p.m.

Location: Red Lion Hotel, 222 North Vineyard, Ontario, California 91764."

Dated: September 17, 1992.

Charles R. Brader,

Director, Fruit and Vegetable Division.

[FR Doc. 92–23017 Filed 9–22–92; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 1209

[FV–91–276B]

Mushroom Promotion, Research, and Consumer Information Order; Extension of Voting Period

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to referendum order.

SUMMARY: This action extends the voting period for the referendum during which mushroom producers and importers will vote on whether the mushroom Promotion, Research, and Consumer Information Order will become effective. The voting period has been extended an additional 14 days to conclude on September 28, 1992, rather than September 14, 1992.

DATES: A referendum shall be conducted from August 24, 1992, through September 28, 1992.

ADDRESSES: Richard Schultz, Research and Promotion Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, room 2533–S, P.O. 96456, Washington, DC 20090–6456.

FOR FURTHER INFORMATION CONTACT: Richard Schultz at the above address or telephone (202) 720–5976.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Proposed Rule published in the October 4, 1991, issue of the **Federal Register** (56 FR 50283); Proposed Rule and meeting Notice published in the January 15, 1992, issue of the **Federal Register** (57 FR 1666); Proposed Rule and Referendum Order published in the June 10, 1992, issue of the **Federal Register** (57 FR 24719); and Amendment to Referendum Order published in the August 14, 1992, issue of the **Fedral Register** (57 FR 36610).

The June 10 referendum order specified that the voting period would be from July 22, 1992, through August 12, 1992. That voting period was delayed due to court action. Subsequently, a referendum order was initially amended in order to reschedule the voting period. Pursuant to the amendment, the voting period began on August 24, 1992, and was scheduled to end on September 14, 1992. However, a printing error on the envelopes used in the referendum ballot package which was mailed to all known mushroom producers and importers has been detected. These envelopes were imprinted with an incorrect business reply mail permit number. Consequently, not all of the referendum ballot packages may have been delivered to potentially eligible voters. Therefore, in order to assure full voter participation in the referendum, the Department has extended the voting period through September 28, 1992, and has made a second mailing of ballot materials to all know mushroom producers and importers. The second ballots may be distinguished by their different color (yellow). In cases where a valid first ballot has already been received, the second ballot will not be counted since only one ballot will be counted for each voting entity.

The referendum order is hereby amended to read as follows:

It is hereby directed that a referendum be conducted among mushroom producers and importers to determine whether producers and importers favor the establishment of a national mushroom promotion, research, consumer information, and industry information program. Such a program would be implemented through a Mushroom Promotion, Research, and Consumer Information Order (order). The representative period for establishing voter eligibility for the referendum shall be the period from July 1, 1990, through June 30, 1992. A referendum shall be conducted from August 24, 1992, through September 28, 1992.

The Mushroom Promotion, Research, and Consumer Information Act of 1990 (Act) specifies that the Secretary of Agriculture (Secretary) will conduct a referendum among mushroom producers and importers to determine whether the order shall become effective. The Act further specifies that the order shall become effective, if the Secretary determines that the order has been approved by a majority of the producers and importers voting in the referendum, which majority, on average, annually produces and imports into the United States more than 50 percent of the mushrooms annually produced and imported by all those voting in the referendum.

Richard Schultz and Martha B. Ransom, Research and Promotion Branch, Fruit and Vegetable Division, Agricultural Marketing Service, P.O. Box 96456, U.S. Department of Agriculture, Washington, DC 20090–6456, are designated as the referendum agents of the Secretary of Agriculture to conduct this referendum. The Procedure for the Conduct of Referenda in Connection with the Mushroom Promotion, Research, and Consumer Information Order, 7 CFR 1209.300–1209.307 shall be used to conduct the referendum.

Ballots to be cast in the referendum, and any related material relevant to the referendum, will be mailed by the referendum agents to all known mushroom producers and importers. Persons who have produced or imported, on average, over 500,000 pounds of mushrooms that were marketed or imported annually for fresh use during the representative period are eligible to vote. Such persons shall establish their eligibility by providing information on the ballot concerning their volume of production or importation. Such information may be subject to verification. Should any eligible producer or importer not receive a ballot and related material, such producer or importer should immediately contact the referendum agents.

Dated: September 17, 1992.

Daniel Haley,

Administrator.

[FR Doc. 92- 23016 Filed 9- 22-92; 8:45 am]

BILLING CODE 3410- 02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92-NM-117-AD]

Airworthiness Directives; Boeing Model 727 Series Airplanes Equipped With Bendix Brakes Fitted With NASCO Rotors Installed in Accordance With Supplemental Type Certificate (STC) SA3948NM

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 727 series airplanes. This proposal would require that certain landing gear brakes be inspected for wear and replaced if the wear limits prescribed in this proposal are not met, and that the new wear limits be incorporated into the FAA-approved maintenance inspection program. This proposal is prompted by an accident in which a transport category airplane executed a rejected takeoff (RTO) and was unable to stop on the runway due to worn brakes. The actions specified by the proposed AD are intended to prevent the loss of brake effectiveness during a high energy RTO and further incidents/accidents.

DATES: Comments must be received by September 8, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-117-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Andrew Gfrerer, Aerospace Engineer, Mechanical/Environmental and Crashworthiness Section, ANM-131L, FAA, Los Angeles Aircraft Certification Office (ACO), 3229 East Spring Street, Long Beach, California 90806; telephone (310) 988-5338; fax (310) 988-5210.

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 shall identify the Rules 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 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 postcard on which the following statement is made: "Comments to Docket Number 92-NM-117-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-117-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

Discussion

In 1988, a McDonnell Douglas Model DC-10 series airplane was involved in an aborted takeoff accident in which eight of the ten brakes failed and the airplane ran off the end of the runway. Investigation revealed that there were failed pistons on each of the eight brakes, with O-rings damaged by over-extension due to extensive wear. Fluid leaking from the damaged pistons caused the hydraulic fuses to close, releasing all brake pressure.

This accident prompted a review of allowable wear limits for all brakes installed on transport category airplanes. The FAA and the Aerospace Industries Association (AIA) jointly developed a set of dynamometer test guidelines that could be used to validate appropriate wear limits for all airplane brakes. It should be noted that this worn brake accountability determination validates brake wear limits with respect to brake energy capacity only and is not meant to account for any reduction in brake force due solely to the wear state of the brake. Any reduction in brake force (or torque) that may develop over time as a result of brake wear is to be evaluated and accounted for as part of a separate rulemaking project. The guidelines for validating brake wear limits allow credit for use of reverse thrust to determine energy level absorbed by the brake during the dynamometer test.

The FAA has requested that U.S. airframe manufacturers: (1) determine required adjustments in allowable wear limits for all of its brakes in use, (2) schedule dynamometer testing to validate wear limits as necessary, and (3) submit information from items (1) and (2) to the FAA so that appropriate rulemaking action(s) can be initiated.

Worn brake rejected takeoff (RTO) dynamometer testing and analyses have been conducted with regard to various brakes installed on Boeing Model 727 series airplanes. The FAA previously has issued AD 91-18-07 [amendment 39-8010, (56 FR 51162, October 10, 1991)] and AD 92-12-08 [amendment 39-8269, (57 FR 29194, July 1, 1992)], which require the establishment of maximum brake wear limits for various main landing gear brakes installed on certain Boeing Model 727 series airplanes. The brake wear limits established by those AD's are based on dynamometer test data and analyses that were submitted by Boeing Commercial Airplane Group, Allied Signal Aerospace Company (Bendix Wheels and Brakes Division), and BFGoodrich Aerospace; these data were evaluated by the FAA.

Recently, NASCO Aircraft Brake, Inc., submitted, and the FAA evaluated, a series of dynamometer test data and analyses concerning Model 727 series airplanes equipped with Bendix brakes that are fitted with NASCO rotors installed in accordance with Supplemental Type Certificate (STC) SA3948NM. The FAA also witnessed some of the dynamometer tests, which were conducted in April 1992. Based on these data, the FAA has determined that the maximum brake wear limits currently recommended in the Component Maintenance Manuals for Model 727 series airplanes equipped with these specific brakes are not acceptable as they relate to the effectiveness of the brakes during a high energy RTO. Further, these limits are only recommended values.

The FAA has determined that, in order to prevent loss of brake effectiveness during a high energy RTO, the following new maximum brake wear limits are necessary for Model 727 series airplanes equipped with Bendix brakes that are fitted with NASCO rotors installed in accordance with STC SA3948NM:

Bendix part No.	Boeing part No.	Maximum wear limit (inches)
2601182-5	10-61287-22	1.8
2601182-6	10-61287-23	1.7

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require the inspection of landing gear brakes currently installed on these specific Model 727 series airplanes to determine the amount of wear, and replacement if the new wear limits are not met; and the incorporation of the specified new maximum wear limits for the specified brakes into the FAA-approved maintenance inspection program.

There are approximately 690 Boeing Model 727 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 375 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 12 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour.

The cost of required parts to accomplish the change in wear limits for these airplanes (that is, the cost resulting from the requirement to change the brakes before they are worn to their previously approved limits for a one-time change) would be approximately $3,160 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $1,432,500. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

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 the 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 is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

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—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 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 airworthiness directive:

Boeing: Docket 92-NM-117-AD.

Applicability: Model 727 series airplanes equipped with Bendix brakes fitted with NASCO rotors installed in accordance with Supplemental Type Certificate (STC) SA3948NM; and equipped with the brake part numbers identified in paragraph (a) of this AD; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent the loss of main landing gear braking effectiveness, accomplish the following:

(a) Within 180 days after the effective date of this AD, inspect brakes having the brake part numbers specified below for wear. Any brake worn more than the maximum wear limit specified below must be replaced, prior to further flight, with a brake within this limit.

BENDIX BRAKES FITTED WITH NASCO ROTORS INSTALLED IN ACCORDANCE WITH STC SA3948NM

Bendix P/N	Boeing P/N	Maximum wear limit (inches)
2601182-5	10-61287-22	1.8
2601182-6	10-61287-23	1.7

(b) Within 180 days after the effective date of this AD, incorporate the maximum brake wear limits specified in paragraph (a) of this AD, into the FAA-approved maintenance inspection program.

(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, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Los Angeles ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Los Angeles ACO.

(d) 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.

Issued in Renton, Washington, on July 10, 1992.

Bill R. Boxwell,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-23078 Filed 9-22-92; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[INTL-309-88]

RIN 1545-AL84

Determination of Interest Expense Deduction of Foreign Corporations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Rescheduling of time and location of public hearing on proposed regulations.

SUMMARY: This document reschedules the time and location of the public hearing on proposed regulations relating to the determination of the interest expense deduction of foreign corporations engaged in a trade or business within the United States.

DATES: The public hearing has been rescheduled for Friday, October 30, 1992, beginning at 1:30 p.m. Requests to speak, and outlines of oral comments to be presented at the public hearing must be received by Friday, October 9, 1992.

ADDRESSES: The public hearing will be held in the IRS Commissioner's Conference Room, room 3313, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Send all submissions to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R [INTL–309–88], room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Karl T. Walli of the Office of Associate Chief Counsel (International) at (202) 622–3870. Concerning the hearing, Bob Boyer of the Regulations Unit, Assistant Chief Counsel (Corporate), 202–622–7190, (not toll-free calls).

SUPPLEMENTARY INFORMATION: A rescheduling notice of public hearing appearing in the **Federal Register** on Thursday, July 9, 1992 (57 FR 30451), announced among other things, that the date of the public hearing was rescheduled to Friday, October 30, 1992, beginning at 10:00 a.m. in the Internal Revenue Service Auditorium. There has been a change in the time and location of the public hearing to be held on Friday, October 30, 1992. The hearing will be held on Friday, October 30, 1992. The hearing will be held on Friday, October 30, 1992, beginning at 1:30 p.m. in the IRS Commissioner's Conference Room, room 3313, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Requests to speak and outlines of oral comments to be presented at the public hearing must be received by Friday, October 9, 1992.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 1 p.m.

In all other aspects, the details regarding the notice of proposed rulemaking and the public hearing will remain the same.

By direction of the Commissioner of Internal Revenue.

Dale D. Goode,

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

[FR Doc. 92–23096 Filed 9–22–92; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Kentucky Permanent Regulatory Program; Fish and Wildlife Resources

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

ACTION: Proposed rule; reopening and extension of comment period on proposed amendment.

SUMMARY: OSM is announcing the receipt of revisions to a previously prepared amendment to the Kentucky permanent regulatory program (hereinafter referred to as the Kentucky program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). By letter of July 21, 1992, (Administrative Record No. KY–1167) Kentucky resubmitted a proposed program amendment that completed the Kentucky promulgation process under Kentucky Revised Statutes (KRS) Chapter 13A. The amendment consists of proposed modifications to Kentucky Administrative Regulations (KAR) at 405 KAR 8:030, 8:040, 16:180 and 18:180 that relate to fish and wildlife resources. This proposed amendment replaces two earlier proposed program amendments Administrative Record No. KY–1119 submitted March 13, 1992, and Administrative Record No. KY–1059 originally submitted June 28, 1991. This proposed amendment also addresses comments by OSM sent to Kentucky in a letter dated April 8, 1992, (Administrative Record No. KY–1126).

This notice sets forth the times and locations that the Kentucky program and the proposed amendment are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding a public hearing, if one is requested.

DATES: Written comments must be received on or before 4 p.m. on October 8, 1992. If requested, a public hearing on the proposed amendment will be held at 10 a.m. on October 5, 1992. Requests to present oral testimony at the hearing must be received on or before 4 p.m. on September 28, 1992.

ADDRESSES: Written comments and requests for a hearing should be mailed or hand delivered to: William J. Kovacic, Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 340 Legion Drive, suite 28, Lexington, Kentucky 40504. Copies of the Kentucky program, the proposed amendment, and all written comments received in response to this notice will be available for review at the addresses listed below, Monday through Friday, 9 a.m. to 4 p.m., excluding holidays. Each requestor may receive, free of charge, one copy of the proposed amendment by contacting OSM's Lexington Field Office.

Office of Surface Mining Reclamation and Enforcement, Lexington Field Office, 340 Legion Drive, suite 28, Lexington, Kentucky 40504, Telephone: (606) 233–2896

Office of Surface Mining Reclamation and Enforcement, Eastern Support Center, Ten Parkway Center, Pittsburgh, Pennsylvania 15220, Telephone: (412) 937–2828

Department for Surface Mining Reclamation and Enforcement, No. 2 Hudson Hollow Complex, Frankfort, Kentucky 40601, Telephone: (502) 564–6940. If a public hearing is held, its location will be: The Harley Hotel, 2143 North Broadway, Lexington, Kentucky 40505.

FOR FURTHER INFORMATION CONTACT: William J. Kovacic, Director, Lexington Field Office, Telephone (606) 233–2896.

SUPPLEMENTARY INFORMATION:

I. Background

On May 18, 1982, the Secretary of the Interior conditionally approved the Kentucky program. Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval can be found in the May 18, 1982, **Federal Register** (47 FR 21404–21435). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 917.11, 917.15, 917.16, and 917.17.

II. Discussion of Amendment

By letter of July 21, 1992, (Administrative Record No. KY–1167) Kentucky resubmitted a proposed program amendment that completed the Kentucky promulgation process under

Kentucky Revised Statutes (KRS) Chapter 13A. This proposed amendment replaces two earlier proposed program amendments Administrative Record No. KY–1119 submitted March 13, 1992, and Administrative Record No. KY–1059 originally submitted June 28, 1991. This proposed amendment also addresses comments by OSM sent to Kentucky in a letter dated April 8, 1992, (Administrative Record No. KY–1126).

This resubmission is the same as the March 13, 1992, submittal except for the following changes made during the State regulation promulgation process. Three changes were made in response to OSM's April 8, 1992, issue letter. The changes are as follows:

1. Proposed 405 KAR 16:180 section 1(3) and 18:180 section 1(3), pertaining to the applicability of the performance standards for protection of fish and wildlife, were deleted. With these changes, the applicability of section 1 of these regulations will not be deferred to apply only to applications submitted on and after November 17, 1992.

2. In proposed 405 KAR 16:180 section 2(1)(a), (b) and 18:180 section 2(1)(a), (b) pertaining to the reporting of sightings of bald or golden eagle nests or threatened or endangered species, the word "permittee" was changed to "operator." With these changes, the operator will be responsible for reporting such sightings and the permittee will be responsible only if he is also the operator.

3. Our June 28, 1991, submittal contained the language "construct stream crossings so as not to adversely affect fish migration and aquatic habitat" at 405 KAR 16:180 section 1(2)(a)3 and 18:180 section 1(2)(a)3. The March 13, 1992, submittal did not contain the language because those subparagraphs were deleted prior to filing with the Legislative Research Commission on March 6, 1992; however, the succeeding subparagraph have now been renumbered (a)3 and (a)4.

Likewise, other changes were made during the State promulgation process. These changes are as follows:

1. 405 KAR section 8:030 2(12) and 8:040 section 2(12) were revised to make clear that a permit cannot be suspended for failure to submit certain updated information unless the Natural Resources and Environmental Protection Cabinet has requested the information and the permittee has failed or refused to timely submit it and has had an opportunity for a hearing.

2. 405 KAR 8:030 and 8:040, sections 20 and 36, were restructured for clarity by creating new subsections regarding the applicability date of these sections, in order to separate the applicability provisions from the decision criteria for certain types of amendments and revisions.

3. 405 KAR 8:040 section 20 was revised regarding the area for which fish and wildlife resource information is required. "Permit area and adjacent area" was changed to "area of surface operations and facilities and adjacent area, and areas subject to probable impacts from underground workings, including areas of probable subsidence." Since the "permit area" of underground mines encompasses a larger area in Kentucky regulations than in Federal regulations, this change was needed to make the area subject to fish and wildlife resource information requirements in Kentucky consistent with the area subject to fish and wildlife resource information requirements in Kentucky consistent with the area subject to such requirements in Federal regulations.

4. A cross-reference was corrected in 405 KAR 8:040 section 20(5)(a)3 and section 36(4)(a)3.

III. Public Comment Procedures

In accordance with the provisions of 30 CRF 732.17(h), OSM is now seeking comment on whether the amendment proposed by Kentucky satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Kentucky program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commentor's recommendations. Comments received after the time indicated under "**DATES**" or at locations other than the Lexington Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under "FOR FURTHER INFORMATION CONTACT" by 4 p.m. on October 5, 1992. If no one requests an opportunity to comment at a public hearing, the hearing will not be held. Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment, and who wish to do so, will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendments may request a meeting at the OSM, Lexington Field Office listed under "**ADDRESSES**" by contacting the person listed under "**FOR FURTHER INFORMATION CONTACT.**" All such meetings will be open to the public and, if possible, notices of meetings will be posted in advance at the locations listed under "**ADDRESSES.**" A written summary of each meeting will be made a part of the Administrative Record.

Executive Order 12291

On July 12, 1984, the Office of Management and Budget (OMB) granted the Office of Surface Mining Reclamation and Enforcement (OSM) an exemption from sections 3, 4, 7 and 8 of Executive Order 12291 for actions related to approval or conditional approval of State regulatory programs, actions and program amendments. Therefore, preparation of a regulatory impact analysis is not necessary and OMB regulatory review is not required.

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of the Surface Mining Control and Reclamation Act (SMCRA) (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15 and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731 and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1293(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C).

Paperwork Reduction Act

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

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Hence, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 13, 1992.

Jeffrey D. Jarrett,

Acting Assistant Director, Eastern Support Center.

[FR Doc. 92-23020 Filed 9-22-92; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 917

Kentucky Permanent Regulatory Program; Termination and Reassertion of Jurisdiction

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

ACTION: Proposed rule.

SUMMARY: OSM is announcing the receipt of a proposed program amendment to the Kentucky permanent regulatory program (hereinafter referred to as the Kentucky program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). By letter of July 21, 1992, (Administrative Record No. KY-1165) Kentucky submitted a proposed program amendment containing modifications to 405 Kentucky Administrative Regulations (KAR) 1:007, 3:007 and 7:030. The proposed program amendment pertains to the termination and reassertion of jurisdiction by Kentucky to regulate interim and permanent program minesites. These proposed regulation changes also respond to in part to OSM's 30 CFR part 732 letter dated February 8, 1990, (Administrative Record No. KY-967).

This notice sets forth the times and locations that the Kentucky program and the proposed amendment are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding a public hearing, if one is requested.

DATES: Written comments must be received on or before 4 p.m. on October 23, 1992. If requested, a public hearing on the proposed amendment will be held at 10 a.m. on October 13, 1992. Requests to present oral testimony at the hearing must be received on or before 4 p.m. on October 8, 1992.

ADDRESSES: Written comments and requests for a hearing should be mailed or hand delivered to: William J. Kovacic, Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504. Copies of the Kentucky program, the proposed amendment, and all written comments received in response to this notice will be available for review at the addresses listed below, Monday through Friday, 9 a.m. to 4 p.m., excluding holidays. Each requester may receive, free of charge, one copy of the proposed amendment by contacting OSM's Lexington Field Office.

Office of Surface Mining Reclamation and Enforcement, Lexington Field Office, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504, Telephone: (606) 233-2896.

Office of Surface Mining Reclamation and Enforcement, Eastern Support Center, Ten Parkway Center, Pittsburgh, Pennsylvania 15220, Telephone: (412) 937-2828.

Department for Surface Mining Reclamation and Enforcement, No. 2 Hudson Hollow Complex, Frankfort, Kentucky 40601, Telephone: (502) 564-6940.

If a public hearing is held, its location will be: the Harley Hotel, 2143 North Broadway, Lexington, Kentucky 40505.

FOR FURTHER INFORMATION CONTACT: William J. Kovacic, Director, Lexington Field Office, Telephone (606) 233-2896.

SUPPLEMENTARY INFORMATION:

I. Background

On May 18, 1982, the Secretary of the Interior conditionally approved the Kentucky program. Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval can be found in the May 18, 1982, **Federal Register** (47 FR 21404-21435). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 917.11, 917.15, 917.16, and 917.17.

II. Discussion of Amendment

By letter of July 21, 1992, (Administrative Record No. KY-1165) Kentucky submitted a proposed program amendment containing modifications to 405 Kentucky Administrative Regulations (KAR) 1:007, 3:007 and 7:030 regarding termination of jurisdiction. These proposed regulation changes also respond in part to OSM's 30 CFR part 732 letter dated February 8, 1990, (Administrative Record No. KY-967).

This proposed amendment modifies the termination and subsequent reassertion of the Natural Resources and Environmental Protection Cabinet's (the Cabinet) jurisdiction under the interim surface and underground coal mining regulations, 405 KAR Chapter 1 and 3. Beginning November 1, 1992, the jurisdiction of the Cabinet over the reclaimed site of a completed surface and underground coal mining and reclamation operation, or increment thereof, will automatically terminate upon the final decision of the Cabinet in accordance with 405 KAR 1:050 section 11 and 405 KAR 3:050 section 11 to release the performance bond fully. The Cabinet's decision to release the bond is not "final" for the purpose of termination of jurisdiction until the time to file administrative and judicial appeals of the bond release has expired and any appeals have been resolved. The Cabinet must later reassert its jurisdiction if the decision to release the bond is demonstrated to have been based upon fraud, collusion, or misrepresentation of a material fact.

This proposed amendment also modifies the termination and subsequent

reassertion of the Cabinet's jurisdiction under the permanent program surface coal mining regulations, 405 KAR Chapter 7–24. Beginning November 1, 1992, the jurisdiction of the Cabinet over the reclaimed site of a completed surface coal mining and reclamation operation, or increment thereof, will automatically terminate upon the final decision of the Cabinet in accordance with 405 KAR 10:040 to release the performance bond fully. The Cabinet's decision to release the bond is not "final" for the purpose of termination of jurisdiction until the time to file administrative and judicial appeals of the bond release has expired and any appeals have been resolved. The Cabinet must later reassert its jurisdiction if the decision to release the bond is demonstrated to have been based upon fraud, collusion, or misrepresentation of a material fact. The same criteria apply to termination and reassertion of jurisdiction over the reclaimed site of a completed coal exploration operation, except that the Cabinet's written determination that the site meets the requirements of 405 KAR chapter 7–24 and KRS chapter 350, rather than a bond release decision (bond is not required for coal exploration operations), is the basis for the termination of jurisdiction.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comment on whether the amendment proposed by Kentucky satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Kentucky program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commentor's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Lexington Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under "**FOR FURTHER INFORMATION CONTACT**" by 4 p.m. on October 8, 1992. If no one requests an opportunity to comment at a public hearing, the hearing will not be held. Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment, and who wish to do so, will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendments may request a meeting at the OSM, Lexington Field Office listed under "**ADDRESSES**" by contacting the person listed under "**FOR FURTHER INFORMATION CONTACT.**" All such meetings will be open to the public and, if possible, notices of meetings will be posted in advance at the locations listed under "**ADDRESSES.**" A written summary of each meeting will be made a part of the Administrative Record.

Executive Order 12291

On July 12, 1984, the Office of Management and Budget (OMB) granted the Office of Surface Mining Reclamation and Enforcement (OSM) an exemption from sections 3, 4, 7 and 8 of Executive Order 12291 for actions related to approval or conditional approval of State regulatory programs, actions and program amendments. Therefore, preparation of a regulatory impact analysis is not necessary and OMB regulatory review is not required.

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of the Surface Mining Control and Reclamation Act (SMCRA) (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15 and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731 and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3507 et seq.

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Hence, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 13, 1992.

Jeffrey D. Jarrett,

Acting Assistant Director, Eastern Support Center.

[FR Doc. 92–23022 Filed 9–22–92; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 917

Kentucky Permanent Regulatory Program; Hearings

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

ACTION: Proposed rule.

SUMMARY: OSM is announcing the receipt of a proposed program amendment to the Kentucky permanent regulatory program (hereinafter referred to as the Kentucky program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). By letter of July 28, 1992 (Administrative Record No. KY–1170), Kentucky submitted a proposed program amendment containing additions and modifications to 405 Kentucky Administrative Regulations (KAR) 7:001, 7:091, 7:092, 8:001, 10:001, 12:001, 12:020, 16:001,-18:001, 20:001 and 24:001. The proposed program amendment establishes new procedures for administrative hearings conducted under Kentucky Revised Statutes (KRS) chapter 350. The regulations are in response to the Kentucky Supreme Court's decision in *Franklin* v. *Natural Resources and Environmental Protection Cabinet*, Ky., 799 S.W.2nd 1 (1990). These proposed regulation changes also respond to OSM's 30 CFR part 732 letter dated November 14, 1991 (Administrative Record No. KY–1080).

The proposed amendment also amends various regulation sections by modifying and adding new definition terms.

This notice sets forth the times and locations that the Kentucky program and the proposed amendment are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding a public hearing, if one is requested.

DATES: Written comments must be received on or before 4 p.m. on October 23, 1992. If requested, a public hearing on the proposed amendment will be held at 10 a.m. on October 13, 1992. Requests to present oral testimony at the hearing must be received on or before 4 p.m. on October 8, 1992.

ADDRESSES: Written comments and requests for a hearing should be mailed or hand delivered to: William J. Kovacic, Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504. Copies of the Kentucky program, the proposed amendment, and all written comments received in response to this notice will be available for review at the addresses listed below, Monday through Friday, 9 a.m. to 4 p.m., excluding holidays. Each requestor may receive, free of charge, one copy of the proposed amendment by contacting OSM's Lexington Field Office.

Office of Surface Mining Reclamation and Enforcement, Lexington Field Office, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504, Telephone: (606) 233–2896.

Office of Surface Mining Reclamation and Enforcement, Eastern Support Center, Ten Parkway Center, Pittsburgh, Pennsylvania 15220, Telephone: (412) 937–2828.

Department for Surface Mining Reclamation and Enforcement, No. 2 Hudson Hollow Complex, Frankfort, Kentucky 40601, Telephone: (502) 564–6940.

If a public hearing is held, its location will be: The Harley Hotel, 2143 North Broadway, Lexington, Kentucky 40505.

FOR FURTHER INFORMATION CONTACT: William J. Kovacic, Director, Lexington Field Office, Telephone (606) 233–2896.

SUPPLEMENTARY INFORMATION:

I. Background

On May 18, 1982, the Secretary of the Interior conditionally approved the Kentucky program. Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval can be found in the May 18, 1982, **Federal Register** (47 FR 21404–21435). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 917.11, 917.15, 917.16, and 917.17.

II. Discussion of Amendment

By letter of July 28, 1992, (Administrative Record No. KY–1170) Kentucky submitted a proposed program amendment containing additions and modifications to 405 Kentucky Administrative Regulations (KAR) 7:001, 7:091, 7:092, 8:001, 10:001, 12:001, 12:020, 16:001, 18:001, 20:001 and 24:001. The proposed program amendment establishes new procedures for administrative hearings conducted under Kentucky Revised Statutes (KRS) Chapter 350. The regulations are in response to the Kentucky Supreme Court's decision in *Franklin* v. *Natural Resources and Environmental Protection Cabinet*, Ky., 799 S.W.2nd 1 (1990). These proposed regulation changes also respond to OSM's 30 CFR Part 732 letter dated November 14, 1991, (Administrative Record No. KY-1080).

The new hearing procedures are as follows: The proposed administrative regulation at 405 KAR 7:091 sets forth a comprehensive procedure for the conduct of all administrative hearings and conferences arising under KRS Chapter 350 and sets forth in detail the duties and responsibilities of the administrative hearing officer as well as time limitations for the submission of reports and recommended orders to the Secretary Natural Resources and Environmental Protection Cabinet (hereinafter Cabinet). In addition this administrative regulation sets forth the requirements for service of any document served in any administrative proceeding; prescribes standards of conduct for all parties participating in an administrative hearing and establishes basic procedures for the filing and retention of documents by the Office of Administrative Hearings. As noted in Section 1, with certain exceptions, this administrative regulation will apply to all administrative hearings and conferences arising under KRS chapter 350, including those cases pending at the time this administrative regulation is filed.

The proposed administrative regulation at 405 KAR 7:092 sets forth a comprehensive procedure for the conduct of all administrative hearings and conferences arising under KRS chapter 350. In particular this regulation establishes specific procedures by which a person adversely affected by a Cabinet's determination or enforcement action can petition for an administrative hearing or conference. In order to cover the full spectrum of possible challenges, this regulation sets forth specific procedures for *inter alia:* (1) Enforcement determinations, (2) penalty assessments, (3) bond release decisions, (4) any type permit issuance or denial determinations, (5) proceedings by which the Cabinet may initiate an administrative complaint for revocation, suspension and bond forfeiture of a surface mining and reclamation permit, (6) proceedings for temporary relief, and (7) pursuant to 1992 Acts, c. 304, and omnibus provision allowing petitions to be filed for determinations made under KRS chapter 350 not otherwise specifically covered.

In addition to these provisions at 405 KAR 7:092, the Cabinet, in conformity with 1992 Acts, c. 304, has proposed a provision establishing a conference process for informal review of a proposed civil penalty assessment at the Cabinet's Regional Offices. Upon issuance of the conference officer's report, further administrative challenges of the assessment is possible, provided the recommended amount is paid into the Cabinet's escrow account. Prepayment is required only for the contesting of the civil penalty. Other provisions of the regulation, however, make it emphatically clear that the fact of the violation can be contested at both the administrative and judicial levels without having to pre-pay the proposed

penalty assessment. Finally, there is a provision in this regulation which allows an individual to obtain a waiver of the pre-payment requirements on the grounds of inability to pay.

The proposed amendment modifies 405 KAR 12:020 and sets forth procedures for informal hearings where an immediate cessation of coal mining operations is directed by the Cabinet. This amended regulation also pertains to the suspension or revocation of surface mining and reclamation operations and provides for criteria under which a determination can be made that a surface mining and reclamation operation should be suspended or revoked for a pattern of violations subject to an administrative hearing as provided under 405 KAR 7:092. The remaining changes appearing in this amended regulation are technical in nature and do not have any substantive impact. This administrative regulation will be applicable in conjunction with other regulations to any determination that a surface mining operation should cease coal removal activities or that such an operation should be suspended or revoked pursuant to a determination that a pattern of violations exists or has existed.

This proposed amendment also amends 405 KAR chapter 7, 8, 10, 12, 16, 18, 20, and 24 to define additional terms used in the appropriate Chapters. The terms that are proposed additions or modifications include administrative hearings, final order, hearing officer, individual, industrial/commercial lands, initiating document, interim report office, person, and record.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comment on whether the amendment proposed by Kentucky satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Kentucky program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commentor's recommendations. Comments received after the time indicated under "**DATES**" or at locations other than the Lexington Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under "**FOR FURTHER INFORMATION CONTACT**" by 4 p.m. on October 8, 1992. If no one requests an opportunity to comment at a public hearing, the hearing will not be held. Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment, and who wish to do so, will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendments may request a meeting at the OSM, Lexington Field Office listed under "**ADDRESSES**" by contacting the person listed under "**FOR FURTHER INFORMATION CONTACT.**" All such meetings will be open to the public and, if possible, notices of meetings will be posted in advance at the locations listed under "**ADDRESSES.**" A written summary of each meeting will be made a part of the Administrative Record.

Executive Order 12291

On July 12, 1984, the Office of Management and Budget (OMB) granted the Office of Surface Mining Reclamation and Enforcement (OSM) an exemption from sections 3, 4, 7 and 8 of Executive Order 12291 for actions related to approval or conditional approval of State regulatory programs, actions and program amendments. Therefore, preparation of a regulatory impact analysis is not necessary and OMB regulatory review is not required.

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of the Surface Mining Control and Reclamation Act (SMCRA) (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15 and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731 and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3507 et seq.

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Hence, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 13, 1992.

Jeffrey D. Jarrett,

Acting Assistant Director, Eastern Support Center.

[FR Doc. 92-23023 Filed 9-22-92; 8:45 am]

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30 CFR Part 917

Kentucky Permanent Regulatory Program; Kentucky Revised Statutes Passed by the 1992 Kentucky General Assembly

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

ACTION: Proposed rule.

SUMMARY: OSM is announcing the receipt of a proposed program amendment to the Kentucky permanent regulatory program (hereinafter referred to as the Kentucky program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). By letter of July 30, 1992, (Administrative Record No. KY-1171) Kentucky submitted a proposed program amendment containing seven bills affecting Kentucky Revised Statutes (KRS) chapter 350 and a resolution that were enacted by the 1992 Regular Session of the Kentucky General Assembly and signed into law by the Governor. This notice sets forth the times and locations that the Kentucky program and the proposed amendment are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding a public hearing, if one is requested.

DATES: Written comments must be received on or before 4 p.m. on October 23, 1992. If requested, a public hearing on the proposed amendment will be held at 10 a.m. on October 13, 1992. Requests to present oral testimony at the hearing must be received on or before 4 p.m. on October 8, 1992.

ADDRESSES: Written comments and requests for a hearing should be mailed or hand delivered to: William J. Kovacic, Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504. Copies of the Kentucky program, the proposed amendment, and all written comments received in response to this notice will be available for review at the addresses listed below, Monday through Friday, 9 a.m. to 4 p.m., excluding holidays. Each requestor may receive, free of charge, one copy of the proposed amendment by contacting OSM's Lexington Field Office.

Office of Surface Mining Reclamation and Enforcement, Lexington Field Office, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504, Telephone: (606) 233-2896.

Office of Surface Mining Reclamation and Enforcement, Eastern Support Center, Ten Parkway Center, Pittsburgh, Pennsylvania 15220, Telephone: (412) 937-2828.

Department for Surface Mining Reclamation and Enforcement, No. 2 Hudson Hollow Complex, Frankfort, Kentucky 40601, Telephone: (502) 564-6940.

If a public hearing is held, its location will be: The Harley Hotel, 2143 North Broadway, Lexington, Kentucky 40505.

FOR FURTHER INFORMATION CONTACT: William J. Kovacic, Director, Lexington Field Office, Telephone (606) 233-2896.

SUPPLEMENTARY INFORMATION:

I. Background

On May 18, 1982, the Secretary of the Interior conditionally approved the Kentucky program. Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval can be found in the May 18, 1982, **Federal Register** (47 FR 21404-21435). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 917.11, 917.15, 917.16, and 917.17.

II. Discussion of Amendment

By letter of July 30, 1992, (Administrative Record No. KY-1171) Kentucky submitted a proposed program amendment containing seven bills affecting Kentucky Revised Statutes (KRS) chapter 350 and a resolution that were enacted by the 1992 Regular Session of the Kentucky General Assembly and signed into law by the Governor. The contents of the seven bills and a Senate Joint Resolution are as follows:

House Bill (H.B.) 844

Section 1 of H.B. 844 creates a new section in KRS Chapter 350 (to be codified as KRS 350.063) which requires that prior to the issuance of a permit, if the operation will disturb any roads used as access to an oil or gas well or other oil and gas facility, the permit applicant shall certify that he has met and conferred with, or offered to meet and confer with, the well operator as to the disturbance.

Senate Bill (S.B.) 189

S.B. 189 raises the annual production limit for being a "small coal operator" from 200,000 tons per year to 300,000 tons per year.

This limit is revised at KRS 350.260 where it determines eligibility for several members of the Small Coal Operators Advisory Council; at KRS 350.450(4)(c) where it sets aside 20 percent of abandoned mine land reclamation work for small operators; and at KRS 350.705(1) (b), (c) where it determines eligibility for several members of the Kentucky Bond Pool Commission.

This limit is applicable only for these specific purposes under Kentucky law. The foregoing statutory revisions are not related to Kentucky's implementation under KRS 350.465(f) and 405 Kentucky Administrative Regulations (KAR) 7:080 of the Federal Small Operator Assistance Program at section 507(c) of SMCRA.

Senate Bill 190

S.B. 190 makes four unrelated revisions to existing statutes.

At KRS 350.010 it revises the definition of "surface coal mining operations" to exempt the extractions of 25 to 250 tons of coal as an incidental part of privately financed construction where the coal is donated to a charitable or educational organization for noncommercial use or noncommercial distribution.

Also at KRS 350.010 it deletes the definition of "fill bench," a term that dates back to 1966 and is not now used elsewhere in KRS Chapter 350 or in regulations pursuant thereto.

At KRS 350.130(1) it deletes a cross reference to subsection (2) that is held over from 1986 and before, when KRS 350.130(2) required payment of forfeited bond monies to the surface owner on severed estates if the surface owner performed the required reclamation. This payment provision was deleted in 1988, so that cross reference is now meaningless.

It repeals KRS 350.0281, a moratorium on promulgation of regulations, that by its own terms expired in July 1988.

Senate Bill 191

S.B. 191 makes several amendments to KRS chapter 350 for consistency with SMCRA as amended by Public Law 101-58, the "Abandoned Mine Reclamation Act of 1990."

Section 1 amends KRS 350.550(3) to include in Kentucky's abandoned mine reclamation fund interest credited to the fund pursuant to section 401(e) of SMCRA and allocated to Kentucky, and

amends KRS 350.550(4) to authorize expenditures for the purposes of section 507(c) of SMCRA (assistance to small operators).

Section 2 amends KRS 350.560 to extend abandoned mine lands (AML) eligibility to: (a) Sites affected from August 4, 1977, to May 18, 1982, where the bond was insufficient to reclaim the site, and (b) sites affected from August 4, 1977, to November 5, 1990, where the surety became insolvent and funds were insufficient to reclaim the site; authorizes use of up to 30 percent of Kentucky's annual AML grant allocation for restoration of water supply facilities affected by coal mining; and establishes certain priorities for the reclamation of such sites.

Section 3 creates a new section (to be codified as KRS 350.553) which, under certain conditions and priorities, expands the universe of purposes and sites on which AML annual grant funds can be spent after initial reclamation priorities are completed.

Section 4 creates a new section (to be codified as KRS 350.597) which establishes a special trust fund that may receive up to 10 percent of the annual AML funds granted to Kentucky, and the deposited sums and accrued interest may be used for the priorities in KRS 350.555 after September 30, 1995, or for acid mine drainage abatement and treatment in accordance with Section 402(g)(7) of SMCRA.

Senate Bill 298

S.B. 298 relates primarily to definitions.

It amends the definition of "operator" at KRS 350.010 to parallel the definition at section 701 of SMCRA, narrowing the definition from a person engaged in surface coal mining and reclamation operations, to a person who removes or intends to remove more than 25 tons of coal from the earth by coal mining within 12 consecutive calendar months in any one location.

It defines "permit applicant" or "applicant," and "permittee," like their SMCRA definitions.

The bill revises the usage of "applicant," "operator," "permittee," and "person" in several sections throughout KRS Chapter 350 for consistency of use and to more clearly identify the entities that are intended to be subject to the particular statutory requirements.

Further, the bill amends KRS 350.130(1) to provide that an institution providing a bond may, at any stage of the reclamation process, pay the remaining encumbered balance of the bond and thereby discharge its obligation under the bond.

Senate Bill 318

S.B. 318 relates to conferences, hearings, civil penalties, and appeals.

Section 1 of the bill (to be codified as KRS 350.0301) establishes requirements for hearings held under KRS Chapter 350; directs the Natural Resources and Environmental Protection Cabinet (the Cabinet) to promulgate administrative regulations for procedures for formal and informal hearings; requires administrative regulations to provide for the assessment and payment of civil penalties, including payment of a proposed penalty assessment into escrow prior to a formal hearing on the amount of the assessment, and providing for a waiver of the payment into escrow for an individual who demonstrates inability to pay the penalty into escrow; and authorizes the Cabinet to promulgate regulations for procedures for holding administrative conferences.

Section 2 of the bill (to be codified as KRS 350.0305) provides that any person aggrieved by a determination of the Cabinet under KRS (Chapter 350 may demand a hearing, and establishes times for requesting and holding a hearing; and authorizes an appeal to Franklin Circuit Court by a person aggrieved by a final order resulting from a hearing, and establishes procedures for the filing and review of such appeals.

Section 3 clarifies KRS 350.028(4), directing the Cabinet to issue an order to a permittee to show cause why the permit should not be suspended or revoked, and to provide an opportunity for a hearing, when the Cabinet determines that a pattern of violations exists or has existed and the violations are willfully caused by the permittee or are caused by the unwarranted failure of the permittee to comply.

Section 4 revises cross references and makes other technical corrections to KRS 350.090.

Section 5 deletes KRS 350.255(2) for consistency with other sections of the bill.

Senate Bill 381

S.B. 381 relates to demonstration of restoration of soil productivity on mined prime farmlands.

Section 1 (to be codified as KRS 350.480) requires the Cabinet to allow the use of a soil test to determine if soil productivity on mined prime farmlands has been restored to levels that would allow average crop yields to equal or exceed the average yield of the reference crops, provided the methods are approved by OSM.

Section 2 (to be codified as KRS 350.485) requires the Cabinet to encourage research and data collection to determine the validity of using a soil test or other simplified procedure to determine if mined prime farmland soils will meet yield requirements.

Senate Joint Resolution (S.J.R.) 108

S.J.R. 108 takes several actions related to the same subject matter as S.B. 381.

Section 1 provides that the Department for Surface Mining Reclamation and Enforcement (DSMRE) be directed to promulgate administrative regulations, procedures, experimental practices, or other methods to encourage a simplified procedure for determining soil restoration after mining.

Section 2 provides that University of Kentucky researchers and any others involved be commended for research that has been carried out which could support the substitution of a soil test for the present complicated procedure used to show soil restoration.

Section 3 provides that the University of Kentucky and other entities be encouraged to continue research to determine alternatives to present soil restoration tests to include a simple soil test.

Section 4 provides the OSM and other Federal, State, and private organizations be encouraged to fund such research and that OSM be encouraged to accept research data on the subject and to approve alternative procedures for determining soil restoration on mined prime farmlands.

Section 5 provides that this resolution be sent to DSMRE, the Federal OSM, the University of Kentucky, and Interstate Mining Compact Commission.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comment on whether the amendment proposed by Kentucky satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Kentucky program.

Written Comments

Written Comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commentor's recommendations. Comments received after the time indicated under "**DATES**" or at locations other than the Lexington Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under "**FOR FURTHER INFORMATION CONTACT**" by 4 p.m. on October 8, 1992. If no one requests an opportunity to comment at a public hearing, the hearing will not be held. Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment, and who wish to do so, will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendments may request a meeting at the OSM, Lexington Field Office listed under "**ADDRESSES**" by contacting the person listed under "**FOR FURTHER INFORMATION CONTACT.**" All such meetings will be open to the public and, if possible, notices of meetings will be posted in advance at the locations listed under "**ADDRESSES.**" A written summary of each meeting will be made a part of the Administrative Record.

Executive Order 12291

On July 12, 1984, the Office of Management and Budget (OMB) granted the Office of Surface Mining Reclamation and Enforcement (OSM) an exemption from sections 3, 4, 7 and 8 of Executive Order 12291 for actions related to approval or conditional approval of State regulatory programs, actions and program amendments. Therefore, preparation of a regulatory impact analysis is not necessary and OMB regulatory review is not required.

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of the Surface Mining Control and Reclamation act (SMCRA) (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15 and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731 and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C).

Paperwork Reduction Act

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

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Hence, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 917

Intergovenmental relations, Surface mining, Underground mining.

Dated: August 13, 1992.

Jeffrey D. Jarrett,

Acting Assistant Director, Eastern Support Center.

[FR Doc. 92-23021 Filed 9-22-92; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Part 935

Ohio Permanent Regulatory Program; Revision of Administrative Rule

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

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: OSM is reopening the public comment period for Revised Program Amendment Number 57 to the Ohio permanent regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment was initiated by Ohio and is intended to revise one rule in the Ohio Administrative Code to change the locations at which applicants must file copies of permit applications, revisions, and renewals in order to allow public inspection of those documents.

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

DATES: Written comments must be received on or before 4 p.m. on October 8, 1992. If requested, a public hearing on the proposed amendments will be held at 1 p.m. on October 5, 1992. Requests to present oral testimony at the hearing must be received on or before 4 p.m. on September 30, 1992.

ADDRESSES: Written comments and requests to testify at the hearing should be mailed or hand-delivered to Mr. Richard J. Seibel, Director, Columbus Field Office, at the address listed below. Copies of the Ohio program, the proposed amendments and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive, free of charge, one copy of the proposed amendments by contacting OSM's Columbus Field Office.

Office of Surface Mining Reclama Enforcement, Columbus Field O South Hamilton Road, room 202, Columbus, Ohio 43232, Telephone: (614) 866–0578.
Ohio Department of Natural Resources, Division of Reclamation, 1855 Fountain Square Court, Building H–3, Columbus, Ohio 43224, Telephone: (614) 265–6675.

FOR FURTHER INFORMATION CONTACT: Mr. Richard J. Seibel, Director, Columbus Field Office, (614) 866–0578.

SUPPLEMENTARY INFORMATION:

I. Background

On August 16, 1982, the Secretary of the Interior conditionally approved the Ohio program. Information on the general background of the Ohio program submission, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program, can be found in the August 10, 1982, **Federal Register** (47 FR 34688). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 935.11, 935.12, 935.15, and 935.16.

II. Discussion of the Proposed Amendments

By letter dated May 12, 1992 (Administrative Record No. OH–1698), Ohio submitted proposed Program Amendment Number 57. In this amendment, Ohio proposed to change the locations at which applicants must file copies of permit applications, revisions, and renewals in order to allow public inspection of those documents. Ohio proposed to revise Ohio Administrative Code (OAC) 1501:13–5–01 paragraph (A)(4)(a) to allow filing of permit documents at the appropriate district office of the Ohio Department of Natural Resources, Division of Reclamation (Ohio) or the county office of the Soil Conservation Service of the United States Department of Agriculture (SCS). If neither Ohio nor SCS maintains an office in the county where the mining is proposed to occur, the amendment would have provided that the applicant shall file a copy of the application with the county recorder of that county.

OSM announced receipt of proposed Program Amendment Number 57 in the July 14, 1992, **Federal Register** (57 FR 31163), and, in the same notice, opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period ended on August 13, 1992. The public hearing scheduled for August 10, 1992, was not held because no one requested an opportunity to testify.

By letter dated June 9, 1992 (Ohio Administrative Record No. OH–1711), the SCS provided comments on proposed Program Amendment Number 57. SCS recommended that permit applications be filed at offices of the Soil and Water Conservation Districts (SWCD) rather than at the offices of the SCS. SCS noted that SCS programs and activities are carried out through the local SWCD offices.

In response to the SCS comment, Ohio revised Program Amendment Number 57 and resubmitted the amendment by letter dated July 22, 1992 (Administrative Record No. OH–1760). In this revised amendment, Ohio is proposing to change the priority order in which the three filing locations are listed at OAC 1501:13–5–01 paragraph (A)(4)(a). The revised paragraph would now read:

(a) The applicant shall make a full copy of the complete application for a permit, a significant permit revision, or a permit renewal available for the public to inspect and copy. This shall be done by filing a copy of the application submitted to the Chief at the Division of Reclamation district office responsible for inspection of the proposed operation, or if no such office is maintained in the county where the mining is proposed to occur, the applicant shall file a copy of the application with the county recorder of that county or at the office of the Soil Conservation Service of the United States Department of Agriculture located in the county where the mining is proposed to occur.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comment on whether the amendments proposed by Ohio satisfy the applicable program approval criteria of 30 CFR 732.15. If the amendments are deemed adequate, they will become part of the Ohio program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Columbus Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m. on September 30, 1992. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons schedule to comment have been heard. Persons in the audience who have not been scheduled to comment and who wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendments may request a meeting at the Columbus Field Office by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings shall be open to the public and, if possible, notices of the meetings will be posted at the locations listed under **"ADDRESSES"**. A written summary of each public meeting will be made a part of the Administrative Record.

Executive Order 12291

On July 12, 1984, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions related to approval or conditional approval of State regulatory programs, actions and program amendments. Therefore, preparation of a regulatory impact analysis is not necessary and OMB regulatory review is not required.

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments

since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.13 and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(c) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C).

Paperwork Reduction Act

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

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Hence, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 935

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 20, 1992.

Jeffrey D. Jarrett,

Acting Assistant Director, Eastern Support Center.

[FR Doc. 92–23024 Filed 9–22–92; 8:45 am]

BILLING CODE 4310–05–M

POSTAL SERVICE

39 CFR Part 111

Preparation Requirements for Letter-Size ZIP+4 Rate and ZIP+4 Barcoded Rate Mailings

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: This provides notice that the Postal Service plans to extend the tentative effective date on proposed changes to preparation requirements for automation rate mailings. This tentative effective date extension will provide mailers with more time to comply with DMM Chapter 5 preparation requirements.

ADDRESSES: Written questions should be mailed or delivered to the Director, Office of Classification and Rates Administration, U.S. Postal Service, 475 L'Enfant Plaza SW., Washington, DC 20260–5903.

FOR FURTHER INFORMATION CONTACT: Mrs. Lynn M. Martin, (202) 268–5176.

SUPPLEMENTARY INFORMATION: On May 7, 1992, (57 FR 19698–19701) the Postal Service published a proposal to amend the Domestic Mail Manual (DMM) to eliminate the provisions on the preparation of ZIP+4 and ZIP+4 Barcoded rate letter-size mailings in DMM chapters 3, 4, and 6; and require the preparation of First-, second-, and third-class letter-size ZIP+4 and ZIP+4 Barcoded rate mailings under one of the options in DMM chapter 5 (57 FR 19698).

The proposed rule primarily dealt with presortation and documentation requirements. It did not affect current mailpiece preparation rules already contained in DMM Chapter 5. The proposed effective date for these changes was December 20, 1992.

In the near future, a final rule will be published. In order to give mailers time to comply with DMM chapter 5 preparation requirements, the proposed December 20, 1992, effective date is being changed tentatively to March 21, 1993, except for the prohibition on 1-foot trays in tray-based mailings.

In addition, the proposed effective date for the requirement that 100% of the pieces in the 5-digit portion of a tray-based mailing prepared under DMM chapter 5 must be ZIP+4 barcoded or delivery point barcoded will also be moved to March 21, 1993. (Package-based mailings prepared under DMM Chapter 5 must currently meet this requirement.) The proposed effective date for the prohibition on 1-foot trays in tray-based mailings will remain December 20, 1992, as previously announced. (The requirement for 2-foot trays is already in effect for package-based preparation.)

Stanley F. Mires,

Assistant General Counsel, Legislative Division.

[FR Doc. 92–23069 Filed 9–22–92; 8:45 am]

BILLING CODE 7710–12–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[FRL–4508–9]

Public Meeting on the Rulemaking for the Pulp, Paper, and Paperboard Industry

AGENCY: Environmental Protection Agency.

ACTION: Notice of public meeting.

SUMMARY: The U.S. Environmental Protection Agency (EPA is announcing a public meeting prior to developing regulations that will apply to the pulp, paper, and paperboard industry. The regulations are scheduled to be proposed in October 1993, and EPA plans to sponsor several public meetings prior to proposal. The public meetings prior to proposal are intended to be a forum in which EPA can report on the status of regulatory development and in which interested parties can provide information and ideas on key technical, scientific, and other issues.

DATES: The public meeting will be held on September 30, 1992, from 1:30 pm to 5:30 pm.

ADDRESSES: The meeting will be held at the J.W. Marriott Hotel, 1313 Pennsylvania Avenue NW., Washington, DC in Salon F. Seating will be available for approximately 100 attendees. For further information by mail, contact Wendy Smith at, WH–552, Office of Science and Technology, US EPA, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Wendy Smith at (202) 260–7184.

SUPPLEMENTARY INFORMATION:

EPA is developing effluent limitations guidelines and standards under authority of the Clean Water Act and maximum achievable control technology standards under authority of the Clean Air Act. The Agency plans to proceed with these rulemakings on a joint basis and to propose water and air standards simultaneously.

The first public meeting will include a discussion of the public meeting process and a schedule for subsequent public meetings. Other agenda topics for the

first public meeting include a summary of data collection activities, plans for data analysis, and preliminary plans for technology-based regulatory options.

INSPECTION OF DOCUMENTS: Documents relating to the topics mentioned above and more detailed agenda will be available at the meeting.

Dated: September 16, 1992.

James Hanlon,

Acting Director, Office of Science and Technology.

[FR Doc. 92-22941 Filed 9-22-92; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[CA-13-1-5381; FRL-4509-9]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA is proposing a limited approval and limited disapproval of revisions to the California State Implementation Plan (SIP) adopted by the South Coast Air Quality Management District (South Coast AQMD) on January 4, 1991. The California Air Resources Board (CARB) submitted these revisions to EPA on May 13, 1991. The revisions concern Rule 1153—Commercial Bakery Ovens, which control organic compounds from ovens in commercial bakeries. EPA has evaluated Rule 1153 and is proposing a limited approval under sections 110(k)(3) and 301(a) of the Clean Air Act, as amended in 1990 (CAA or the Act) because these revisions strengthen the SIP. At the same time, EPA is proposing a limited disapproval under section 110(k)(3) and 301(a) of the CAA because the rule does meet the Part D, section 182(a)(2)(A) requirement of the CAA.

DATES: Comments must be received on or before October 23, 1992.

ADDRESSES: Comments may be mailed to: Daniel A. Meer, Chief, Southern California and Arizona Rulemaking Section (A-5-3), Air and Toxics Division, Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Copies of the rule revisions and EPA's evaluation report of the rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1219 "K" Street, Sacramento, CA 95814

South Coast Air Quality Management District, 21865 E. Copley Dr., Diamond Bar, CA 91765-4182

FOR FURTHER INFORMATION CONTACT: Christine D. Vineyard, Southern California and Arizona Rulemaking Section (A-5-3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1195, FTS: 744-1076.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1978 EPA promulgated a list of ozone nonattainment areas under the provisions of the 1977 Clean Air Act (1977 CAA or pre-amended Act) that included the Los Angeles-South Coast Air Basin Area (LA-SC Area). 43 FR 8964; 40 CFR 81.305. Because the LA-SC Area was unable to reach attainment by the statutory attainment date of December 31, 1982, California requested under pre-amended section 172(a)(2), and EPA approved, an extension of the attainment date to December 31, 1987. 40 CFR 52.238. The LA-SC Area did not attain the ozone standard by the approved attainment date. On May 26, 1988 EPA notified the Governor of California that the South Coast AQMD's portion of the SIP was inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, amendments to the 1977 CAA were enacted. Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies.

Section 182(a)(2)(A) applies to areas designated as nonattainment prior to enactment of the amendments and classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172(b) as interpreted in EPA's pre-amendment guidance.[1] EPA's SIP-Call used that guidance to indicate the necessary corrections for specific nonattainment areas. South Coast is classified as extreme; [2] therefore, this area is subject to the RACT fix-up requirement and the May 15, 1991 deadline.

The State of California submitted many revised RACT rules to EPA for incorporation into its SIP on May 13, 1991, including the rules being acted on in this notice. This notice addresses EPA's proposed action for South Coast AQMD's Rule 1153, Commercial Bakery Ovens. This submitted rule was found to be complete on July 10, 1991 pursuant to EPA's completeness criteria adopted on February 16, 1990 (55 FR 5830) and set forth in 40 CFR part 51, appendix V [3] and is being proposed for limited approval and limited disapproval.

Rule 1153 controls the emission of volatile organic compounds (VOCs) from commercial bakery ovens. VOCs contribute to the production of ground level ozone and smog. Rule 1153 is a new rule which has been adopted to meet EPA's SIP-Call and the section 182(a)(2)(A) CAA requirement. The following is EPA's evaluation and proposed action for South Coast AQMD's Rule 1153.

EPA Evaluation and Proposed Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote 1. Among the provisions of the CAA is the requirement that a VOC rule must, at a minimum, provide for the implementation of the RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying

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[1] Among other things, the pre-amended guidance consists of those portions of the proposed Post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to appendix D of November 24, 1987 Federal Register Notice" (Blue Book) (notice of availability was published in the Federal Register on May 25, 1988); and the existing control technique guidelines (CTGs).

[2] The LA-SC Area retained its nonattainment designation and was classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the Amendments. See 56 FR 56694 (November 6, 1991).

[3] EPA has since adopted completeness criteria pursuant to section 110(k)(1)(A) of the amended Act to be codified at 40 CFR part 41, appendix V. See 56 FR 42216 (August 26, 1991).

requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "fix-up" their RACT rules. See section 182(a)(2)(A). For some source categories, such as commercial bakery ovens, EPA did not publish a CTG. In such cases, the District will make a determination of what controls are required to satisfy the RACT requirement, by reviewing the operations of facilities with the affected source category. In that review, the District considers the technological and economic feasibility of the proposed controls. Additionally, for both CTG and non-CTG rules, the District may rely on EPA policy documents, such as the Blue Book, to ensure that the adopted VOC rules are fully enforceable and strengthen or maintain the SIP.

South Coast AQMD's Rule 1153 is a new rule which was adopted to control emissions of VOCs from commercial bakery ovens. The new rule provides provisions for:

- Definitions to clarify the rule.
- 70 percent emissions reduction for bakery ovens with a base year average daily VOC emissions of 50 pounds or more, but less than 100 pounds, by July 1, 1993.
- 95 percent emissions reduction for bakery ovens with a base year average daily VOC emissions of 100 pounds or more by July 1, 1994.
- Daily recordkeeping for day-to-day operations.

EPA has evaluation South Coast's submitted Rule 1153 for consistency with the CAA, EPA regulations, and EPA policy and has found that, to a large extent, it meets these requirements. This has resulted in a clear, enforceable rule.

Although the approval of South Coast's Rule 1153 will strengthen the SIP, this rule still contains a deficiency which was required to be corrected pursuant to the section 182(a)(2)(A) requirement of part D of the CAA. The rule allows APCO discretion in selection an appropriate test method for determination of VOC emissions. Because of this deficiency, the rule is not approvable pursuant to section 182(a)(2)(A) of the CAA because it is not consistent with the interpretation of section 172 of the 1977 CAA as found in the Blue Book and may lead to rule enforceability problems.

Because of the above deficiency, EPA cannot grant full approval of this rule under section 110(k)(3) and Part D. Also, because the submitted rule is not composed of separable parts which meet all the applicable requirements of the CAA, EPA cannot grant partial approval of the rule under section 110(k)(3). However, EPA may grant a limited approval of the submitted rule under section 110(k)(3) in light of EPA's authority pursuant to section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP. The approval is limited because EPA's action also contains a simultaneous limited disapproval. In order to strengthen the SIP, EPA is proposing a limited approval of South Coast's submitted Rule 1153 under sections 110(k)(3) and 301(a) of the CAA.

At the same time, EPA is also proposing a limited disapproval of this rule because it contains a deficiency that has not been corrected as required by section 182(a)(2)(A) of the CAA, and, as such, the rule does not fully meet the requirements of Part D of the Act. Under section 179(a)(2), if the Administrator disapproves a submission under section 110(k) for an area designated nonattainment, based on the submission's failure to meet one or more of the elements required by the Act, the Administrator must apply one of the sanctions set forth in section 179(b) unless the deficiency has been corrected within 18 months of such disapproval. Section 179(b) provides two sanctions available for the Administrator: Highway funding and offsets. The 18 month period referred to in section 179(a) will begin at the time EPA publishes final notice of this disapproval. Moreover, the final disapproval triggers the federal implementation plan (FIP) requirement under section 110(c).

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq. EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Limited approvals under sections 110 and 301, and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparations of a regulatory flexibility analysis and would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

EPA's limited disapproval of the State request under sections 110 and 301, and subchapter I, Part D of the CAA does not affect any existing requirements applicable to small entities. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose any new federal requirements. Therefore, EPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor does it impose any new federal requirements.

This action has been classified as a Table 2 action by the Regional Administration under the procedures published in Federal Register on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and Table 3 SIP revisions (54 FR 2222) from the requirements for Section 3 of Executive Order 12291 for a period of two years. EPA has submitted a requested for a permanent waiver for Table 2 and Table 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, intergovernmental Relations, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: September 15, 1992.

John Wise,

Acting Regional Administrator.

[FR Doc. 92–23073 Filed 9–22–92; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 52

[CA 12-9-5574; FRL-4509-8]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Bay Area Air Quality Management District, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA is proposing a limited approval and limited disapproval of rules submitted to revise the California State Implementation Plan (SIP); the rules were adopted by the Bay Area Air Quality Management District (BAAQMD) on July 11, 1990 and the South Coast Air Quality Management District (SCAQMD) on December 7, 1990. The California Air Resources Board (ARB) submitted these revisions to EPA on April 5, 1991 and May 13, 1991, respectively. These revisions concern BAAQMD Rule 8–24, Pharmaceutical and Cosmetic Manufacturing Operations and SCAQMD Rule 1103, Pharmaceuticals and Cosmetics Manufacturing Operations, both of which control the emissions of volatile organic compounds (VOCs) from solvents used in the manufacturing of pharmaceuticals and cosmetics. EPA has evaluated the revisions to BAAQMD Rule 8–24 and SCAQMD Rule 1103 and is proposing a limited approval under sections 110(k)(3) and 301(a) of the Clean Air Act, as amended in 1990, (CAA) because these revisions strengthen the SIP. At the same time, EPA is proposing a limited disapproval under section 110(k)(3) and 301(a) of the CAA because the rules do not meet the part D, section 182(a)(2)(A) requirement of the CAA.

DATES: Comments must be received on or before October 23, 1992.

ADDRESSES: Comments may be mailed to: Esther Hill, Rulemaking I Section (A–5–4), Air and Toxics Division, Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105.

Copies of the rule revisions and EPA's evaluation report of the rules are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rules are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1219 "K" Street, Sacramento, CA 95814.

Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109.

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765–4182.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, Rulemaking I Section, Air and Toxics Division, Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1184, FAX: (415) 744–1076.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1978 (43 FR 8962), EPA promulgated a list of ozone nonattainment areas under the provisions of the 1977 Clean Air Act (1977 CAA or pre-amended CAA) that included the San Francisco Bay Area (SFBA) and the South Coast Air Basin Area (SCABA). 43 FR 8964; 40 CFR 81.305. Because the SFBA and the SCABA were unable to reach attainment by the statutory attainment date of December 31, 1982, California requested and EPA approved under section 172(a)(2) of the 1977 Act, and extension of the attainment date to December 31, 1987. 40 CFR 52.238. SFBA and SCABA did not attain the ozone standard by the approved attainment date. On May 26, 1988, EPA notified the Governor of California that the SFBA and the SCABA portions of the California State Implementation Plan (SIP) were inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, amendments to the 1977 CAA were enacted. Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. Sections 7401–7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991, for states to submit corrections of those deficiencies.

Section 182(a)(2)(A) applies to areas designated as nonattainment prior to enactment of the amendments and classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172(b) as interpreted in pre-amended guidance.[1] EPA's SIP-Call used that guidance to indicate the necessary corrections for specific nonattainment areas. Bay Area is classified as moderate and South Coast is classified as extreme; [2] therefore, these two areas are subject to the RACT fix-up requirement and the May 15, 1991 deadline.

The State of California submitted many revised RACT rules to EPA for incorporation into its SIP on April 5, 1991 and May 13, 1991, including the rules being acted on in this notice. This notice addresses EPA's proposed action for BAAQMD Rule 8–24 and SCAQMD Rule 1103. These submitted rules were found to be complete on May 21, 1991 and July 10, 1991, respectively, pursuant to EPA's completeness criteria adopted on February 16, 1990 (55 FR 5830) and set forth in 40 CFR part 51, appendix V,[3] and are being proposed for limited approval and limited disapproval.

BAAQMD Rule 8–24 and SCAQMD Rule 1103 control the emissions of volatile organic compounds (VOCs) from the solvents used in the manufacture of pharmaceuticals and cosmetics. VOCs contribute to the production of ground level ozone and smog. BAAQMD Rule 8–24 and SCAQMD Rule 1103 were originally adopted as part of BAAQMD's and SCAQMD's effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and have been revised in response to EPA's SIP-Call and the section 182(a)(2)(A) CAA requirement. The following is EPA's evaluation and proposed action for BAAQMD's Rule 8–24 and SCAQMD's Rule 1103.

EPA Evaluation and Proposed Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote 1.

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[1] Among other things, the pre-amendment guidance consists of those portions of the proposed Post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to appendix D of November 24, 1987 Federal Register Notice" (Blue Book) (notice of availability was published in the Federal Register on May 25, 1988); and the existing control technique guidelines (CTGs).

[2] BAAQMD and SCAQMD retained their designation and were classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 56 FR 56694 (November 6, 1991).

[3] EPA has since amended the completeness criteria pursuant to section 110(k)(1)(A) of the amended Act. See 56 FR 42216 (August 26, 1991).

Among the provisions of the CAA, is the requirement that a VOC rule must, at a minimum, provide for the implementation of reasonably available control technology (RACT) for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Techniques Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "fix-up" their RACT rules. See section 182(a)(2)(A). The CTG applicable to BAAQMD Rule 8–24, Pharmaceutical and Cosmetic Manufacturing and SCAQMD Rule 1103, Pharmaceuticals and Cosmetics Manufacturing Operations, is entitled, "Control of Volatile Organic Emissions from the Manufacture of Synthesized Pharmaceutical Products", No. EPA–450/2–78–029. Further interpretations of EPA policy are found in the Blue Book. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

BAAQMD's submitted Rule 8–24, Pharmaceutical and Cosmetic Manufacturing Operations, includes the following revisions from the current SIP rule:

—An exemption for ethylene oxide sterilizers has been added. Ethylene oxide emissions are subject to more stringent standards in a separate rule.
—Standards have been added to the rule which require closed containers for cleanup solvent, solvent-soaked rags, and paper.
—Several past compliance dates have been deleted. A compliance schedule has been added for facilities affected by the "small user" exemption.
—Recordkeeping requirements have been added which require records to be kept on a daily basis and retained for 25 months for those sources seeking the "small user" exemption.
—Recordkeeping requirements have also been added for sources not requiring air pollution abatement equipment.
—Test methods have been specified for measuring Reid Vapor Pressure and measuring emissions from incineration.

SCAQMD's submitted Rule 1103, Pharmaceuticals and Cosmetics Manufacturing Operations, includes the following revisions from the current SIP rule:

—A definition for exempt compounds has been added.
—The definition for volatile organic compounds has been revised.
—Recordkeeping requirements have been added which require sources to maintain records of the type and volume of volatile organic compound containing materials used in maintenance and cleanup.
—Test methods for control device efficiency have now been specified.
—The effective dates section has been removed since the compliance date has passed.

EPA Proposed Action

EPA has evaluated BAAQMD's Rule 8–24 and SCAQMD's Rule 1103 for consistency with the CAA, EPA regulations, and EPA policy and has found that the revisions address and correct many deficiencies previously identified by EPA. These corrected deficiencies have resulted in clearer, more enforceable rules.

Although the approval of BAAQMD Rule 8–24 and SCAQMD Rule 1103 will strengthen the SIP, these rules still contain deficiencies which were required to be corrected pursuant to the section 182(a)(2)(A) requirement of part D of the CAA. The remaining deficiencies for BAAQMD Rule 8–24 are:

—Air pollution control officer (APCO) discretion in the approval of an alternate emission control device with reduces emissions by at least as much as a surface condenser.
—Lack of recordkeeping for key parameters for monitoring abatement device performance.
—Deficient test method for incineration.

The remaining deficiencies for SCAQMD Rule 1103 are:

—APCO discretion in the approval of an equivalent control device which reduces emissions by at least as much as a surface condenser.
—APCO discretion in the approval of an equivalent control method for collecting VOC emissions which exhaust to a carbon adsorber.
—APCO discretion in the approval of a more effective control system for storage tanks.
—Lack of recordkeeping for key parameters for monitoring abatement device performance.
—Records are not required to be kept on an emissions per day basis to coincide with the exemption.
—A test method for measuring vapor pressure is not specified.

A detailed discussion of each rule's deficiencies can be found in the Technical Support Documents for BAAQMD Rule 8–24 (June 19, 1992) and SCAQMD Rule 1103 (June 19, 1992), which are available from the U.S. EPA, Region 9 office. Because of these deficiencies, the rules are not approvable pursuant to section 182(a)(2)(A) of the CAA because they are not consistent with the interpretation of section 172 of the 1977 CAA as found in the Blue Book and may lead to rule enforceability problems.

Because of the above deficiencies, EPA cannot grant full approval of these rules under section 110(k)(3) and part D. Also, because the submitted rules are not composed of separable parts which meet all the applicable requirements of the CAA, EPA cannot grant partial approval of the rules under section 110(k)(3). However, EPA may grant a limited approval of the submitted rules under section 110(k)(3) in light of EPA's authority pursuant to section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP. The approval is limited because EPA's action also contains a simultaneous limited disapproval. In order to strengthen the SIP, EPA is proposing a limited approval of BAAQMD's submitted Rule 8–24 and SCAQMD's submitted Rule 1103 under section 110(k)(3) and 301(a) of the CAA.

At the same time, EPA is also proposing a limited disapproval of these rules because they contain deficiencies that have not been corrected as required by section 182(a)(2)(A) of the CAA, and, as such, the rules do not fully meet the requirements of part D of the Act. Under section 179(a)(2), if the Administrator disapproves a submission under section 110(k) for an area designated nonattainment, based on the submission's failure to meet one or more of the elements required by the Act, the Administrator must apply one of the sanctions set forth in section 179(b) unless the deficiency has been corrected within 18 months of such disapproval. Section 179(b) provides two sanctions available to the Administrator: highway funding and off-sets. The 18 month period referred to in section 179(a) will begin at the time EPA publishes final notice of this disapproval. Moreover, the final disapproval triggers the federal implementation plan (FIP) requirement under section 110(c).

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and

environmental factors and in relation to relevant statutory and regulatory requirements.

Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Limited approvals under sections 110 and 301 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

EPA's limited disapproval of the State request under sections 110 and 301 and subchapter I, part D of the CAA does not affect any existing requirements applicable to small entities. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose any new federal requirements. Therefore, EPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor does it impost any new federal requirements.

This action has been classified as a Table 2 action by the Regional Administration under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: September 15, 1992.

John Wise,

Acting Regional Administrator.

[FR Doc. 92–23074 Filed 9–22–92; 8:45 am]

BILLING CODE 6560–50–M

Notices

Federal Register
Vol. 57, No. 185
Wednesday, September 23, 1992

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

DEPARTMENT OF AGRICULTURE

Forest Service

Steen Creek Salvage Timber Sale, Idaho

AGENCY: Forest Service, USDA.

ACTION: Revised notice of intent to prepare an environmental impact statement.

SUMMARY: A notice of intent to prepare an Environmental Impact Statement for the proposed Steen Creek, Landore, and Deep/Copper Timber Sales was published in the **Federal Register** August 3, 1990, (Vol. 55, Issue No. 150, Page 31617).

That notice is hereby revised to show that the Environmental Impact statement will not include the analysis for the Steen Creek Salvage Timber Sale. In August 1992, the 17,500 acre Windy Ridge fire burned and killed the timber on approximately 6,000 acres of the Payette National Forest. Because of rapidly deteriorating timber, Payette National Forest Acting Supervisor Gary E. Sayer has decided to address the Steen Creek Salvage Timber Sale in a separate Environmental Impact Statement.

Rapid drying of the fire-killed trees will result in cracking or "checking," especially in smaller diameter trees. This checking will quickly reduce their utilization as sawlogs. If salvage activities are not initiated in the next year, currently dead trees will no longer be sound for harvest. If salvage activities are concluded next year, dead timber stands would be planted in 1994 before brush and grass species dominate the sites. Potential exists to lose significant value in terms of salvage volume and long term growth and yield by delaying reforestation.

No other revisions are made.

The Forest Service will prepare an environmental impact statement (EIS) for the proposed Steen Creek Salvage Timber Sale, Council Ranger District, Payette National Forest, Idaho. The proposed salvage sale would construct roads and harvest dead timber within a portion of the Indian Creek roadless area that the Forest Plan allocated to timber management.

A range of alternatives will be considered for the proposal—from taking no action to harvesting about 15 million board feet of timber.

The agency has done some initial scoping for the analysis, but they invite additional comments and suggestions on the scope of the analysis to be included in the draft environmental impact statement (draft EIS).

DATES: Comments on the scope of the analysis must be received by October 23, 1992.

ADDRESSES: Submit written comments and suggestions concerning the scope of the analysis to Tracy Beck, Steen Creek Salvage Team Leader, Council Ranger District, P.O. Box 567, Council, Idaho 83638.

FOR FURTHER INFORMATION CONTACT: Tracy Beck, (208) 253–4215.

SUPPLEMENTARY INFORMATION: The Payette National Forest Plan (1988) provides Forestwide direction for management of the resources of the Payette National Forest, including roadless areas. The environmental impact statement for the Forest Plan (1988) analyzed a range of development and non-development alternatives for the Indian Creek roadless area. The Forest Plan allocates the entire area to timber management and assigns it to Management Area 3.

As well as Forestwide direction, the Forest Plan gives specific direction for Management Area 3. It requires integrated management to meet the desired future condition of the Forest for multiple resources including recreation, range, soil and water, fish, wildlife, timber, and fire/fuels.

Public participation will be especially important at several points during the analysis, particularly during scoping of issues and review of the draft EIS.

The scoping process includes:

1. Identifying potential issues.
2. Identifying issues to be analyzed in depth.
3. Eliminating insignificant issues or those covered by a relevant previous environmental analysis.
4. Determining potential cooperating agencies and responsibilities.

The U.S. Fish and Wildlife Service, Department of the Interior, will be invited to participate as a cooperating agency to evaluate potential impacts on threatened and endangered species habitat.

The Forest Service has conducted some preliminary scoping on the proposed salvage timber sale and has identified preliminary issues and concerns. They include the following:

—How will recreation use be affected?
—How will visual quality be affected?
—How will the Indian Creek roadless area be affected?
—How will wildlife be affected?
—How will soil productivity be affected?
—How will water quality and fish habitat in Indian Creek be affected?

The second major opportunity for public input is the draft EIS. The draft EIS will analyze a range of alternatives to the proposed action, including the no action alternative and alternative amounts of road building and salvage timber harvesting. The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review in December 1992. EPA will then publish a notice of availability of the draft EIS in the **Federal Register**. Public comments are invited.

The public comment period on the draft EIS will be 45 days from the date the EPA's notice of availability appears in the **Federal Register**. It is important that those interested in the management of the affected areas participate at that time. To be most helpful, comments on the draft EIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed. The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider and respond in the final EIS.

Comments on the draft EIS will be analyzed and considered by the Forest Service in preparing the final EIS, which is scheduled to be completed in March 1993. In the final EIS the Forest Service is required to respond to the comments received (40 CFR 1503.4). The responsible official will consider the comments, responses, environmental

consequences discussed in the final EIS, and applicable laws, regulations, and policies in making the decision and stating the reasons for it in the Record of Decision.

The Forest Service intends to exclude this decision from appeal pursuant to 36 CFR 217.4(a)(11), for the salvage harvest and restoration of the Steen Creek analysis area.

Gary E. Sayer, Acting Forest Supervisor of the Payette National Forest, McCall, Idaho, is the responsible official for this EIS.

Dated: September 16, 1992.

Jerry D. Greer,

Acting Forest Supervisor.

[FR Doc. 92-23037 Filed 9-22-92; 8:45 am]

BILLING CODE 3410-11-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, and Man-Made Fiber Textile Products Produced or Manufactured in China

September 18, 1992.

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

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

EFFECTIVE DATE: September 18, 1992.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927-6703. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

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

The current limits for certain categories are being adjusted variously for shift added, carryforward, and shift subtracted.

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 56 FR 60101, published on November 27, 1991). Also see 56 FR 60976, published on November 29, 1991.

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

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 18, 1992.

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 November 22, 1991, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in China and exported during the twelve-month period which began on January 1, 1992 and extends through December 31, 1992.

Effective on September 18, 1992, you are directed to amend further the directive dated November 22, 1991 to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and China:

Category	Adjusted twelve-month limit [1]
200	624,031 kilograms.
219	539,806 square meters.
237	1,668,975 dozen.
239	2,784,388 kilograms.
300/301	2,288,582 kilograms.
335	379,909 dozen.
342	262,200 dozen.
351	472,866 dozen.
359-V [2]	821,533 kilograms.
360	7,026,997 numbers, of which not more than 4,703,501 numbers shall be in category 360-P [3].
435	25,055 dozen.
615	23,274,512 square meters.
635	593,382 dozen.
642	301,342 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1991.

[2] Category 359-V: only HTS numbers 6103.19.2030, 6103.19.4030, 6104.12.0040, 6104.19.2040, 6110.20.1022, 6110.20.1024, 6110.20.2030, 6110.20.2035, 6110.90.0044, 6110.90.0046, 6201.92.2010, 6202.92.2020, 6203.19.1030, 6203.19.4030, 6204.12.0040, 6204.19.3040, 6211.32.0070 and 6211.42.0070.

[3] Category 360-P: only HTS numbers 6302.21.1010, 6302.21.1020, 6302.21.2010, 6302.21.2020, 6302.31.1010, 6302.31.1020, 6302.31.2010 and 6302.31.2020.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92-23106 Filed 9-22-92; 8:45 am]

BILLING CODE 3510-DR-F

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

September 17, 1992.

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

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

EFFECTIVE DATE: September 24, 1992.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, 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) 927-6719. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

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

The current limits for certain categories are being adjusted, variously, for special shift and carryover.

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 56 FR 60101, published on November 27, 1991). Also see 56 FR 58557, published on November 20, 1991.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist

only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 17, 1992.

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 November 15, 1991, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Taiwan and exported during the twelve-month period which began on January 1, 1992 and extends through December 31, 1992.

Effective on September 24, 1992, you are directed to amend further the directive dated November 15, 1991, to adjust the limits for the following categories, as provided under the terms of the bilateral agreement, effected by exchange of notes dated August 21, 1990 and September 28, 1990:

Category	Adjusted twelve-month limit [1]
Group II	
237, 239, 330–332, 333/334/335, 336, 338/339, 340–345, 347/348, 349, 350/650, 351, 352/652, 353, 354, 359–C/659–C [2], 359–H/659–H [3], 359–O [4], 431–444, 445/446, 447/448, 459, 630–632, 633/634/635, 636, 638/639, 640, 641–644, 645/646, 647/648, 649, 651, 653, 654, 659–S [5], 659–O [6], 831–844 and 846–859, as a group.	762,550,000 square meters equivalent.
Sublevels in Group II	
239	5,202,636 kilograms.
340	1,228,458 dozen.
352/652	2,626,281 dozen.
443	42,186 numbers.
445/446	139,314 dozen.
447/448	20,589 dozen.
636	343,041 dozen.
640	958,276 dozen of which not more than 284,527 dozen shall be in Category 640–Y [7].
641	773,921 dozen of which not more than 256,635 dozen shall be in Category 641–Y [8].
659–S [9]	1,729,838 kilograms.
835	17,712 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1991.

[2] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.3034, 6104.62.1020, 6104.69.3010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.3038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.3014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.4015, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[3] Category 359–H: only HTS numbers 6505.90.1540 and 6505.90.2060; Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

[4] Category 359–O: all HTS numbers except 6103.42.2025, 6103.49.3034, 6104.62.1020, 6104.69.3010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025, 6211.42.0010 (Category 359–C); 6505.90.1540 and 6505.90.2060 (Category 359–H).

[5] Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[6] Category 659–O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.3038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.3014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.4015, 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659–C); 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090, 6505.90.8090 (Category 659–H); 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020 (Category 659–S).

[7] Category 640–Y: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2050 and 6205.30.2060.

[8] Category 641–Y: only HTS numbers 6204.23.0050, 6204.29.2030, 6206.40.3010 and 6206.40.3025.

[9] Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92–23105 Filed 9–22–92; 8:45 am]

BILLING CODE 3510–DR–F

CONSUMER PRODUCT SAFETY COMMISSION

Request for Approval of Collection of Information: Compliance Survey of Manufacturers, Labelers, and Repackagers of Drugs Containing Diphenhydramine

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), the Consumer Product Safety Commission has submitted to the Office of Management and Budget a request for approval through September 30, 1993, of a collection of information in the form of a survey of firms which manufacture, label, or repackage oral dosage drugs containing diphenhydramine. The purpose of this survey is to assess the over-all level of compliance with requirements for child-resistant packaging of oral dosage forms of drugs which are intended for human use and which contain more than 66 milligrams of diphenhydramine base in a single package. The regulation requiring child-resistant packaging for drugs containing diphenhydramine is codified at 16 CFR 1700.14(a)(17). The standard for child-resistant packaging is codified at 16 CFR 1700.15. These regulations were issued under provisions of the Poison Prevention Packaging Act (15 U.S.C. 1471 *et seq.*) to protect young children from serious personal injury or illness from ingesting or handling toxic drugs and other hazardous household substances.

The survey of manufacturers, labelers, and repackagers of drugs containing diphenhydramine is part of a comprehensive plan to assess compliance by regulated industries with 70 rules enforced by the Commission. The Commission will use the information obtained from the survey of manufacturers, labelers, and repackagers of drugs containing diphenhydramine to establish priorities for enforcement of mandatory standards and regulations which the Commission administers. Information obtained from this survey will also be used to support appropriate legal action against any firm which has distributed prepackaged drugs containing diphenhydramine not in compliance with applicable requirements for child-resistant packaging.

Additional Details About the Request for Approval of a Collection of Information

Agency address: Consumer Product Safety Commission, Washington, DC 20207

Title of information collection: Diphenhydramine Compliance Survey.

Type of request: New request.

Frequency of collection: One time.

General description of respondents: Manufacturers, labelers, and repackagers of oral dosage drugs containing diphenhydramine.

Estimated number of respondents: 50.

Estimated average number of hours per respondent: 8.

Estimated number of hours for all respondents: 400.

Comments: Comments on this request for extension of approval of information collection requirements should be addressed to Donald Arbuckle, Desk

Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; telephone: (202) 395–7340. Copies of the request for extension of information collection requirements are available from Francine Shacter, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0416.

This is not a proposal to which 44 U.S.C. 3504(h) is applicable.

Dated: September 18, 1992.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 92–23102 Filed 9–22–92; 8:45 am]

BILLING CODE 6355–01–M

Announcement of Seminars on New Reporting Requirements

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of seminars.

SUMMARY: The Consumer Product Safety Commission, in cooperation with the American Bar Association's Section of Tort and Insurance Practice, is sponsoring two seminars on "Consumer Safety and Industry Compliance with the New Reporting Requirements of the Consumer Product Safety Commission: A Blueprint for Cooperation in the '90s." The seminars will be held on October 1–2 in the Ritz Carlton Tyson's Corner Hotel in McLean, Virginia, and on November 12–13 in the Hotel del Coronado in San Diego, California.

FOR FURTHER INFORMATION CONTACT: Eric C. Peterson, Executive Director, Telephone 301–504–0550 or Lawrence Herman, Special Assistant to the Chairman, Telephone 301–504–0500, Consumer Product Safety Commission, Washington, DC 20207–0001.

SUPPLEMENTARY INFORMATION: The Consumer Product Safety Improvement Act of 1990 Public Law 101–608, 15 U.S.C. 2064, 2084, imposed new requirements on manufacturers, distributors, importers, and retailers of consumer products to report to the Commission products which fail to comply with Commission regulations, which fail to comply with certain voluntary standards, which create an unreasonable risk of serious injury or death, which contain a defect which could create a substantial product hazard, or which give rise to repeated product liability judgments or settlements in favor of plaintiffs. The Commission has issued implementing regulations for these requirements in the **Federal Register** at 57 FR 34222 and 57 FR 34230, both on August 4, 1992, and issued a correction to the regulations at 57 FR 39597, September 1, 1992. The seminars will address the new requirements and related issues and are intended to assist manufacturers, distributors, importers, and retailers of consumer products, and their counsel, in complying with the new requirements. Registration information is available by calling 1–800–964–4253.

Dated: September 16, 1992.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 92–22992 Filed 9–22–92; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Department of the Army

Intent To Prepare a Draft Programmatic Environmental Impact Statement (DEIS) for the South Florida Limestone Mining, Fresh Water Lake Belt Plan, Dade County, FL

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: The Jacksonville District, U.S. Army Corps of Engineers, along with certain cooperating agencies, intends to prepare a Draft Programmatic Environmental Impact Statement on the feasibility of implementing the South Florida Limestone Mining, Fresh Water Lake Belt Plan, Dade County, Florida.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and draft EIS can be answered by: William Porter, U.S. Army Engineer District, P.O. Box 4970, Jacksonville, Florida 32232–0019, Telephone (904) 232–2259.

SUPPLEMENTARY INFORMATION:

a. A coalition of south Florida limestone rock mining companies has developed a concept of mining and mitigation which could impact approximately 54,000 acres of wetlands by the year 2050 in northwest Dade County. The magnitude and duration of the plan is such that the U.S. Army Corps of Engineers determined that a programmatic EIS should be prepared for the entire plan pursuant to Section 404 of the Clean Water Act.

b. Scoping: The scoping process as outlined by the Council on Environmental Quality will be utilized to involve Federal, State, and local agencies; and other interested persons and organizations. A scoping letter will be sent to interested Federal, State, and local agencies requesting their comments and concerns regarding issues they feel should be addressed in the EIS. Interested persons and organizations wishing to participate in the scoping process should contact the Corps of Engineers at the address above. Significant issues anticipated include concern for: local groundwater recharge, water quality, recreation, wetlands, fish and wildlife, and land use. Public scoping meetings will be held in the near future, the exact location, dates, and times will be announced in public notices and local newspapers.

c. It is estimated that the DEIS will be available to the public in November 1993.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 92–23003 Filed 9–22–92; 8:45 am]

BILLING CODE 3710–AJ–M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of the Meeting: 8 and 9 October 1992.

Time: 0800–1700 Hours.

Place: Pentagon, Washington, DC.

Agenda: The Army Science Board's ad hoc study group "The Space Systems and Future Army Operations" will meet for discussions focussed on current operational concept and the Army Long Range Plan for Space. Additionally, operational commands and TRADOC schools will present lessons learned in Operations Desert Shield/Storm. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraphs (1) and (4) thereof, and title 5, U.S.C., appendix 2, subsection 10(d). The classified and unclassified matters and proprietary information to be discussed is so inextricably intertwined so as to preclude opening any portion of the meeting. ASB Administrative Office, Sally Warner, may be contacted for further information (703) 695–0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 92–23004 Filed 9–22–92; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Meeting

AGENCY: National Assessment Governing Board; Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Subject Area Committee #1 of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: Wednesday, September 30, 1992.

TIME: 3 P.M. (ET).

LOCATION: National Assessment Governing Board, 800 North Capitol Street, Washington, DC, Suite 825.

FOR FURTHER INFORMATION CONTACT: Mary Ann Wilmer, Operations Officer, National Assessment Governing Board, Suite 825, 800 North Capitol Street, NW., Washington, DC, 20002–4233, Telephone: (202) 457–6938.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 406(i) of the General Education Provisions Act (GEPA) as amended by section 3403 of the National Assessment of Educational Progress Improvement Act (NAEP Improvement Act), title III–C of the Augustus F. Hawkins—Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (Pub. L. 100–297), (20 U.S.C. 1221e–1).

The Board is established to formulate policy guidelines for the National Assessment of Educational Progress. The Board is responsible for selecting subject areas to be assessed, developing assessment objectives, identifying appropriate achievement goals for each grade and subject tested, and establishing standards and procedures for interstate and national comparisons.

The Subject Area #1 Committee of the National Assessment Governing Board will meet September 30, 1992 from 3 p.m. until 4:30 p.m. Because this is a teleconference meeting, facilities will be provided so the public will have access to the Committee's deliberations. The purpose of this meeting is to take final action on the 1993 U.S. history and geography field test items for NAEP.

Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, Suite 825, 800 North Capitol Street, NW., Washington, DC, from 8:30 a.m. to 5 p.m.

Dated: September 17, 1992.

Roy Truby,

Executive Director, National Assessment Governing Board.

[FR Doc. 92–23010 Filed 9–22–92; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Environmental Compliance Training Courses

September 17, 1992.

The Office of Pipeline and Producer Regulation (OPPR) will present environmental compliance training courses. These courses are being held so that the regulated pipeline industry and interested individuals and/or organizations can gain a better understanding of the requirements and objectives of the Commission in ensuring compliance with all environmental certificate conditions and meeting its responsibilities under the National Environmental Policy Act and other laws and regulations. Interested organizations are urged to take advantage of these courses.

Course discussion will include the following topics:

- Objectives and requirements of FERC construction orders;
- Preconstruction clearance filings and obtaining Notices to Proceed;
- Compliance with § 2.69 and § 157.206(d); and
- Environmental Inspection as it relates to:
  - Right-of-way preparation;
  - General erosion control;
  - Right-of-way restoration;
  - Topsoil segregation;
  - Stream and river crossings;
  - Wetland construction;
  - Residential area construction;
  - Construction and restoration in arid climates;
  - Cultural resources/Paleontology; and
  - Right-of-way maintenance.

The training courses will be given in four regional locations identified below to ensure broad participation. Details on location and time may be obtained from Mr. John Leiss at the number listed below.

Minneapolis, MN	November 4 and 5, 1992.
Houston, TX	January 12 and 13, 1993.
Pittsburh, PA	March 16 and 17, 1993.
Denver, CO	April 20 and 21, 1993.

The course is designed for individuals directly involved in environmental performance such as environmental and right-of-way inspectors, and construction contractor personnel. Training will be conducted by Ebasco Environmental (Ebasco), the Commission's environmental support contractor, under the direction of the staff of OPPR. There will be no registration fee.

Any organization interested in participating in this course should contact Mr. John Leiss at (202) 208–1106 or Mr. George Willant of Ebasco at (617) 451–1201. Contact should be made within 15 days of publication of this notice for the first session and within 30 days of the three remaining course dates. Respondents will subsequently be contacted by Ebasco staff to determine specific areas of interest and anticipated level of workshop attendance.

Lois D. Cashell,

Secretary.

[FR Doc. 92–23015 Filed 9–22–92; 8:45 am]

BILLING CODE 6717–01–M

Financial Assistance Award Intent To Award Grant to Northwest Missouri State University

AGENCY: Department of Energy.

ACTION: Notice of unsolicited financial assistance award.

SUMMARY: The Department of Energy announces that pursuant to 10 CFR 600.6(a)(2), it is making a discretionary financial assistance award based on acceptance of an unsolicited application meeting the criteria of 10 CFR 600.14(e)(1) to NMSU under Grant No. DE–FG01–92CE50350. The proposed grant would provide Government funding in the estimate amount of $105,244 to Northwest Missouri State University (NMSU) to investigate the effects of the commerically available ethanol and ethanol/gasoline and to identify problems of the blend in small spark-ignition engines. NMSU will provide $8,420 in funding and various motorcycle manufacturers will provide $21,000 in funds. The total of this grant is estimated to be $134,664. The information learned through this grant can be used to identify the use of Gasohol in the small engine sector and reduce the need of fossil.

In accordance with 10 CFR 600.14(e)(1), it has been determined that the application submitted by NMSU is meritorious based on the general evaluation required by 10 CFR 600.14(d)

and that the proposed project represents a unique idea that would not be eligible for financial assistance under a recent, current, or planned solicitation. The application proposes a unique energy saving technology which has been recommended by the National Institute of Standards and Technology (NIST). Dr. John C. Phoades, the principal investigator, has focused on small engine research with a variety of fuels and has many years of experience at NMSU developing and testing alternative fuels. His unique knowledge and experience is critical to the project. The Energy-Related Inventions Program (ERIP) has been structured, since its beginning in 1975, to operate without competitive solicitations, because the legislation directs ERIP to provide support for worthy ideas submitted by the public. The proposed technology has a strong possibility of allowing for future reductions in the United States dependence on foreign oil. The program has never issued and has no plans to issue competitive solicitation.

The anticipated term of the proposed grant shall be 24 months from the effective date of award.

FOR FURTHER INFORMATION CONTACT: Department of Energy, Office of Placement and Administration, ATTN: John Windish, PR-322.3, 1000 Independence Avenue SW., Washington, DC 20585.

Thomas S. Keefe,

Director, Operations Division "B" Office of Placement and Administration.

[FR Doc. 92-23100 Filed 9-22-92; 8:45 am]

BILLING CODE 6450-01-M

DOE Response to Recommendation 92-4 of the Defense Nuclear Facilities Safety Board Concerning Conceptual Design of the Multi-Function Waste Tank Facility at the Hanford Site

AGENCY: Department of Energy.

ACTION: Notice and request for public comment.

SUMMARY: Pursuant to section 315(b) of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2286d(b), the Department of Energy (DOE) hereby publishes notice of a response of the Secretary of Energy (Secretary) to Recommendation 92-4 of the Defense Nuclear Facilities Safety Board, published in the **Federal Register** on July 14, 1992 (57 FR 31177), concerning conceptual design of the Multi-Function Waste Tank Facility to be constructed at the Hanford Site in the State of Washington.

DATES: Comments, data, views, or arguments concerning the Secretary's response are due on or before October 23, 1992.

ADDRESSES: Send comments, data, views, or arguments concerning the Secretary's response to: Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW., suite 700, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Mr. Leo P. Duffy, Assistant Secretary for Environmental Restoration and Waste Management, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20004.

Issued in Washington, DC, on September 17, 1992.

Mario Fiori,

Departmental Representative to the Defense Nuclear Facilities Safety Board.

The Secretary of Energy

Washington, DC 20585

August 28, 1992.

The Honorable John T. Conway,
Chairman, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW., Suite 700, Washington, DC 20004.

Dear Mr. Conway: Your letter of July 6, 1992, forwarded the Defense Nuclear Facilities Safety Board (DNFSB) Recommendation 92-4 regarding the Multi-Function Waste Tank Facility (MWTF) at Hanford. The DNFSB recommended that the Department of Energy (DOE) establish a plan and methodology that result in a project management organization for the NWTF project team that assures both DOE and the contractor organizations have personnel with the technical and managerial competence to ensure effective project execution, including achieving the quantitative safety goals described in the Department's Nuclear Safety Policy (SEN-35-91).

The Department accepts the Board's Recommendation 92-4. Enclosed are comments that describe actions to be taken in response to the recommendations and DOE views on the recommendations. In accordance with section 315(b) of the Atomic Energy Act of 1954, as amended, this response will be published in the **Federal Register** for public comment. Also, in accordance with section 315(e) of the Act, an implementation plan will be prepared which will describe in greater detail the actions to be taken by DOE to implement the Board's Recommendation.

Sincerely,

James D. Watkins,

Admiral, U.S. Navy (Retired).

Comments on DNFSB Recommendation 92-4 Regarding the Multi-Function Waste Tank Facility (MWTF) at Hanford

On July 6, 1992, Chairman John T. Conway of the Defense Nuclear Facilities Safety Board (DNFSB) wrote to Secretary Watkins enclosing Recommendation 92-4, which was unanimously approved by the DNFSB on July 1, 1992. The DNFSB recommendations and the Department of Energy (DOE) response are as follows:

Recommendation 1

Establish a plan and methodology that results in a project management organization for the MWTF project team that assures that both DOE and the contractor organization have personnel of the technical and managerial competence to ensure effective project execution. This should emphasize management aspects of the project necessary to ensure adequate protection of public health and safety and should include the integration of professional engineering and quality assurance as necessary into the project, the application of appropriate standards and approved DOE requirements, and the establishment of clear lines of responsibility and accountability.

The Department accepts this recommendation. The project management structure and the technical knowledge and abilities of DOE and its contractor personnel obviously are extremely important elements in the successful performance of a major project activity such as the design and construction of the MWTF. With this in mind, the Secretary directed in the Nuclear Safety Policy (SEN-35-91) that DOE and its contractors establish and maintain management involvement and accountability to ensure that nuclear safety requirements are met and individual responsibility is articulated and understood by all parties. Furthermore, the Secretary directed DOE and its contractors to develop and foster technically competent personnel and the technical standards necessary to achieve nuclear safety. Some of the activities specifically applicable to the MWTF project that will implement this policy are discussed below.

The Project Plan (PP) and the Project Management Plan (PMP) for the MWTF project will delineate the functions and clear lines of responsibility and accountability of DOE and contractor organizations. The Department is establishing a dedicated project office within DOE and also within each of its contractor organizations to provide focused managerial and technical guidance on all aspects of the Tank Waste Remediation System, including the MWTF. Assignment and recruitment of staff for these dedicated project offices will focus on providing dedicated, competent project management, safety, quality assurance, regulatory, operations, and startup personnel responsible for implementing functions consistent with the PP and PMP. The requirements for technical expertise, professional engineering experience, and training necessary for project execution will be established in position descriptions. Candidate qualifications will be evaluated and verified as each position is filled. Emphasis will be placed on obtaining well qualified DOE and contractor staff. Growth and evolution of DOE and contractors project offices will retain continuity of functions and responsibilities. The onsite Engineer/Constructor (E/C), for example, has performed the Conceptual Design and will be performing Title I, II, and III Design, as well as Construction Management.

The application of appropriate standards and approved DOE requirements began with

the development of Functional Design Criteria (FDC). The FDC was reviewed by Westinghouse Hanford Corporation (WHC) and the appropriate DOE safety, quality assurance, security, startup, operations and programs, and contractors from other DOE Field Offices, to name a few of the active participants, to ensure adequate protection of the public health and safety. As a result of these reviews, it was recognized that some of the criteria require additional consideration. This will be done during the next phase of the project; namely, Advanced Conceptual Design. Future project phases and design documentation will undergo similar reviews consistent with the responsibilities delineated in the PP and PMP.

Clear lines of responsibility and accountability and achieved with direction originating from the DOE Project Manager to WHC. WHC provides day-to-day technical direction, oversight, letters of instruction, and work authorization and funding to the E/C.

In addition, outside technical expertise is utilized from a variety of sources in support of the dedicated project office (e.g., other DOE Field Offices and their contractors, independent consultants from the commercial sector, General Support Services Contract with the DOE Richland Field Office, etc.).

Recommendation 2

Identify the design bases and engineering principles and approaches for the MWTF project that provide the date and rationale to show that the design for the MWTF conservatively meets the quantitative safety goals described in the Department's Nuclear Safety Policy (SEN–35–91). The Board believes that this would include items related to standards, identification of safety-related items, design bases, functional design criteria, and safety analyses.

The Department accepts this recommendation. It is DOE policy that the general public be protected such that no individual bears significant additional risk to health and safety from the operation of a DOE nuclear facility above the risks to which members of the general population are normally exposed. This policy was established in September 1991 in SEN–35–91. Implementation of this policy must begin with the design and construction phases for new facilities, and the data and rationale that demonstrate implementation of the policy must be clearly defined and adequately documented. Some of the activities specifically applicable to the MWTF project that will implement this policy are discussed below.

The *Radiological Risk Acceptance Guidelines*, developed by the DOE High-Level Waste Safety Envelope Working Group and the Westinghouse Management and Operating (M&O) Nuclear Facility Safety Committee, will be used in determinations involving the acceptability of design for all high-level waste tank facilities. These guidelines were developed from existing DOE Orders, guidelines, recommended peer group assessments, and industrial standards. The guidelines are to be used for individual accident risk assessments of accidents that could result in unplanned releases of radioactive materials. These guidelines were developed to be conservative with respect to the quantitative safety goals described in DOE Nuclear Safety Policy. Individual safety analyses, to be documented in safety analysis Reports, will be required to demonstrate that the safety policy has been met.

In addition, the MWTF will be designed, constructed, and operated with appropriate measures to prevent or minimize potential radioactive releases, including engineered safety features to minimize potential releases and the use of procedural controls to mitigate the effects of potential releases.

A Supplemental Design Requirements (SDR) document will be prepared which will address the design basis and technical rationale to be utilized during project design/construction. The SDR will identify in greater detail the functional requirements of the major systems and components already established in the approved Functional Design Criteria (FDC). The supplemental design requirements will address specific implementation of the draft DOE *Seismic Design and Evaluation Guidelines for the DOE HLW Tanks*, the conservatisms being incorporated into the design documents, the considerations of safety risk assessment, and the selection basis for specific codes and standards applied to the project. This document will serve as the lower-level technical baseline to the FDC.

By utilizing the SDR, the risk assessment guidelines, DOE Order 6430.1A Compliance Analysis, lessons learned, and applicable features of the DNFSB Recommendation 90–2 implementation requirements, we believe that the intent of SEN–35–91 will be implemented. Through the preparation and independent review of all required safety documentation (e.g., Preliminary Safety Evaluation, Preliminary Safety Analysis Report, Final Safety Analysis Report, Operational Safety Requirements, and Emergency Response Procedures), the final successful documentation of all safety-related aspects will be assured. The preparation of the safety documentation is scheduled throughout the life of the project.

[FR Doc. 92–23089 Filed 9–22–92; 8:45 am]
BILLING CODE 6450–01–M

FEDERAL ENERGY REGULATORY COMMISSION

[Docket No. CI92–77–000]

Natural Gas Services, Inc.; Application for Blanket Certificate with Pregranted Abandonment

September 17, 1992.

Take notice that on September 15, 1992, Natural Gas Services, Inc. (Natural) filed an application under Section 7 of the Natural Gas Act (NGA) for an unlimited-term blanket certificate with pregranted abandonment authorizing sales in interstate commerce for resale of all Natural Gas Policy Act categories of natural gas subject to Commission jurisdiction, gas purchased from interstate pipelines, including gas purchased under any existing or subsequently approved pipeline blanket certificate authorizing interruptible sales of surplus system supply gas, gas released under permanent or limited term abandonment authorizations, gas released pursuant to Order Nos. 451 or 490, gas purchased from intrastate pipelines and local distribution companies, any imported natural gas, liquified natural gas, and other natural gas subject to the Commission's NGA jurisdiction, without rate restrictions. Natural's application is on file with the Commission and open to public inspection.

To be heard or to protest the application a person must file a motion to intervene or a protest on or before October 9, 1992. A person filing a protest or motion to intervene must follow the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All protests or motions to intervene must be filed with the Federal Energy Regulatory Commission, Washington, DC 20426.

The Commission will consider all filed protests in deciding the appropriate action to take but filing a protest does not make a protestant a party to a proceeding. A person wanting to be a party to a proceeding or to participate as a party in a hearing must file a motion to intervene.

Under the procedure provided for here, unless otherwise advised, Natural will not have to appear or be represented at any hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 92–23014 Filed 9–22–92; 8:45am]
BILLING CODE 6717–01–M

[Docket No. RS92–84–000]

Texas Sea Rim Pipeline, Inc.; Conference

September 17, 1992

Take notice that October 2, 1992, a conference will be convened in the above-captioned docket to discuss Texas Sea Rim Pipeline, Inc. summary of its proposed plan for implementation of Order No. 636.

The conference will be held in a hearing or conference room of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426. The conference will begin at 9:30 a.m. All interested persons are invited to attend. Attendance at the conference,

however, will not confer party status. For additional information, interested persons can call Betsy Carr at (202) 208–1240 or Leonard Burton at (202) 208–2085.

Lois D. Cashell,

Secretary.

[FR Doc. 92–23013 Filed 9–22–92; 8:45 am]

BILLING CODE 6717–01–M

Assistant Secretary for International Affairs and Energy Emergencies

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of Switzerland concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreements involves the transfer of 140 kilograms of plutonium from France to either Belgonucleaire, Dessel, Belgium, or to British Nuclear Fuels, plc, in the United Kingdom, for fabrication of mixed uranium-plutonium oxide fuel and subsequent retransfer of the fuel to Switzerland for use at the Beznau power reactors. Retransfer documents RTD/SD(EU)–60, 61 and 62 have been assigned to this subsequent arrangement.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice and after fifteen days of continuous session of the Congress, beginning the day after the date on which the reports required by section 131(b)(1) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), are submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The two time periods referred to above may run concurrently.

Issued on Washington, DC, on September 18, 1992.

Salvador N. Ceja,

Acting Director, Office of Nonproliferation Policy, Office of Arms Control and Nonproliferation.

[FR Doc. 92–23090 Filed 9–22–92; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. GP92–13–000]

Colorado Oil and Gas Conservation Commission, Recompletion Tight Formation, Gas Determinations for Echeverria #1, Scheidt-State #1, Dier #1, Devore #1, Gumeson #1, and Boulder Bank #1 Wells; Preliminary Finding

September 17, 1992.

The Colorado Oil and Gas Conservation Commission (Colorado) determined that natural gas produced from pre-July 16, 1979 completion locations in six wells qualifies as recompletion tight formation gas under Section 107(c)(5) of the Natural Gas Policy Act of 1978 (NGPA).

For the reasons discussed below, the Commission issues this notice preliminarily finding that the determinations are not supported by substantial evidence.

Colorado's Determinations

On August 4, 1992, the Commission received Colorado's notices of determination that gas produced from six wells qualifies as recompletion tight formation gas. The six wells, which are owned by North American Resources Company (NAR), are the Echeverria #1 well (FERC No. JD92–08234), Scheidt-State #1 (FERC No. JD92–08235), Dier #1 well (FERC No. JD92–08236), Devore #1 well (FERC No. JD92–08237), Gumeson #1 well (FERC No. JD92–08238), and Boulder Bank #1 well (FERC No. JD92–08239).

The records show that each well was completed for production in the "J" Sand, in the Wattenberg Field, in Weld County, Colorado, before July 16, 1979, and that NAR re-fractured the "J" Sand in each well during 1991 or 1992 through the pre-July 16, 1979 completion location in each well. The "J" Sand is a designated tight formation.

Colorado's affirmative determinations appear to be based on NAR's claims that the re-fracturing operations created new completion locations because each well is producing natural gas from a portion of the "J" Sand that could not have been reached before the re-fracturing operations.

Background

The Commission's initial definition of "recompletion tight formation gas" in § 271.703(b)(3), adopted in 1979, was initially limited to natural gas produced from a tight formation through a well that was spudded before July 16, 1979, provided the well was not completed for production from the tight formation before that date.[1] Therefore, if a jurisdictional agency designated two producing zones in a geological interval as a single tight formation, gas produced from a recompletion into a different zone could not qualify as "recompletion tight formation gas." However, if a jurisdictional agency designated two producing zones in a geological interval as separate tight formations, gas from a recompletion into a different zone could qualify as "recompletion tight formation gas" because the recompletion is not located in the same designated tight formation.

On January 24, 1983, the Commission proposed to revise its regulations to eliminate inequities caused by the way jurisdictional agencies designated tight formations.[2] The Commission proposed to amend the regulations so that gas produced from recompletions in zones other than the original zone (i.e., in different producing intervals) could qualify as recompletion tight formation gas. The Commission subsequently issued Order No. 345 which amended the definition of recompletion tight formation gas.[3] The amended definition of "recompletion tight formation gas" includes gas produced from a tight formation through a well that was completed for production in the tight formation before July 16, 1979, provided such gas could not have been produced from a completion location that existed in the wellbore on or before December 27, 1983 (the effective date of Order No. 345).[4]

Discussion

Section 2(7) of the NGPA defines a "completion location" as "any subsurface location from which natural gas is being produced or has been produced in commercial quantities." The Commission has, in turn, clarified that "each producing interval in [a well] is a separate and distinguishable completion location as defined in the NGPA." [5]

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[1] 18 CFR 271.703(b)(3)(ii) (1992).

[2] Notice of Proposed Rulemaking, Docket No. RM82–34–000, 48 FR 4483.

[3] 25 FERC ¶ 61,113 (1983).

[4] 18 CFR 271.703(b)(3)(ii) (1992).

[5] See 10 FERC ¶ 61,174 at p. 61,332 (1980) (Callon).

The record for each well shows that the gas being produced after the re-fracturing operations in 1991 or 1992 is coming from the same completion location (i.e., "producing interval") that existed in each well before July 16, 1979. Therefore, gas from the wells cannot qualify as recompletion tight formation gas.

NAR believes that gas from the wells may qualify as recompletion tight formation gas because the re-fracturing operations extended previously induced fractures and, as a result, each well is producing additional volumes of natural gas from subsurface locations in the "J" Sand that could not have been reached before the re-fracturing operations. Thus, NAR apparently interprets "completion location" to refer to the portions of the "J" Sand distant from the wellbore where gas is located that has been "reached" and is capable of being produced because of the re-fracturing operations. However, as shown in Callon, *supra*, , the Commission has consistently held that a "completion location" is *the portion of the wellbore* through which gas was or is being produced in commercial quantities.

We agree that as a result of the re-fracturing operations, the wells are producing additional volumes of natural gas from subsurface locations in the "J" Sand that could not have been reached before the re-fracturing operations. However, we believe the re-fracturing operations constituted production enhancement of the existing producing interval in each well. We note that in the Notice of Proposed Rulemaking leading to the promulgation of the revised definition of recompletion tight formation gas, the Commission rejected a similar proposal to allow additional production from a workover (including enhanced production techniques) in the same producing interval to qualify as recompletion tight formation gas.[6]

Under § 275.202(a) of the regulations, the Commission may make a preliminary finding, before any determination becomes final, that the determination is not supported by substantial evidence in the record. Based on the foregoing facts, the Commission finds that the records do not contain substantial evidence showing that the wells are producing recompletion tight formation gas. Accordingly, the Commission hereby makes a preliminary finding that Colorado's determinations are not supported by substantial evidence in the records upon which they were made.

[6] IV FERC Stats. & Regs. ¶ 32,288 at p. 32,476 (1983).

Colorado or the applicant may, within 30 days from the date of this preliminary finding, submit written comments and request an informal conference with the Commission pursuant to § 275.202(f) of the regulations. A final Commission order will be issued within 120 days after the issuance of this preliminary finding.

By direction of the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 92-23067 Filed 9-22-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RS92-17-000]

Iroquois Gas Transmission System, L.P.; Conference

September 17, 1992.

Take notice that on October 2, 1992, a conference will be convened in the above-captioned docket to discuss Mid-Louisiana Gas Company's summary of its proposed plan for implementation of Order No. 636.

The conference will be held in a hearing or conference room of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426. The conference will begin at 10 a.m. All interested parties are invited to attend. Attendance at the conference, however, will not confer party status. For additional information, interested persons can call Any Heyman at (202) 208-0115.

Lois D. Cashell,

Secretary.

[FR Doc. 92-23065 Filed 9-22-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RS92-20-000]

Mid-Louisiana Gas Co.; Conference

September 17, 1992.

Take notice that on October 1, 1992, a conference will be convened in the above-captioned docket to discuss Mid-Louisiana Gas Company's summary of its proposed plan for implementation of Order No. 636.

The conference will be held in a hearing or conference room of the Federal Energy Regulatory Commission, 810 First Street NE., Washington, DC 20426. The conference will begin at 10 a.m. All interested parties are invited to attend. Attendance at the conference, however, will not confer party status. For additional information, interested persons can call Amy Heyman at (202) 208-0115.

Lois D. Cashell,

Secretary.

[FR Doc. 92-23064 Filed 9-22-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-165-000]

Truckline Gas Co.; Rescheduling Informal Settlement Conference

September 17, 1992.

Take notice that the informal settlement conference previously scheduled for September 24-25 has been rescheduled. The settlement conference will be convened on Wednesday, October 14, 1992, at 10 a.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street NE., Washington, DC, for the purpose of exploring the possible settlement of the above-reference dockets.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Betsy R. Carr at (202) 208-1240 or Marc G. Denkinger at (202) 208-2215.

Lois D. Cashell,

Secretary.

[FR Doc. 92-23066 Filed 9-22-92; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4509-6]

Clean Air Act; Contractor Access to Confidential Business Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Notice is given that E.H. Pechan and Associates, 5537 Hempstead Way, Springfield, Virginia (under contract 68D10144) and their subcontractor, Mathtech, Inc., suite 200, 210 Carnegie Center, Princeton, New Jersey will be given access to information that has been, or will be, submitted to EPA under Section 114 of the Clean Air Act (CAA) as amended. Some of the information may be claimed to be confidential business information (CBI) by the submitter.

DATES: Access to confidential data submitted to EPA will occur no sooner than September 30, 1992.

FOR FURTHER INFORMATION CONTACT: Gene W. Smith, Document Control Officer, Office of Air Quality Planning and Standards (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, (919) 541–5439.

SUPPLEMENTARY INFORMATION: The EPA is issuing this notice to inform all submitters of information under Section 114 of the CAA that EPA may provide the above-mentioned contractor and subcontractor access to these materials on a need-to-know basis. The contractor, with the assistance of the subcontractor, will provide technical support to the Office of Air Quality Planning and Standards (OAQPS) in economic, cost, and regulatory impact analyses of air pollution control regulations.

In accordance with 40 CFR 2.301(h), EPA has determined that each subcontractor requires access to CBI submitted to EPA under sections 112 and 114 of the CAA in order to perform work satisfactorily under the previously noted contract. The personnel of the contractor and subcontractor will be given access to information submitted under section 114 of the CAA. Some of the information may be claimed or determined to be CBI. The personnel of the contractor and subcontractor will be instructed on appropriate security procedures and will be required to sign nondisclosure agreements before they are permitted access to CBI. Clearance for access to CAA CBI under this contract is scheduled to expire on September 30, 1994.

Dated: September 16, 1992.

Jerry Kurtzweg,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 92–23072 Filed 9–22–92; 8:45 am]

BILLING CODE 6560–50–M

[OPP–00324; FRL–4072–3]

Allium Sativum; Pesticide Reregistration Eligibility Documents; Availability for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of reregistration eligibility documents; opening of public comment period.

SUMMARY: This Notice announces the availability of the Reregistration Eligibility Document (RED) for the active ingredient allium sativum, and the start of a 60–day public comment period. The RED for allium sativum is the Agency's formal regulatory assessment of the health and environmental data base of the subject chemical, and presents the Agency's determination regarding which pesticidal uses of allium sativum are eligible for reregistration.

DATES: Written comments on the RED must be submitted by November 23, 1992.

ADDRESSES: Three copies of comments identified with the docket number "OPP–00324" should be submitted to: By mail: Public Response and Program Resources 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. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment in response to 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 docket. Information not marked confidential will be included in the public docket without prior notice. The public docket and docket index will be available for public inspection in rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

To request a copy of the above RED, or a Red Fact Sheet, contact the Public Response and Program Resources Branch, in rm. 1132, CM #2, at the address given above or call (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Technical questions on the RED should be directed to the chemical review manager, Margarita Collantes, at (703) 308–8583.

SUPPLEMENTARY INFORMATION: The Agency has issued Reregistration Eligibility Documents for the pesticidal active ingredient: allium sativum. Under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1988, EPA is conducting an accelerated reregistration program to reevaluate existing pesticides to make sure they meet current scientific and regulatory standards. The data base to support the reregistration of the chemical allium sativum is substantially complete. EPA has determined that all currently registered products containing allium sativum as an active ingredient are eligible for reregistration.

All registrants of products containing allium sativum have been sent the appropriate RED and must respond to the labeling requirements and the product specific data requirements (if applicable) within 8 months of receipt. These products will not be reregistered until adequate product specific data have been submitted and all necessary product label changes are implemented.

The reregistration program is being conducted under congressionally mandated time frames, and EPA recognizes both the need to make timely reregistration decisions and to involve the public. Therefore, EPA is issuing the RED as a final document with a 60–day comment period. Although the 60–day public comment period does not affect the registrant's response due date, it is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the RED. All comments will be carefully considered by the Agency and if any of those comments impact on the RED, EPA will issue an amendment to the RED and publish a **Federal Register** Notice announcing its availability.

Dated: June 30, 1992.

David Baralo,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 92–23075 Filed 9–22–92; 8:45 am]

BILLING CODE 6560–50–F

[OPP–00331; FRL–4073–1]

Citric acid; Pesticide Reregistration Eligibility Documents; Availability for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of reregistration eligibility documents; opening of public comment period.

SUMMARY: This Notice announces the availability of the Reregistration Eligibility Document (RED) for the active ingredient citric acid, and the start of a 60–day public comment period. The RED for citric acid is the Agency's formal regulatory assessment of the health and environmental data base of the subject chemical, and presents the Agency's determination regarding which pesticidal uses of citric acid are eligible for reregistration.

DATES: Written comments on the RED must be submitted by November 23, 1992.

ADDRESSES: Three copies of comments identified with the docket number "OPP–00331" should be submitted to: By mail: Public Response and Program

Resources 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. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment in response to 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 docket. Information not marked confidential will be included in the public docket without prior notice. The public docket and docket index will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

To request a copy of the above RED, or a Red Fact Sheet, contact the Public Response and Program Resources Branch, in Rm. 1132, CM #2, at the address given above or call (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Technical questions on the RED should be directed to the chemical review manager, Napoleon Kotey, at (703) 308–8523.

SUPPLEMENTARY INFORMATION: The Agency has issued Reregistration Eligibility Documents for the pesticidal active ingredient: citric acid. Under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1988, EPA is conducting an accelerated reregistration program to reevaluate existing pesticides to make sure they meet current scientific and regulatory standards. The data base to support the reregistration of the chemical citric acid is substantially complete. EPA has determined that all currently registered products containing citric acid as an active ingredient are eligible for reregistration.

All registrants of products containing citric acid have been sent the appropriate RED and must respond to the labeling requirements and the product specific data requirements (if applicable) within 8 months of receipt. These products will not be reregistered until adequate product specific data have been submitted and all necessary product label changes are implemented.

The reregistration program is being conducted under congressionally mandated time frames, and EPA recognizes both the need to make timely reregistration decisions and to involve the public. Therefore, EPA is issuing the RED as a final document with a 60–day comment period. Although the 60–day public comment period does not affect the registrant's response due date, it is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the RED. All comments will be carefully considered by the Agency and if any of those comments impact on the RED, EPA will issue an amendment to the RED and publish a **Federal Register** Notice announcing its availability.

Dated: June 30, 1992.

David Baralo,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 92–23070 Filed 9–22–92; 8:45 am]

BILLING CODE 6560–50–F

[OPP–60043; FRL–4165–1]

Intent to Suspend Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of issuance of notices of intent to suspend.

SUMMARY: This notice, pursuant to section 6 (f)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 et seq., announces that EPA has issued Notice(s) of Intent to Suspend pursuant to section 3(c)(2)(B) of FIFRA. The notice(s) were issued following issuance of Data Call-In Notice(s) by the Agency and the failure of registrant(s) subject to the Data Call-In Notice(s) to take appropriate steps to secure the data required to be submitted to the Agency. This notice includes the text of a Notice of Intent to Suspend, absent specific chemical, product, or factual information. Table A of this notice further identifies the registrant(s) to whom the Notice(s) of Intent to Suspend were issued, the date each Notice of Intent to Suspend was issued, the active ingredient(s) involved, and the EPA registration number(s) and name(s) of the registered product(s) which are affected by the Notice(s) of Intent to Suspend. Moreover, Table B of this notice identifies the basis upon which the Notice(s) of Intent to Suspend were issued. Finally, matters pertaining to the timing of requests for hearing are specified in the Notice(s) of Intent to Suspend and are governed by the deadlines specified in section 3(c)(2)(B). As required by section 6(f)(2), the Notice(s) of Intent to Suspend were sent by certified mail, return receipt requested, to each affected registrant at its address of record.

FOR FURTHER INFORMATION CONTACT: Stephen L. Brozena, Office of Compliance Monitoring (EN–342), Laboratory Data Integrity Assurance Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (703) 308–8267.

SUPPLEMENTARY INFORMATION:

I. Text of a Notice of Intent to Suspend

The text of a Notice of Intent to Suspend, absent specific chemical, product, or factual information, follows:

United States Environmental Protection Agency

Office of Prevention, Pesticides and Toxic Substances

Washington, DC 20460

Certified Mail

Return Receipt Requested

SUBJECT: Suspension of Registration of Pesticide Product(s) Containing _____ for Failure to Comply with the 3(c)(2)(B) Data Call-In Notice for _____ Dated _____.

Dear Sir/Madam:

This letter gives you notice that the pesticide product registration(s) listed in Attachment I will be suspended 30 days from your receipt of this letter unless you take steps within that time to prevent this Notice from automatically becoming a final and effective order of suspension. The Agency's authority for suspending the registration(s) of your product(s) is section 3(c)(2)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Upon becoming a final and effective order of suspension, any violation of the order will be an unlawful act under section 12(a)(2)(J) of FIFRA.

You are receiving this Notice of Intent to Suspend because you have failed to comply with the terms of the 3(c)(2)(B) Data Call-In Notice. The specific basis for issuance of this Notice is stated in the Explanatory Appendix (Attachment III) to this Notice. Affected product(s) and the requirement(s) which you failed to satisfy are listed and described in the following three attachments:

Attachment I Suspension Report - Product List

Attachment II Suspension Report - Requirement List

Attachment III Suspension Report - Explanatory Appendix

The suspension of the registration of each product listed in Attachment I will become final unless at least one of the following actions is completed.

1. You may avoid suspension under this Notice if you or another person adversely affected by this Notice properly request a hearing within 30 days of your receipt of this Notice. If you request a hearing, it will be conducted in accordance with the requirements of section 6(d) of FIFRA and the Agency's procedural regulations in 40 CFR part 164.

Section 3(c)(2)(B), however, provides that the only allowable issues which may be addressed at the hearing are whether you have failed to take the actions which are the bases of this Notice and whether the Agency's decision regarding the disposition of existing stocks is consistent with FIFRA. Therefore, no substantive allegation or legal argument concerning other issues, including but not limited to the Agency's original decision to require the submission of data or other information, the need for or utility of any of the required data or other information or deadlines imposed, and the risks and benefits associated with continued registration of the affected product, may be considered in the proceeding. The Administrative Law Judge shall by order dismiss any objections which have no bearing on the allowable issues which may be considered in the proceeding.

Section 3(c)(2)(B)(iv) of FIFRA provides that any hearing must be held and a determination issued within 75 days after receipt of a hearing request. This 75-day period may not be extended unless all parties in the proceeding stipulate to such an extension. If a hearing is properly requested, the Agency will issue a final order at the conclusion of the hearing governing the suspension of your product(s).

A request for a hearing pursuant to this Notice must (1) include specific objections which pertain to the allowable issues which may be heard at the hearing, (2) identify the registration(s) for which a hearing is requested, and (3) set forth all necessary supporting facts pertaining to any of the objections which you have identified in your request for a hearing. If a hearing is requested by any person other than the registrant, that person must also state specifically why he asserts that he would be adversely affected by the suspension action described in this Notice. Three copies of the request must be submitted to: Hearing Clerk, A-110, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, and an additional copy should be sent to the signatory listed below. The request must be *received* by the Hearing Clerk by the 30th day from your receipt of this Notice in order to be legally effective. The 30-day time limit is established by FIFRA and cannot be extended for any reason. Failure to meet the 30-day time limit will result in automatic suspension of your registration(s) by operation of law and, under such circumstances, the suspension of the registration for your affected product(s) will be final and effective at the close of business 30 days after your receipt of this Notice and will not be subject to further administrative review.

The Agency's Rules of Practice at 40 CFR 164.7 forbid anyone who may take part in deciding this case, at any stage of the proceeding, from discussing the merits of the proceeding *ex parte* with any party or with any person who has been connected with the preparation or presentation of the proceeding as an advocate or in any investigative or expert capacity, or with any of their representatives. Accordingly, the following EPA offices, and the staffs thereof, are designated as judicial staff to perform the judicial function of EPA in any administrative hearings on this Notice of Intent to Suspend: The Office of the Administrative Law Judges, the Office of the Judicial Officer, the Administrator, the Deputy Administrator, and the members of the staff in the immediate offices of the Administrator and Deputy Administrator. None of the persons designated as the judicial staff shall have any *ex parte* communication with trial staff or any other interested person not employed by EPA on the merits of any of the issues involved in this proceeding, without fully complying with the applicable regulations.

2. You may also avoid suspension if, within 30 days of your receipt of this Notice, the Agency determines that you have taken appropriate steps to comply with the section 3(c)(2)(B) Data Call-In Notice. In order to avoid suspension under this option, you must satisfactorily comply with Attachment II, Requirement List, for each product by submitting all required supporting data/information described in Attachment II and in the Explanatory Appendix (Attachment III) to the following address (preferably by certified mail):

Office of Compliance Monitoring (EN-342), Laboratory Data Integrity Assurance Division, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

For you to avoid automatic suspension under this Notice, the Agency must also determine within the applicable 30-day period that you have satisfied the requirement(s) that are the bases of this Notice and so notify you in writing. You should submit the necessary data/information as quickly as possible for there to be any chance the Agency will be able to make the necessary determination in time to avoid suspension of your product(s).

The suspension of the registration(s) of your company's product(s) pursuant to this Notice will be rescinded when the Agency determines you have complied fully with the requirements which were the bases of this Notice. Such compliance may only be achieved by submission of the data/information described in the attachments to the signatory below.

Your product will remain suspended, however, until the Agency determines you are in compliance with the requirements which are the bases of this Notice and so informs you in writing.

After the suspension becomes final and effective, the registrant subject to this Notice, including all supplemental registrants of product(s) listed in Attachment I, may not legally distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product(s) listed in Attachment I.

Persons other than the registrant subject to this Notice, as defined in the preceding sentence, may continue to distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product(s) listed in Attachment I.

Nothing in this Notice authorizes any person to distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product(s) listed in Attachment I in any manner which would have been unlawful prior to the suspension.

If the registration(s) of your product(s) listed in Attachment I are currently suspended as a result of failure to comply with another section 3(c)(2)(B) Data Call-In Notice or Section 4 Data Requirement Notice, this Notice, when it becomes a final and effective order of suspension, will be in addition to any existing suspension, i.e., all requirements which are the bases of the suspension must be satisfied before the registration will be reinstated.

You are reminded that it is your responsibility as the basic registrant to notify all supplementary registered distributors of your basic registered product that this suspension action also applies to their supplementary registered product(s) and that you may be held liable for violations committed by your distributors.

If you have any questions about the requirements and procedures set forth in this suspension notice or in the subject 3(c)(2)(B) Data Call-In Notice, please contact Stephen L. Brozena at (703) 308–8267.

Sincerely yours,

Director, Office of Compliance Monitoring

Attachments:

Attachment I - Product List

Attachment II - Requirement List

Attachment III - Explanatory Appendix

II. Registrant(s) Receiving and Affected by Notice(s) of Intent to Suspend; Date of Issuance; Active Ingredient and Product(s) Affected

A letter of notification has been sent for the following product(s):

TABLE A.—PRODUCT LIST

Registrant Affected	EPA Registration Number	Active Ingredient	Name of Product	Date Issued
Dettelbach Chemical Company	00142100067	2,4-D	Comet Weed Killer	9/1/92
Hysan Corporation	00033400081	2,4-D	GCC-620 2,4-D Selective Weed Killer	9/1/92
Pax Company	00323400017	2,4-D	Pax Action Weed'n Feed	9/1/92

III. Basis for Issuance of Notice of Intent; Requirement List

The following registrant(s) failed to submit the following required data or information:

TABLE B.—REQUIREMENT LIST

Active Ingredient	Registrant Affected	Requirement Name	Original Due-Date
2,4-D	Dettelbach Chemical Company	30-Day Response	7/5/92
	Hysan Corporation	30-Day Response	7/5/92
	Pax Company	30-Day Response	7/5/92

IV. Attachment III Suspension Report--Explanatory Appendix

A discussion of the basis for the Notice of Intent to Suspend follows:

2,4-D

In September 1988, EPA issued a Registration Standard which included a Data Call-In Notice pursuant to the authority of FIFRA section 3(c)(2)(B) which required registrants of products containing 2,4-D acid and its salts, amines, and esters used as an active ingredient to develop and submit data. These data were determined to be necessary to maintain the continued registration of affected products. Failure to comply with the requirements of a Registration Standard is a basis for suspension under section 3(c)(2)(B) of FIFRA.

The 2,4-D Registration Standard required each affected registrant to submit materials demonstrating selection by the registrant of the options to address the data requirements. The 2,4-D Registration Standard was initially issued to all registrants of products containing 2,4-D acid and its salts, amines, and esters. Subsequently, several registrants have formed a Task Force to support some of the 2,4-D formulations, others have committed to support single formulations. Under the terms of the September 1988 2,4-D Registration Standard, your company is no longer eligible for a generic data exemption from the data requirements for alkanol amine 2,4-dichlorophenoxyacetate because no other registrant has committed to satisfy these data requirements. As a result, the responsibility for generating the necessary data to maintain the product registrations containing the active ingredient, alkanol amine 2,4-dichlorophenoxyacetate rests with your company.

Accordingly, in a letter dated June 1, 1992, the Agency informed you of the above status of the 2,4-D Registration Standard data requirements, and required that you inform the Agency within 30 days of your receipt of the letter of the steps you were electing to take regarding the data requirements necessary to support your registration. Attachment II indicates the deadline for your response based on the date you received the Agency's June 1, 1992 letter. The Agency received no response from you to its June 1, 1992 letter. Because the Agency has not received an adequate or appropriate response from you as a 2,4-D registrant electing either to undertake the required testing or any other appropriate response (e.g., voluntary cancellation), the Agency is issuing this Notice of Intent to Suspend.

V. Conclusions

EPA has issued Notice(s) of Intent to Suspend on the dates indicated. Any further information regarding the Notice(s) may be obtained from the contact person noted above.

Dated: September 10, 1992.

Connie A. Musgrove,

Acting Director, Office of Compliance Monitoring.

[FR Doc. 92-22781 Filed 9-22-92; 8:45 am]

BILLING CODE 6560-50-F

[OPP-60042; FRL-4164-9]

Intent to Suspend Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of issuance of notices of intent to suspend.

SUMMARY: This Notice, pursuant to section 6(f)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 et seq., announces that EPA has issued Notices of Intent to Suspend pursuant to sections 3(c)(2)(B) and 4 of FIFRA. The Notices were issued following issuance of Section 4 Reregistration Requirements Notices by the Agency and the failure of registrants subject to the Section 4 Reregistration Requirements Notices to take appropriate steps to secure the data required to be submitted to the Agency. This Notice includes the text of a Notice of Intent to Suspend, absent specific chemical, product, or factual information. Table A of this Notice further identifies the registrants to whom the Notices of Intent to Suspend were issued, the date each Notice of Intent to Suspend was issued, the active ingredient(s) involved, and the EPA registration numbers and names of the registered product(s) which are affected by the Notices of Intent to Suspend. Moreover, Table B of this Notice identifies the basis upon which the Notices of Intent to Suspend were issued. Finally, matters pertaining to the timing of requests for hearing are specified in the Notices of Intent to Suspend and are governed by the

deadlines specified in section 3(c)(2)(B). As required by section 6(f)(2), the Notices of Intent to Suspend were sent by certified mail, return receipt requested, to each affected registrant at its address of record.

FOR FURTHER INFORMATION CONTACT: Stephen L. Brozena, Office of Compliance Monitoring (EN–342), Laboratory Data Integrity Assurance Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (703) 308–8267.

SUPPLEMENTARY INFORMATION:

I. Text of a Notice of Intent to Suspend

The text of a Notice of Intent to Suspend, absent specific chemical, product, or factual information, follows:

United States Environmental Protection Agency

Office of Prevention, Pesticides and Toxic Substances

Washington, DC 20460

Certified Mail

Return Receipt Requested

SUBJECT: Suspension of Registration of Pesticide Product(s) Containing _____ for Failure to Comply with the Section 4 Phase 5 Reregistration Eligibility Document Data Call-In Notice for _____ Dated _____.

Dear Sir/Madam:

This letter gives you notice that the pesticide product registrations listed in Attachment I will be suspended 30 days from your receipt of this letter unless you take steps within that time to prevent this Notice from automatically becoming a final and effective order of suspension. The Agency's authority for suspending the registrations of your products is sections 3(c)(2)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Upon becoming a final and effective order of suspension, any violation of the order will be an unlawful act under section 12(a)(2)(J) of FIFRA.

You are receiving this Notice of Intent to Suspend because you have failed to comply with the terms of the Phase 5 Registration Eligibility Document Data Call-In Notice imposed pursuant to section 4(g)(2)(b) and section (3)(2)(B) of FIFRA.

The specific basis for issuance of this Notice is stated in the Explanatory Appendix (Attachment III) to this Notice. Affected products and the requirements which you failed to satisfy are listed and described in the following three attachments:

Attachment I Suspension Report - Product List

Attachment II Suspension Report - Requirement List

Attachment III Suspension Report - Explanatory Appendix

The suspension of the registration of each product listed in Attachment I will become final unless at least one of the following actions is completed.

1. You may avoid suspension under this Notice if you or another person adversely affected by this Notice properly request a hearing within 30 days of your receipt of this Notice. If you request a hearing, it will be conducted in accordance with the requirements of section 6(d) of FIFRA and the Agency's procedural regulations in 40 CFR part 164.

Section 3(c)(2)(B), however, provides that the only allowable issues which may be addressed at the hearing are whether you have failed to take the actions which are the bases of this Notice and whether the Agency's decision regarding the disposition of existing stocks is consistent with FIFRA. Therefore, no substantive allegation or legal argument concerning other issues, including but not limited to the Agency's original decision to require the submission of data or other information, the need for or utility of any of the required data or other information or deadlines imposed, and the risks and benefits associated with continued registration of the affected product, may be considered in the proceeding. The Administrative Law Judge shall by order dismiss any objections which have no bearing on the allowable issues which may be considered in the proceeding.

Section 3(c)(2)(B)(iv) of FIFRA provides that any hearing must be held and a determination issued within 75 days after receipt of a hearing request. This 75–day period may not be extended unless all parties in the proceeding stipulate to such an extension. If a hearing is properly requested, the Agency will issue a final order at the conclusion of the hearing governing the suspension of your products.

A request for a hearing pursuant to this Notice must (1) include specific objections which pertain to the allowable issues which may be heard at the hearing, (2) identify the registrations for which a hearing is requested, and (3) set forth all necessary supporting facts pertaining to any of the objections which you have identified in your request for a hearing. If a hearing is requested by any person other than the registrant, that person must also state specifically why he asserts that he would be adversely affected by the suspension action described in this Notice. Three copies of the request must be submitted to: Hearing Clerk, A–110, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, and an additional copy should be sent to the signatory listed below. The request must be *received* by the Hearing Clerk by the 30th day from your receipt of this Notice in order to be legally effective. The 30–day time limit is established by FIFRA and cannot be extended for any reason. Failure to meet the 30–day time limit will result in automatic suspension of your registration(s) by operation of law and, under such circumstances, the suspension of the registration for your affected product(s) will be final and effective at the close of business 30 days after your receipt of this Notice and will not be subject to further administrative review.

The Agency's Rules of Practice at 40 CFR 164.7 forbid anyone who may take part in deciding this case, at any stage of the proceeding, from discussing the merits of the proceeding *ex parte* with any party or with any person who has been connected with the preparation or presentation of the proceeding as an advocate or in any investigative or expert capacity, or with any of their representatives. Accordingly, the following EPA offices, and the staffs thereof, are designated as judicial staff to perform the judicial function of EPA in any administrative hearings on this Notice of Intent to Suspend: The Office of the Administrative Law Judges, the Office of the Judicial Officer, the Administrator, the Deputy Administrator, and the members of the staff in the immediate offices of the Administrator and Deputy Administrator. None of the persons designated as the judicial staff shall have any *ex parte* communication with trial staff or any other interested person not employed by EPA on the merits of any of the issues involved in this proceeding, without fully complying with the applicable regulations.

2. You may also avoid suspension if, within 30 days of your receipt of this Notice, the Agency determines that you have taken appropriate steps to comply with the section 4 Phase 5 Reregistration Eligibility Document Data Call-In Notice requirements. In order to avoid suspension under this option, you must satisfactorily comply with Attachment II, Requirement List, for each product by submitting all required supporting data/information described in Attachment II and in the Explanatory Appendix (Attachment III) to the following address (preferably by certified mail):

Office of Compliance Monitoring (EN–342), Laboratory Data Integrity Assurance Division, U.S.

Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

For you to avoid automatic suspension under this Notice, the Agency must also determine within the applicable 30-day period that you have satisfied the requirements that are the bases of this Notice and so notify you in writing. You should submit the necessary data/information as quickly as possible for there to be any chance the Agency will be able to make the necessary determination in time to avoid suspension of your product(s).

The suspension of the registration(s) of your company's product(s) pursuant to this Notice will be rescinded when the Agency determines you have complied fully with the requirements which were the bases of this Notice. Such compliance may only be achieved by submission of the data/information described in the attachments to the signatory below.

Your product will remain suspended, however, until the Agency determines you are in compliance with the requirements which are the bases of this Notice and so informs you in writing.

After the suspension becomes final and effective, the registrant subject to this Notice, including all supplemental registrants of product(s) listed in Attachment I, may not legally distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product(s) listed in Attachment I.

Persons other than the registrant subject to this Notice, as defined in the preceding sentence, may continue to distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product(s) listed in Attachment I.

Nothing in this Notice authorizes any person to distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product(s) listed in Attachment I in any manner which would have been unlawful prior to the suspension.

If the registrations of your products listed in Attachment I are currently suspended as a result of failure to comply with another section 4 Data Requirements Notice or section 3(c)(2)(B) Data Call-In Notice, this Notice, when it becomes a final and effective order of suspension, will be in addition to any existing suspension, i.e., all requirements which are the bases of the suspension must be satisfied before the registration will be reinstated.

You are reminded that it is your responsibility as the basic registrant to notify all supplementary registered distributors of your basic registered product that this suspension action also applies to their supplementary registered products and that you may be held liable for violations committed by your distributors. If you have any questions about the requirements and procedures set forth in this suspension notice or in the subject section 4 Data Requirements Notice, please contact Stephen L. Brozena at (703) 308-8267.

Sincerely yours,

Director, Office of Compliance Monitoring

Attachments:
Attachment I - Product List
Attachment II - Requirement List
Attachment III - Explanatory Appendix

II. Registrants Receiving and Affected by Notices of Intent to Suspend; Date of Issuance; Active Ingredient and Products Affected

A letter of notification has been sent for the following product:

TABLE A.—LIST OF PRODUCTS

Registrant Affected	EPA Registration Number	Active Ingredient	Name of Product	Date Issued
Diversey Corporation	00087500042	Potassium Bromide	Saf-Sol Brand	9/1/92

III. Basis for Issuance of Notice of Intent; Requirement List

The following company failed to submit the following required data or information:

TABLE B.—REQUIREMENT LIST

Active Ingredient	Registrant Affected	Requirement Name	Guideline Reference Number	Original Due-Date
Potassium Bromide	Diversey Corporation	Storage Stability	63-17	7/5/92
		Corrosion Characteristics	63-20	7/5/92
		Acute Inhalation Toxicity - Rat	81-3	7/5/92
		Dermal Sensitization	81-6	7/5/92

IV. Attachment III Suspension Report--Explanatory Appendix

A discussion of the basis for the Notice of Intent to Suspend follows:

Potassium Bromide

On April 21, 1991, EPA issued the Phase 5 Reregistration Data Requirements Notice imposed pursuant to section 4 of FIFRA which required registrants of products containing potassium bromide to develop and submit certain data. These data were determined to be necessary to satisfy reregistration data requirements of section 4(g)(2)(B). Failure to comply with the requirements of a Phase 5 Reregistration Eligibility Document Data Call-In Notice is a basis for suspension under sections 3(c)(2)(B) and 4(g)(2)(B) of FIFRA.

The Potassium Bromide Phase 5 Reregistration Data Requirements Notice dated April 21, 1991, required each affected registrant to submit materials relating to the election of the options to address each of the data requirements. That submission was required to be received by the Agency

within 90 days of the registrant's receipt of the Notice. The Agency received a response from you in which you committed to undertake the required testing. The Notice further required that data be submitted by deadlines noted for the subject data requirements on Attachment II. These deadlines have passed and to date the Agency has not received adequate data to satisfy these data requirements. Because you have failed to provide an appropriate or adequate response within the time provided for data requirements listed on Attachment II, the Agency is issuing this Notice of Intent to Suspend.

V. Conclusions

EPA has issued Notices of Intent to Suspend on the dates indicated. Any further information regarding these Notices may be obtained from the contact person noted above.

Dated: September 10, 1992.

Connie A. Musgrove,

Acting Director, Office of Compliance Monitoring.

[FR Doc. 92–22780 Filed 9–22–92; 8:45 am]

BILLING CODE 6560–50–F

[OPP–00335; FRL–4071–9]

Indole-3-butyric Acid, Pesticide Reregistration Eligibility Documents; Availability for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of reregistration eligibility documents; opening of public comment period.

SUMMARY: This Notice announces the availability of the Reregistration Eligibility Document (RED) for the active ingredient indole-3-butyric acid, and the start of a 60–day public comment period. The RED for indole-3-butyric acid is the Agency's formal regulatory assessment of the health and environmental data base of the subject chemical, and presents the Agency's determination regarding which pesticidal uses of indole-3-butyric acid are eligible for reregistration.

DATES: Written comments on the RED must be submitted by November 23, 1992.

ADDRESSES: Three copies of comments identified with the docket number "OPP–00335" should be submitted to: By mail: Public Response and Program Resources 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. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment in response to 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 docket. Information not marked confidential will be included in the public docket without prior notice. The public docket and docket index will be available for public inspection in rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

To request a copy of the above RED, or a Red Fact Sheet, contact the Public Response and Program Resources Branch, in rm. 1132, CM #2, at the address given above or call (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Technical questions on the RED should be directed to the chemical review manager, Ruby Whiters, at (703) 308–8079.

SUPPLEMENTARY INFORMATION: The Agency has issued a Reregistration Eligibility Document for the pesticidal active ingredient: indole-3-butyric acid. Under the Federal Insecticide, Fungicide and Rodenticide Act, as amended in 1988, EPA is conducting an accelerated reregistration program to reevaluate existing pesticides to make sure they meet current scientific and regulatory standards. The data base to support the reregistration of the chemical indole-3-butyric acid is sufficient to allow EPA to conduct a reasonable risk assessment for all uses. Therefore, EPA has determined that all currently registered products containing indole-3-butyric acid as an active ingredient are eligible for reregistration.

All registrants of products containing indole-3-butyric acid have been sent the appropriate RED and must respond to the labeling requirements, confirmatory acute ecotoxity data requirements (if applicable) on the active ingredient and the product specific data requirements (if applicable) within 8 months of receipt. These products will not be reregistered until adequate acute ecotoxicity and product specific data have been submitted and all necessary product label changes are implemented.

The reregistration program is being conducted under congressionally mandated time frames, and EPA recognizes both the need to make timely reregistration decisions and to involve the public. Therefore, EPA is issuing the RED as a final document with a 60–day comment period. Although the 60–day public comment period does not affect the registrant's response due date, it is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the RED. All comments will be carefully considered by the Agency and if any of those comments impact on the RED, EPA will issue an amendment to the RED and publish a **Federal Register** Notice announcing its availability.

Dated: August 28, 1992.

David Baralo,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 92–23076 Filed 9–22–92; 8:45 am]

BILLING CODE 6560–50–F

[OPPT–59310A; FRL–4165–2]

Certain Chemical; Premanufacture Approval of a Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for test marketing exemption (TME) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA has designated this application as TME–92–15. The test marketing conditions are described below.

EFFECTIVE DATE: September 16, 1992.

FOR FURTHER INFORMATION CONTACT: Darlene Jones, New Chemicals Branch, Chemical Control Division (TS–794), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–611, 401 M St. SW., Washington, DC 20460, (202) 260–2279.

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to human health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the

test marketing activity will not present an unreasonable risk of injury.

EPA hereby approves TME–92–15. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions specified below, will not present an unreasonable risk of injury to human health or the environment. Production volume, use, and the number of customers must not exceed that specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

The following additional restrictions apply to TME–92–15. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME. In addition, the applicant shall maintain the following records until 5 years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. Records of the quantity of the TME substance produced and the date of manufacture.
2. Records of dates of the shipments to each customer and the quantities supplied in each shipment.
3. Copies of the bill of lading that accompanies each shipment of the TME substance.

TME–92–15

Date of Receipt: July 13, 1992.
Notice of Receipt: July 28, 1992 (57 FR 33349).
Applicant: Confidential.
Chemical: (G) Tertiary ammonium chloride.
Use: (G) Fabric softener ingredient.
Production Volume: Confidential.
Number of Customers: Confidential.
Test Marketing Period: Confidential.
Risk Assessment: Based on limited aquatic test data on the test market substance and data on analogous chemical substances, EPA established an aquatic concentration of concern for the test market substance of 1 part per billion in surface waters. However, based on the test market activities as described in the notice application (including the production volume and specific use), EPA has determined that these activities will not present an unreasonable risk of injury to the aquatic environment. EPA identified no significant health concerns for the test market substance.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information that comes to its attention cast significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to human health or the environment.

Dated: September 16, 1992.

John W. Melone,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92–23077 Filed 9–22–92; 8:45 am]
BILLING CODE 6560–50–F

[OPP–00323; FRL–4072–2]

Putrescent Whole Egg Solids; Pesticide Reregistration Eligibility Documents; Availability for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of reregistration eligibility documents; opening of public comment period.

SUMMARY: This Notice announces the availability of the Reregistration Eligibility Document (RED) for the active ingredient putrescent whole egg solids, and the start of a 60–day public comment period. The RED for putrescent whole egg solids is the Agency's formal regulatory assessment of the health and environmental data base of the subject chemical, and presents the Agency's determination regarding which pesticidal uses of putrescent whole egg solids are eligible for reregistration.

DATES: Written comments on the RED must be submitted by November 23, 1992.

ADDRESSES: Three copies of comments identified with the docket number "OPP–00323" should be submitted to: By mail: Public Response and Program Resources 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. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment in response to 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 docket. Information not marked confidential will be included in the public docket without prior notice. The public docket and docket index will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

To request a copy of the above RED, or a Red Fact Sheet, contact the Public Response and Program Resources Branch, in Rm. 1132, CM #2, at the address given above or call (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Technical questions on the RED should be directed to the chemical review manager, George T. Myers, at (703) 308–8074.

SUPPLEMENTARY INFORMATION: The Agency has issued Reregistration Eligibility Documents for the pesticidal active ingredient: putrescent whole egg solids. Under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1988, EPA is conducting an accelerated reregistration program to reevaluate existing pesticides to make sure they meet current scientific and regulatory standards. The data base to support the reregistration of the chemical putrescent whole egg solids is substantially complete. EPA has determined that all currently registered products containing putrescent whole egg solids as an active ingredient are eligible for reregistration.

All registrants of products containing putrescent whole egg solids have been sent the appropriate RED and must respond to the labeling requirements and the product specific data requirements (if applicable) within 8 months of receipt. These products will not be reregistered until adequate product specific data have been submitted and all necessary product label changes are implemented.

The reregistration program is being conducted under congressionally mandated time frames, and EPA recognizes both the need to make timely reregistration decisions and to involve the public. Therefore, EPA is issuing the RED as a final document with a 60–day comment period. Although the 60–day public comment period does not affect the registrant's response due date, it is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the RED. All comments will be carefully considered by the Agency and if any of those comments impact on the RED, EPA will issue an amendment to the RED and publish a **Federal Register** Notice announcing its availability.

Dated: June 30, 1992.

David Baralo,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 92-23071 Filed 9-22-92; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-960-DR]

Texas; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Texas (FEMA-960-DR), dated September 9, 1992, and related determinations.

EFFECTIVE DATE: September 14, 1992.

FOR FURTHER INFORMATION CONTACT: Pauline Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Texas, dated September 9, 1992, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 9, 1992:

The counties of Borden, Cottle, Dawson, Deaf Smith, Dickens, Gaines, Garza, Howard, Lynn, Martin, Midland, Motley, Terry, and Yoakum for Disaster Unemployment Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Grant C. Peterson,

Associate Director, State and Local Programs and Support.

[FR Doc. 92-23094 Filed 9-22-92; 8:45 am]

BILLING CODE 6718-02-M

Meeting; FEMA Security Practices Board of Review

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, FEMA announces the following committee meeting, portions of which may be closed:

NAME: FEMA Security Practices Board of Review.

DATES OF MEETING: Wednesday, September 23, 1992.

PLACE: Federal Emergency Management Agency, John W. Macy, Jr. Conference Room, room 829, 500 C Street, SW., Washington, DC 20472.

TIMES: 9 a.m. to 12 p.m.

PROPOSED AGENDA: Discussion of Board recommendations as submitted to the Director on September 11, 1992, and review of and recommendations concerning the draft of the Board's final report.

FOR FURTHER INFORMATION CONTACT: Dirk J. Vande Beek, Office of the Director, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-3923.

SUPPLEMENTARY INFORMATION: The Review Board completed its review and draft report on September 4, 1992, necessitating that less than 15 days' notice of the meeting be given, under 41 CFR 101-6.1015(b)(2).

The meeting will be open to the public with approximately 10 seats available on a first-come, first-served basis. Members of the general public who plan to attend the meeting should contact the Office of the Director, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-3923) on or before Wednesday, September 16, 1992.

The Director has determined that portions of the Board meeting may have to be closed to the public in accordance with section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, and 5 U.S.C. 552b(c), because discussions may (1) disclose matters that are specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense, (2) relate solely to the internal personnel rules and practices of an agency, and (3) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of privacy.

Minutes of the meeting (minus those portions of the meeting which may be closed to the public) will be prepared and will be available for public viewing in the Office of the Director, Federal Emergency Management Agency, room 828, 500 C Street, SW., Washington, DC 20472. Copies of the minutes will be available upon request 30 days after the meeting.

Dated: September 18, 1992.

Wallace E. Stickney,

Director.

[FR Doc. 92-23093 Filed 9-22-92; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Home Mortgage Disclosure Act; Categorization of Income for Disclosure Statements and Aggregate MSA Reports

AGENCY: Federal Financial Institutions Examination Council.

ACTION: Notice.

SUMMARY: The Federal Financial Institutions Examination Council (FFIEC) has adopted a change in the way it categorizes income for purposes of preparing Home Mortgage Disclosure Act disclosure statements and aggregate reports distributed to central data depositories. The change, which does not affect how applicant income is reported by covered institutions, is reflected in the disclosure statements prepared for 1991 data (to be made available to the public in September 1992).

FOR FURTHER INFORMATION CONTACT: Glenn G. Canner, Senior Economist, (202) 452-2910, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: On March 12, 1992, the FFIEC published (57 FR 8762) for public comment a proposed change to the methodology used to estimate the current level of median family incomes for MSAs. Specifically, the FFIEC proposed to apply the annual median family income figures as published by the Department of Housing and Urban Development (HUD) rather than the inflation-adjusted estimates used for the 1990 data. The annual MSA median family income estimates derived by HUD reflect the latest available data on wage changes from the County Business Patterns and from median family income data from the Bureau of the Census Current Population Reports, P-60 Series. (A description of the precise methodology used by HUD to calculate their estimates of current MSA median family incomes can be obtained from the FFIEC.) The estimation technique employed by HUD takes advantage of the most up-to-date information available for estimating current levels of MSA median family incomes.

Comments were received from six organizations, including three banks, two secondary mortgage market entities, and a banking trade association. All of the commenters supported the proposed change, although one bank suggested postponing implementation until 1993. Among benefits that commenters noted would result from the change were the fact that the income estimates published

by HUD are readily available from local housing authorities; that knowing the income estimates at the time lenders file their HMDA data will facilitate internal reviews; and that the HUD income estimates are widely used by lenders as a basis for defining eligibility for special mortgage and home improvement products.

In addition to improving on the income estimation method previously used, and achieving the benefits mentioned by commenters, the use by the FFIEC of the median family income figures published by HUD will establish uniformity across government agencies, since these figures are widely used in government housing programs. Based on the comments and recommendations of agency staffs, the FFIEC has adopted the change in income estimation method as proposed. The change takes effect beginning with the HMDA disclosure reports reflecting 1991 lending and loan application data. The MSA median income figures used are the HUD estimates for Fiscal Year 1991. The change affects tables 3, 4–1 through 4–6, 5–1 through 5–6, 6–1 through 6–6, and 8–1 through 8–6 of the HMDA disclosure statements.

Dated: September 17, 1992.

Joe M. Cleaver,

Executive Secretary.

[FR Doc. 92–23028 Filed 9–22–92; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Assistant Secretary for Health

Meeting of the Advisory Committee on Scientific Integrity, Public Health Service

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Advisory Committee on Scientific Integrity, Public Health Service, on Thursday, October 15, and Friday, October 16, 1992, at the National Institutes of Health, Bethesda, Maryland. The meeting will take place October 15 from 8 a.m. to 5 p.m., and on October 16 from 8 a.m. to 12 p.m., Building 31, C Wing, Conference Room 9 and Conference Room 4 respectively. The meeting will be open to the public.

The charge of the Committee is to review and evaluate, on an ongoing basis, the efficacy of policies and procedures of the Department of Health and Human Services in detecting, deterring, investigating, and resolving allegations of scientific misconduct and to make recommendations to the Secretary and the Assistant Secretary for Health on improving these policies and procedures.

The purpose of the meeting will be to deliberate a number of proposed PHS policy changes that are designed to strengthen the PHS scientific integrity program. Discussion items will include but will not be limited to a draft notice of proposed rule making for a revised final rule; PHS interim policies regarding the availability of a hearing to persons accused of scientific misconduct; Privacy Act exemptions to protect records of alleged misconduct cases during an investigation; and outreach and education efforts to encourage the responsible conduct of research.

Henrietta D. Hyatt-Knorr, Executive Secretary, Advisory Committee on Scientific Integrity, Office of Research Integrity, Division of Policy, Rockwall II, Suite 1113, 5515 Security Lane, Rockville, MD 20852, (301) 443–5300, will furnish the meeting agenda, the Committee charter, and a roster of the Committee members upon request. Members of the public wishing to make presentations should contact the Executive Secretary. Depending on the number of presentations and other considerations, the Executive Secretary will allocate a time frame for each speaker.

Date: September 15, 1992.

Lyle W. Bivens,

Director, Division of Policy, Office of Research Integrity.

[FR Doc. 92–23098 Filed 9–22–92; 8:45 am]

BILLING CODE 4160–17–M

Office of the Secretary

Public Law 102–154, The Department of the Interior and Related Agencies Appropriations Act, Fiscal Year 1992; Delegation of Authority

Notice is hereby given that the Secretary of Health and Human Services delegated to the Assistant for Health, with authority to redelegate, all the authority vested in the Secretary of Health and Human Services under Public Law 102–154, "The Department of the Interior and Related Agencies Appropriations Act, Fiscal Year 1992," as amended hereafter, to accept ownership of the buildings offered at no cost by the Standing Rock Sioux Tribe for use solely as the Aberdeen Area Youth Regional Treatment Center.

This delegation excluded the authority to promulgate regulations, to submit reports to the Congress, to establish advisory committees or national commissions, and to appoint members to such committees or commissions.

This delegation was effective on September 10, 1992.

Dated: September 10, 1992.

Louis W. Sullivan,

Secretary.

[FR Doc. 92–23040 Filed 9–22–92; 8:45am]

BILLING CODE 4160–16

Alcohol, Drug Abuse, and Mental Health Administration

National Institute of Mental Health; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the advisory committee of the National Institute of Mental Health for October 1992.

The initial review group will be performing review of applications for Federal assistance; therefore, portions of this meeting will be closed to the public as determined by the Acting Administrator, ADAMHA, in accordance with 5 U.S.C. 552b(c)(6) and 5 U.S.C. app. 2 10(d).

A summary of the meeting and roster of committee members may be obtained from: Ms. Joanna L. Kieffer, NIMH Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration, Parklawn Building, room 9–105, 5600 Fishers Lane, Rockville, MD 20857 (telephone: 301–443–4333).

Substantive program information may be obtained from the contact whose name, room number, and telephone number is listed below.

Committee name: Clinical Subcommittee, Mental Health Special Projects Review Committee.
Meeting date: October 13–15, 1992.
Place: Hyatt Regency Hotel, One South Capital Avenue, Indianapolis, IN 46204.
Open: October 13, 7–8 p.m.
Closed: Otherwise.
Contact: Gwen Artis, room 9C–08, Parklawn Building, telephone (301) 443–1367.

Dated: September 17, 1992.

Peggy W. Cockrill,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 92–22997 Filed 9–22–92; 8:45 am]

BILLING CODE 4160–20–M

National Institute on Drug Abuse; Meetings

Pursuant to Public Law 92–463, notice is hereby given of the meetings of the advisory committees of the National

Institute on Drug Abuse for October 1992.

The initial review groups will be performing review of applications for Federal assistance; therefore, portions of these meetings will be closed to the public as determined by the Administrator, ADAMHA, in accordance with 5 U.S.C. 552b(c)(6) and 5 U.S.C. app. 2 10(d).

Summaries of the meetings and rosters of committee members may be obtained from: Ms. Camilla L. Holland, IDA Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration, Parklawn Building, room 10–42, 5600 Fishers Lane, Rockville, MD 20857 (telephone: 301/443–2755).

Substantive program information may be obtained from the contacts whose names, room numbers, and telephone numbers are listed below.

Committee name: Biochemistry Research Subcommittee, Drug Abuse Biomedical Research Review Committee.
Meeting date: October 13–15, 1992.
Place: Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, Maryland 20852.
Open: October 13, 9 a.m. to 9:30 a.m.
Closed: Otherwise.
Contact: Rita Liu, Ph.D., room 10–42, Parklawn Building, telephone (301) 443–2620.

Committee name: Pharmacology I Research Subcommittee, Drug Abuse Biomedical Research Review Committee.
Meeting date: October 13–15, 1992.
Place: Holiday Inn Crowne Plaza, 1750 Rookville Pike, Rockville, Maryland 20852.
Open: October 13, 9 a.m. to 9:30 a.m.
Closed: Otherwise.
Contact: Syed Husain, Ph.D., room 10–42, Parklawn Building, telephone (301) 443–2620.

Committee name: Pharmacology II Research Subcommittee, Drug Abuse Biomedical Research Review Committee.
Meeting date: October 13–15, 1992.
Place: Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, Maryland 20852.
Open: October 13, 9 a.m. to 9:30 a.m.
Closed: Otherwise.
Contact: Gamil Debbas, Ph.D., room 10–42, Parklawn Building, telephone (301) 443–2620.

Committee name: Drug Abuse Clinical and Behavioral Research Review Committee.
Meeting date: October 13–16, 1992.
Place: Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, Maryland 20852.
Open: October 13, 9 a.m. to 9:30 a.m.
Closed: Otherwise.
Contact: Daniel L. Mintz, room 10–22, Parklawn Building, telephone (301) 443–9042.

Committee name: Drug Abuse Epidemiology and Prevention Research Review Committee.
Meeting date: October 13–16, 1992.
Place: Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, Maryland 20852.
Open: October 13, 9 a.m. to 9:30 a.m.
Closed: Otherwise.
Contact: Raquel Crider, Ph.D., room 10–22, Parklawn Building, telephone (301) 443–9042.

Dated: September 17, 1992.

Peggy W. Cockrill,

Committee Management Officer Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 92–22999 Filed 9–22–92; 8:45 am]

BILLING CODE 4160–20–M

National Institute on Alcohol Abuse and Alcoholism; Meetings

Pursuant to Public Law 92–463, notice is hereby given of the meetings of the advisory committees of the National Institute on Alcohol Abuse and Alcoholism for October and November 1992.

The initial review groups will be performing review of applications for Federal assistance; therefore, portions of these meetings will be closed to the public as determined by the Acting Administrator, ADAMHA, in accordance with 5 U.S.C. 552b(c)(6) and 5 U.S.C. app. 2 10(d).

Summaries of the meetings and rosters of committee members may be obtained from: Ms. Diana Widner, NIAAA Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration, Parklawn Building, room 16C–20, 5600 Fishers Lane, Rockville, MD 20857 (telephone: 301–443–4375).

Substantive program information may be obtained from the contacts whose names, room numbers, and telephone numbers are listed below.

Committee name: Clinical and Treatment Subcommittee of the Alcohol Psychosocial Research Review Committee.
Meeting dates: October 14–16, 1992.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.
Open: October 14, 9 a.m.–10 a.m.
Closed: Otherwise.
Contact: Thomas D. Sevy, M.S.W., rm. 16C–26, Parklawn Bldg., phone (301) 443–6106.

Committee name: Biochemistry, Physiology, and Medicine Subcommittee of the Alcohol Biomedical Research Review Committee.
Meeting dates: October 19–20, 1992.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.
Open: October 19, 9 a.m.–10:15 a.m.
Closed: Otherwise.
Contact: Ronald F. Suddendorf, Ph.D., rm. 16C–26, Parklawn Bldg., phone (301) 443–6106.

Committee name: Neuroscience and Behavior Subcommittee of the Alcohol Biomedical Research Review Committee.
Meeting dates: October 19–21, 1992.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.
Open: October 19, 9 a.m.–11:00 a.m.
Closed: Otherwise.
Contact: Antonio Noronha, Ph.D., rm. 16C–20, Parklawn Bldg., phone (301) 443–4375.

Committee name: Epidemiology and Prevention Subcommittee of the Alcohol Psychosocial Research Review Committee.
Meeting dates: October 21–23, 1992.
Place: The River Inn, 924 25th Street, NW., Washington, DC 20037.
Open: October 21, 9 a.m.–10 a.m.
Closed: Otherwise.
Contact: Lenore S. Radloff, rm. 16C–26, Parklawn Bldg., phone (301) 443–6106.

Committee name: Immunology and AIDS Subcommittee of the Alcohol Biomedical Research Review Committee.
Meeting dates: November 5–6, 1992.
Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Open: November 5, 8:30 a.m.–9:30 a.m.
Closed: Otherwise.
Contact: Barbara Smothers, Ph.D., rm. 16C–26, Parklawn Bldg., phone (301) 443–6106.

Dated: September 17, 1992.

Peggy W. Cockrill,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 92–22998 Filed 9–22–92; 8:45 am]

BILLING CODE 4160–20–M

Centers for Disease Control

National Committee on Vital and Health Statistics (NCVHS) Subcommittee on State and Community Health Statistics; Meeting

Pursuant to Public Law 92–463, the National Center for Health Statistics (NCHS), Centers for Disease Control, announces the following meeting:

Name: NCVHS Subcommittee on State and Community Health Statistics.

Times and dates: 9 a.m.–5 p.m., October 21, 1992, 9 a.m.–5 p.m., October 22, 1992.

Place: Room 703A–729A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Open.

Purpose: The purpose of this meeting is for the Subcommittee to continue to explore issues and concerns about the availability of statistics to monitor the health of communities.

Contact person for more information: Substantive program information as well as summaries of the meeting and a roster of committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone 301/436–7050.

Dated: September 14, 1992.

Elvin Hilyer,

Associated Director for Policy Coordination, Center for Disease Control.

[FR Doc. 92–22751 Filed 9–22–92; 8:45 am]

BILLING CODE 4160–18–M

Health Care Financing Administration

Privacy Act of 1974; Computer Matching Programs

AGENCY: Department of Health and Human Services (HHS), Health Care Financing Administration (HCFA).

ACTION: Notice of a Computer Matching Program - Beneficiary State File (BEST) and Medicaid master files maintained by State Medicaid agencies.

SUMMARY: The Department of Health and Human Services is providing providing public notice that HCFA agrees to disclose information on Medicare eligible individuals to State agencies responsible for administering the Medicaid program.

The matching report set forth below is in compliance with the Computer Matching and Privacy Protection Act of 1988 (Public Law 100–503).

DATE: The match will begin on October 23, 1992, and shall remain in effect for a period not to exceed 18 months.

ADDRESS: The public should address comments to Richard A. DeMeo, Privacy Act Officer, Health Care Financing Administration, Office of Budget and Administration, Room 2–H–4, East Low Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207–5187. Comments will be available for inspection at this location.

FOR FURTHER INFORMATION CONTACT: William A. Grant, Division of Entitlement Requirements, Office of Program Operation Procedures, Bureau of Program Operations, Health Care Financing Administration, G–E–7 Meadows East Building, 6325 Security Boulevard, Baltimore, Maryland 21207–5187. His telephone number is (410) 966–6464.

SUPPLEMENTARY INFORMATION: The Health Insurance Master Record (HIMR) contains a record of each individual who is, or has been, entitled to health insurance benefits under title XVIII of the Social Security Act (the Act). The BEST file in an extract of the HIMR. The BEST file is an alphabetic listing, on magnetic tape, of all Medicare beneficiaries in the State by name, sex, date of birth, address, zip code, buy-in indicator and health insurance claim number (HICN). This extract is the most economical and efficient method of obtaining the claim number of a Medicare beneficiary when other identifying information is available. The BEST file has been provided to the following States for the express purpose of identifying Medicaid recipients to the State buy-in rolls: Alaska, Arizona, California, Denver, Connecticut, Georgia, Hawaii, Illinois, Kentucky, Maine, Maryland, Massachusetts, Ohio, Oregon, Pennsylvania, Puerto Rico, West Virginia. In most States, the activity is conducted by the State agency responsible for administering the Medicaid program.

The BEST file will enable the State agency to identify individuals eligible for inclusion in a State buy-in account. The BEST file will also enable the State agency to identify those Medicare/Medicaid dually eligible individuals for whom Medicaid has deductible and co-insurance liability. States under a buy-in agreement may enroll individuals for Medicare Part B coverage who are eligible for title XVI (Supplemental Security Income) benefits or eligible under State grants for medical assistance. The State pays the Medicare Part B premiums for these individuals eligible under title XVI.

To query the BEST file, it is necessary for the State to have the individual's name, date of birth, sex, and address. With this information, the HICN can be determined. The State is then able to add the individual to its buy-in account, request the carrier or intermediary to provide a report of any medical expenses paid by Medicare for Medicaid eligibles, or request payment by Medicare for expenses already paid by Medicaid.

Furnishing the BEST tape to State agencies is essential in enabling the States to determine the correct HICN of individuals eligible for buy-in. The Medicaid master file maintained by the State agency is sequenced according to the individual's social security number or according to the State agency's numbering system. Generally, the State knows who its dually eligible individuals are or should be and needs to obtain the HICN to properly include eligible individuals in its buy-in account.

Use of the BEST file was resulted in the prevention of payments of duplicate claims and fewer referrals by Medicare contractors to Social Security Offices. As a consequence, its use has also been instrumental in the realization of improved service to the public.

Before the BEST file is released to the State, the State must sign an agreement to protect the confidentiality of the information received.

The individual records are retrieved from the BEST file when a Medicaid claim is submitted for payment without an HICN or the HICN is determined to be incorrect. Also, individual records are retrieved for the purpose of screening pre-payment and post-payment Medicaid claims.

Only information that is relevant to the identification of beneficiaries is contained in the BEST record system.

Set forth below is the information required by the Computer Matching and Privacy Act of 1988 (Public Law 100–503).

A report of the Computer Matching Program has been filed with the Chairman of the Committee on Government Operations of the House of Representatives, the Chairman of the Committee on Governmental Affairs of the Senate and the Acting Administrator of the Office of Information and Regulatory Affairs in the Office of Management and Budget.

Dated: September 16, 1992.

William Toby, Jr.,

Acting Deputy Administrator, Health Care Financing Administration.

Report of Computer Matching Program—Beneficiary State File (BEST)

a. *Authority:* Sections 1814 and 1833 of title XVIII of the Social Security Act (42 U.S.C. Section 1295f and 12951).

b. *Purpose and Description:* The purpose of this disclosure is to enable the State agency to identify individuals eligible for inclusion in a State buy-in

account and to identify Medicare/Medicaid dually eligible individuals for whom Medicaid has deductible and co-insurance liability. Most State agencies require access to the BEST file for improved administration of the Medicaid program. Routine uses of the BEST file are: (a) Obtaining a beneficiary's correct HICN and (b) screening of pre-payment and post-payment Medicaid claims.

The BEST file is an extract of the HIMR listing, in alphabetic order, which lists all Medicare beneficiaries in the State by name, sex, date of birth, address, zip code, buy-in indicator and HICN.

c. *Personal Records to Be Matched:* The State Agency will match the beneficiary's name, date of birth, sex and address to the BEST file in order to determine the HICN, and to screen pre-payment and post-payment Medicaid claims. The number of beneficiaries may vary from State to State.

d. *Period of Match:* The tape will be furnished by HCFA to the States, semi-annually (spring and fall), for continuous use by the States for a period not to exceed 18 months.

e. *Safeguards:* Before the BEST file is released to a State, the State must sign an agreement to protect the confidentiality of the information received.

Access to the records matched and to any records created by the match will be restricted to only those authorized employees and officials who need them to perform their official duties in connection with the match.

The records matched and any records created by the match will be stored in areas that are physically safe from access by unauthorized persons during duty hours as well as non-duty hours or when not in use.

The records matched and any records created by the match will be processed under the immediate supervision and control of the authorized personnel in a manner which will protect the confidentiality of the records and in such a way that unauthorized persons cannot retrieve any such records by computer, remote terminal or other means.

All personnel who will have acess to the records matched and to any records created by the match will be advised of the confidential nature of the information, the safeguards required to protect the information and the civil and criminal sanctions for noncompliance contained in applicable Federal laws.

f. *Retention and Disposition of Records:* The State Agency will retain all identifiable records received from HCFA only for the period of time required for any processing related to matching under this agreement. The previous BEST and all copies must be erased upon receipt of an updated version or in the event the agreement is terminated for any reason. The blank magnetic tapes may be returned to the State's blank tape inventory.

[FR Doc. 92–23029 Filed 9–22–92; 8:45 am]

BILLING CODE 4120–03–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for 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 may be obtained by contacting the Bureau of Indian Affairs' (BIA) clearance officer at the phone number listed below. Comments and suggestions on the proposal should be made directly to the BIA clearance officer and to the Office of Management and Budget, Washington, DC 20503, telephone (202) 395–7340.

Title: Indian Child Welfare Act—Reports and availability of information to Indians

Abstract: Child and family services to American Indian families are provided through grants awarded to Indian tribes and Indian organizations. Grantees submit quarterly narrative and statistical reports and State courts entering final adoption decrees involving American Indian children give notice to the Security of Interior.

BIA form number: To be assigned

Frequency: Grant application every three years; quarterly reports; one-time notification from State Courts

Description of respondents: Grantees operating an Indian Child Welfare Act Grant Program and State Courts

Estimated completion time: 4.6

Annual responses: 2,399

Annual burden hours: 11,000

BIA clearance officer: Gail Sheridan, (202) 208–2685.

David L. Hickman,

Chief, Division of Social Services.

[FR Doc. 92–23006 Filed 9–22–92; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[Pacificorp—UTU–70069]

Utah—Invitation To Participate In Coal Exploration Program

Pacificorp is inviting all qualified parties to participate in its proposed exploration of certain Federal coal deposits in the following described lands in Emery County, Utah:

T. 17 S., R. 6 E., SLM, Utah

Sec. 2, SW¼;
Sec. 11, W½;
Sec. 14, all.
Containing 1,119.86 acres.

Any party electing to participate in this exploration program must send written notice of such election to the Bureau of Land Management, Utah State Office, P.O. Box 45155, Salt Lake City, Utah 84145–0155, and to Pacificorp, P.O. Box 1005, Huntington, Utah 84528. Such written notice must be received within 30 days after the publication of this notice in the **Federal Register**.

Any party wishing to participate in this exploration program must be qualified to hold a lease under the provision of 43 CFR 3472.1 and must share all cost on a pro rata basis. A copy of the exploration plan, as submitted by Pacificorp, is available for public review during normal business hours in the BLM hours in the BLM office, (Public Room, Fourth Floor), 324 South State Street, Salt Lake City, Utah under Serial Number UTU–70069.

Ted D. Stephenson,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 92–23043 Filed 9–22–92; 8:45 am]

BILLING CODE 4310–DQ–M

[OR–030–02–4320–02; G2–441]

Vale District Grazing Advisory Board; Meeting

AGENCY: Vale District, Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is given in accordance with Public Law 92–463 that a meeting of the Vale District Grazing Advisory Board will be held on October 21, 1992.

The agenda of the meeting will include: Implications of the range project maintenance policy, Range protection measures associated with drought, Owyhee River Plan update, and Review of 1992 range improvement expenditures.

The meeting is open to the public.

Interested persons may make oral statements to the Board or may file written statements for the Board's consideration. Anyone wishing to make oral statements may do so at 1 p.m. MST on October 21, 1992.

Summary minutes of the Board's meeting will be maintained in the district office and will be available for public inspection, or personal copies may be purchased for the cost of duplication, within 30 days of the meeting.

DATES: The meeting will begin at 10 a.m. MST Wednesday, October 21, 1992.

ADDRESSES: The meeting will be held in the meeting room of the Vale District Office, 100 Oregon Street, Vale, OR 97918.

FOR FURTHER INFORMATION CONTACT: Susie Manezes, Bureau of Land Management, Vale District, 100 Oregon Street, Vale, OR 97918, (Telephone 503 473–3144).

James E. May,

District Manager.

[FR Doc. 92–22590 Filed 9–22–92; 8:45 am]

BILLING CODE 4310–33–M

[OR–030–02–4333–02; G2–439]

Vale District Multiple-Use Advisory Council; Meeting

AGENCY: Vale District, Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is given in accordance with Public Law 92–463 that a meeting of the Vale District Multiple-Use Advisory Council will be held October 20, 1992.

The agenda of the meeting will include: Review of the River Management Plan for both Grande Ronde and Owyhee Rivers plans, Range management issue during the drought, Operation of the BLM's National Historic Oregon Trail Interpretive Center, and an Overview of the withdrawal review program for Reclamation withdrawn lands.

The meeting is open to the public. Interested persons may make oral statements to the Council or may file written statements for the Council's consideration. Anyone wishing to make oral statements may do so at 1 p.m. on the day of the meeting.

Summary minutes of the Council's meeting will be maintained in the district office and will be available for public inspection, or personal copies may be purchased for the cost of duplication, within 30 days of the meeting.

DATES: The meeting will begin at 10 a.m. MST, Tuesday, October 20, 1992.

ADDRESSES: The meeting will be held at the Bureau of Land Management's National Historic Oregon Trail Interpretive Center at Flagstaff Hill in Baker City, Oregon.

FOR FURTHER INFORMATION CONTACT: Susie Manezes, Bureau of Land Management, Vale District, 100 Oregon Street, Vale, OR 97918, (Telephone 503 473–3144).

James E. May,

District Manager.

[FR Doc. 92–23128 Filed 9–22–92; 8:45 am]

BILLING CODE 4310–33–M

[UT–020–02–4212–13; U–47295]

Realty Action

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, Exchange of Public Lands in Box Elder County, Utah.

SUMMARY: The BLM proposes to exchange public lands which are isolated and uneconomical to manage by the BLM of any other federal agency, for private lands located in Box Elder County. The public lands are described as follows:.

Salt Lake Meridian

T. 11 N. R. 18 W.,
Section 20, NE¼, E½SE¼/
containing 240 acres.

In exchange for these lands, the Federal Government will obtain non-federal lands from Mr. Harley Sanders, P.O. Box 37, Oakley, Idaho. the lands are described as follows:

Salt Lake Meridian

T. 11 N. R. 18 W.,
Section 7, W½NE¼, NE¼NW¼, NE¼SW¼, also the North 28 Rods of the NW¼SE¼.

DATES: Comments must be received within November 9, 1992.

ADDRESSES: Comments should be sent to the District Manager, Salt Lake District BLM, 2370 South 2300 West, Salt Lake City, Utah 84119.

FOR FURTHER INFORMATION CONTACT: Janice MaChipiness, BLM Salt Lake District Office, (801) 977–4300.

SUPPLEMENTARY INFORMATION: The public lands have been found suitable for exchange under section 206 of the Federal Land Policy and Management Act of 1976, (90 Stat. 2756, 43 U.S.C. 1716). The exchange is consistent with the Box Elder Resource Management Plan and is in the best interest of the public. The values of the lands to be exchanged are approximately equal and will not include the exchange of the mineral estate. The lands described are hereby segregated from appropriation under the public land laws, including the mining laws, pending disposition of this action or 2 years from the date of publication of this notice in the federal register, whichever occurs first. Lands transferred from the United States will contain the following reservations:

(1) The patent will contain a reservation for ditches and canals and be subject to all valid existing rights.

(2) All minerals will be reserved to the United States including the right of ingress and egress for mineral development.

Notice is hereby given that an opportunity for the public to comment is given within the comment period identified above. Any adverse comments will be evaluated by the State Director who may modify or vacate this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Deane H. Zeller,

District Manager.

[FR Doc. 92–23038 Filed 9–22–92; 8:45 am]

BILLING CODE 4310–DQ–M

[ES–020–02–4410–10]

Intent To Prepare Florida Resource Management Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: The Jackson District Office, Eastern States, will prepare a Resource Management Plan (RMP) with an Environmental Impact Statement (EIS) for the public lands within the state of Florida which are administered by the Bureau of Land Management (BLM).

This notice is issued pursuant to Title 40 Code of Federal Regulations (CFR), § 1501.7 and title 43 CFR 1610.2(c). The planning effort will follow the procedures set forth in 43 CFR subpart 1600.

The public is invited to participate in the planning process, beginning with the identification of planning issues and criteria.

DATES: Comments relating to the identification of planning issues and

criteria will be accepted through November 30, 1992.

ADDRESSES: Send comments to Bureau of Land Management, Jackson District, 411 Briarwood Drive, suite 404, Jackson, Mississippi 39206.

FOR FURTHER INFORMATION CONTACT: Duane Winters, RMP Team Leader, Jackson District, (601) 977–5400.

SUPPLEMENTARY INFORMATION: The RMP will guide future use of several hundred acres, comprised of small parcels of land located in counties throughout the State. The RMP will also guide the Bureau's mineral leasing and permitting responsibilities on approximately 270,000 acres of split estate land where federal ownership is limited to mineral interests.

The BLM also has certain mineral leasing and permitting responsibilities on other areas of federal ownership including military reservations and National Forests. These responsibilities will be carried out in accordance with federal laws and regulations as well as applicable land use plans of other federal agencies. The RMP/EIS will address the impacts of foreseeable mineral development of these lands.

The anticipated issues for the RMP include the following (1) land ownership adjustments, (2) special management areas, and (3) mineral leasing and development. These issues are preliminary and subject to change as a result of public input.

The RMP will be developed by an interdisciplinary team composed of specialists in realty, minerals, wildlife, forestry, cultural resources, visual resources, recreation, fire management, socio-economics, solid, water and air. Additional technical support will be provided by other specialists as needed.

Public participation will be an important part of the planning process. It is intended that all interested or affected parties be involved. The planning team will seek public input by direct mailings, media coverage, person to person contacts, and coordination with local, state, and other federal agencies. Agency coordination meetings and public meetings will be held to obtain input on issues and planning criteria. Public meetings are scheduled for the following locations:

Bartow

October 15, 1992, 7 p.m., Polk County Administrative Building, Room 413, 330 West Church Street, Bartow, Florida.

Tallahassee

November 3, 1992, 7 p.m. at the Department of Natural Resources, Conference Room A, 3900 Commonwealth Blvd., Tallahassee, Florida.

Santa Rosa Beach

November 4, 1992, 7 p.m., So. Walton Tourist Development Council, Emerald Coast Plaza, Unit 37, Highway 98, Santa Rosa Beach, Florida.

Complete records of all phases of the planning process will be available for public review at the Jackson District Office. Draft and final documents of the RMP/EIS will be available upon request.

Dated: September 10, 1992.

Denise P. Meridith,

State Director.

[FR Doc. 92–23068 Filed 9–22–92; 8:45 am]

BILLING CODE 4210–GJ–M

Fish and Wildlife Service

Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT–771235

Applicant: Zoo Atlanta, Atlanta, GA.

The applicant requests a permit to import blood samples from captive-held drill (*Papio leucophaeus*) from Lisa Gadsby, Nigeria, for scientific research.

PRT–769843

Applicant: Woodland Park, Zoological Garden, Seattle, WA.

The applicant requests a permit to export one captive-bred male lion-tailed macaque (*Macaca silenus*) to the Royal Melbourne Zoological Gardens, Australia, for captive breeding purposes.

PRT–766213

Applicant: John Siegel, Baltimore, MD.

The applicant requests a permit to purchase in interstate commerce one male and one female Eastern Indigo snake (*Drymarchon corais couperi*) that were captive-hatched by Shay P. Hamper, Columbus, OH, for breeding purposes.

PRT–771803

Applicant: New York Zoological Society, Bronx, NY.

The applicant requests a permit to export blood samples of blood collected from captive-born and captive-held gorilla (*Gorilla gorilla*) in U.S. zoos. Blood will be analyzed at the University of Uppsala, Sweden, for genetic research.

PRT–724290

Applicant: Montrose Nursery, Hillsborough, NC.

The applicant requests a permit to sell in interstate commerce nursery cultivated plants of Tennessee purple coneflower (*Echinacea tennessensis*) in order to enhance the survival of the species in the wild.

PRT–770947

Applicant: Hossein Golabchi, Grovetown, GA.

The applicant requests a permit to import a sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) culled from the captive herd maintained by M.J. D'Alton, "Kosierskraal", Bredasdorp, Cape Province, South Africa, for the purpose of enhancement of survival of the species.

Written data or comments should be submitted to the Director. U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to, or by appointment during normal business hours (7:45–4:15) in, the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: September 17, 1992.

Margaret Tieger,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 92–22996 Filed 9–22–92; 8:45 am]

BILLING CODE 4310–55–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–335]

Dry Peas and Lentils: Conditions of Competition Between the United States and Canada in Third-Country Markets

AGENCY: United States International Trade Commission.

ACTION: Notice of institution of investigation and public hearing.

EFFECTIVE DATE: SEPTEMBER 14, 1992.

SUMMARY: Following receipt on August 10, 1992, of a request from the Committee on Ways and Means, U.S. House of Representatives, the Commission instituted investigation No. 332–335, under section 332(g) of the

Tariff Act of 1930 (19 U.S.C. 1332(g)) for the purpose of reporting on the conditions of competition between the U.S. and Canadian dry pea and lentil industries in third-country markets.

As requested by the Committee, the Commission in its investigation and report thereon will seek to:

(1) Describe and analyze the U.S. and Canadian dry pea and lentil industries, including patterns of production, consumption, exports, and imports since 1986;

(2) describe and analyze the current conditions of trade in dry peas and lentils between the United States, Canada, and the rest of the world;

(3) describe and analyze the purpose, nature, and use of Canadian programs and policies to assist dry pea and lentil producers and exporters along with their impact on competitive conditions, especially programs affecting transportation costs, including the Western Grain Transportation Act, and income support programs, such as the Gross Revenue Insurance Program; and

(4) provide an analysis of other relevant factors having a significant bearing on competitive conditions and trade in dry peas and lentils, including prices, production and marketing costs, and exchange rates.

The Committee requested that the Commission submit its report not late than April 20, 1993.

FOR FURTHER INFORMATION CONTACT: Timothy McCarty ((202)–205–3324) or Cathy Jabara ((202)–205–3309), Agriculture Division, Office of Industries, or William Gearhard ((202)–205–3091), Office of the General Counsel, U.S. International Trade Commission. Hearing impaired persons can obtain information on this study by contacting the Commission's TDD terminal on (202)–205–1810.

PUBLIC HEARING: A public hearing in connection with this investigation is scheduled to begin at 9:30 a.m. on December 8, 1992, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. All persons have the right to appear by counsel or in person, to present information, and to be heard. Persons wishing to appear at the public hearing should file a request to testify with the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436, not later than the close of business (5:15 p.m.) on November 20, 1992. In addition, persons testifying should file prehearing briefs (original and 14 copies) with the Secretary by the close of business on November 23, 1992. The deadline for filing post hearing briefs is the close of business on January 5, 1993.

WRITTEN SUBMISSIONS: In addition to or in lieu of filing prehearing and/or post hearing briefs, interested persons may submit written statements concerning the investigation. To be assured of consideration, written statements (original plus 14 copies) must be received by the close of business (5:15 p.m.) January 5, 1993. Commercial or financial information that a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform to the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. All submissions should be addressed to the Secretary at the Commission's office in Washington, DC.

By order of the Commission.

Issued: September 16, 1992.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 92–23049 Filed 9–22–92; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

Motor Passenger Carrier or Water Carrier Finance Applications Under 49 U.S.C. 11343–11344

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties of, or acquire control of motor passenger carriers or water carriers under 49 U.S.C. 11343–11344. The applications are governed by 49 CFR part 1182, as revised in Pur., Merger & Cont.—Motor Passenger & Water Carriers, 5 I.C.C.2d 786 (1989). The findings for these applications are set forth at 49 CFR 1182.18. Persons wishing to oppose an application must follow the rules under 49 CFR part 1182, subpart B. If no one timely opposes the application, this publication automatically will become the final action of the Commission.

MC–F–20152, filed September 7, 1992. ROBERT L. QUICK, JR., AND DEBORAH Q. FULTZ—CONTINUANCE IN CONTROL—QUICK LIVICK, INC., AND D&B BUS, INC. Applicant's representative: Robert B. Walker, 1275 K Street, NW., Suite 775, Washington, DC 20005–4006. Applicants Robert L. Quick, Jr., and Deborah Q. Fultz, both noncarrier individuals, are in control: (1) Of Quick-Livick, Inc. (Q–L) (MC–134542), of Staunton, VA, a motor carrier of passengers, and (2) of D&B Bus, Inc. (D&B Bus), of Falmouth, VA, a noncarrier [1] seeking its initial grant of motor carrier passenger authority in No. MC–237570 (Sub-No. 1). Robert L. Quick, Jr., owns 4 percent of the stock of Q–L and is its treasurer. He also owns 50 percent of the stock of D&B Bus and is its president and treasurer. Deborah Q. Fultz owns 4 percent of the stock of Q–L and is its vice president. She also owns 50 percent of the stock of D&B Bus and is its vice president and secretary. The business address of the applicants is 41 RV Parkway, Falmouth, VA. They will be in control of two regulated carriers when the pending passenger application is approved and authority is issued to D&B Bus.

Decided: September 16, 1992.

By the Commission, the Motor Carrier Board.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92–23083 Filed 9–22–92; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 290 Sub-No. 2); Ex Parte No. 290 (Sub-No. 5) (92–4)]

Railroad Cost Recovery Procedures; Quarterly Rail Cost Adjustment Factor

AGENCY: Interstate Commerce Commission.

ACTION: Approval of rail cost adjustment factor, request for comments and decision.

SUMMARY: The Commission has approved a fourth quarter 1992 rail cost adjustment factor (RCAF) and cost index filed by the Association of American Railroads. The fourth quarter RCAF (Unadjusted) is 1.187. The fourth quarter RCAF (Adjusted) is 1.024, an increase of 1.4 percent from the third quarter 1992 RCAF (Adjusted) of 1.010. Maximum fourth quarter 1992 RCAF rate levels may not exceed 101.4 percent of maximum third quarter 1992 RCAF rate levels. Weights for individual index components have been restated to a 1991 level beginning with this quarter. Annual restatement of component weights insures the proper proportional representation of each component in the total index. The approved RCAF and index were calculated using the

[1] D&B Bus was granted motor property authority under No. MC–237570, but it has not complied with the requirements for issuance of that authority.

weighting methodology in force since 1985. Because of an unusually high amount of 1991 special charges, comments have been invited on the role of special charges in weighting the index in the Sub-No. 2 proceeding.

DATES: This notice is effective October 1, 1992. Notices of intent to participate are due November 9, 1992.

FOR FURTHER INFORMATION CONTACT: William T. Bono (202) 927–5720; Robert C. Hasek (202) 927–6239; John C. Pertino (202) 927–6219 [TDD for hearing impaired: (202) 927–5721.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or telephone (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 275–5721.]

This action will not significantly affect either the quality of the human environment or energy conservation.

Decided: September 16, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and Emmett.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92–23085 Filed 9–22–92; 8:45 am]

BILLING CODE 7035–01–M

MARTIN LUTHER KING, JR. FEDERAL HOLIDAY COMMISSION

Meetings

The Martin Luther King, Jr. Federal Holiday Commission will hold its quarterly business meeting on Friday, September 25, 1992, 1–2 p.m., in room 10233 (10th Floor), Department of Housing and Urban Development (HUD), 451 Seventh Street SW., Washington, DC 20410. For additional information, please call (202) 708–1005.

Dated: September 17, 1992.

Leonard Burchman,

Treasurer.

[FR Doc. 92–23036 Filed 9–22–92; 8:45 am]

BILLING CODE 4210–01–M

NATIONAL SPACE COUNCIL

Meeting of the Space Launch Strategy Implementation Review Task Group

AGENCY: National Space Council.

ACTION: Notice of meeting.

SUMMARY: The Vice President's Space Policy Advisory Board Space Launch Strategy Implementation Review Task Group will meet October 8, 1992 at the Kennedy Space Center, Florida.

DATE: October 8, 1992.

ADDRESS: Kennedy Space Center, Spaceport USA, Florida.

FOR FURTHER INFORMATION CONTACT: Stephen Hopkins, (703) 685–3307 or James Beale, National Space Council, Executive Office of the President, Washington, DC., (202) 395–6175.

SUPPLEMENTARY INFORMATION: The Space Launch Strategy Implementation Review Task Group of the Vice President's Space Policy Advisory Board will meet between 9 a.m. and 2:30 p.m. on Thursday, October 8, 1992, at the Kennedy Space Center, Florida. The meeting will be held in the Spaceport Theater, Spaceport USA, Kennedy Space Center.The agenda includes briefings on Space Shuttle launch processing activities, launch-related manpower requirements, and Air Force support of commercial space launches. This meeting will be held in open session. Persons interested in attending should contact Stephen Hopkins, (703) 685–3307.

James R. Beale,

Designated Federal Officer.

[FR Doc. 92–23086 Filed 9–22–92; 8:45 am]

BILLING CODE 3128–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS) and Advisory Committee on Nuclear Waste (ACNW); Proposed Meetings

In order to provide advance information regarding proposed public meetings of the ACRS Subcommittees and meetings of the ACRS full Committee, of the ACNW, and the ACNW Working Groups the following preliminary schedule is published to reflect the current situation, taking into account additional meetings that have been scheduled and meetings that have been postponed or canceled since the last list of proposed meetings was published August 20, 1992 (57 FR 37845). Those meetings that are firmly scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. It is expected that sessions of ACRS and ACNW full Committee meetings designated by an asterisk (*) will be closed in whole or in part to the public. The ACRS and ACNW full Committee meetings begin at 8:30 a.m. and ACRS Subcommittee and ACNW Working Group meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during ACRS and ACNW full Committee meetings, and when ACRS Subcommittee and ACNW Working Group meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, canceled, or rescheduled, or whether changes have been made in the agenda for the October 1992 ACRS and ACNW full Committee meetings can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committees (telephone: 301/492–4600 (recording) or 301/492–7288, Attn. Barbara Jo White) between 7:30 a.m. and 4:15 p.m. Eastern Time.

ACRS Subcommittee Meetings

Maintenance Practices and Procedures, October 6, 1992, Bethesda, MD. The Subcommittee will review the draft Regulatory Analysis and draft Regulatory Guide, "Monitoring the Effectiveness of Maintenance at Nuclear Power Plants," for implementation of the Maintenance Rule (10 CFR 50.65). Also, it will review the NUMARC document 93–01, Revision 2A, "Industry Guideline for Monitoring the Effectiveness of Maintenance at Nuclear Power Plants," which is endorsed by the NRC staff in the draft Regulatory Guide.

Ad Hoc Subcommittee on Design Acceptance Criteria, October 7, 1992, Bethesda, MD. The Subcommittee will review SECY–92–299, "Development of Design Acceptance Criteria (DAC) for the Advanced Boiling Water Reactor (ABWR) in the Area of Instrumentation and Control (I&C) and Control Room Design."

Planning and Procedures, October 7, 1992, Bethesda, MD (3 p.m.–5:30 p.m.). The Subcommittee will discuss proposed ACRS activities and related matters. Qualifications of candidates nominated for appointment to the ACRS will also be discussed. Portions of this meeting will be closed to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy.

Advanced Boiling Water Reactors, October 21–22, 1992, Bethesda, MD. The Subcommittee will begin its review of the Final Safety Evaluation Report (FSER) for the GE ABWR design and the remainder of the Standard Safety Analysis Report (SSAR) submittals.

Safety Philosophy, Technology and Criteria, November 3, 1992, Bethesda, MD. The Subcommittee will review Revision 2 to NUREG/BR–0058,

Regulatory Analysis Guidelines, and guidelines for prioritization of Generic Safety Issues.

Advanced Pressurized Water Reactors, November 4, 1992, Bethesda, MD. The Subcommittee will review the NRC staff's Draft Safety Evaluation Report (DSER) for certification of the ABB CE System 80+ Design.

Planning and Procedures, November 4, 1992, Bethesda, MD (3 p.m.–5:30 p.m.). The Subcommittee will discuss proposed ACRS activities and related matters. Qualifications of candidates nominated for appointment to the ACRS will also be discussed. Portions of this meeting will be closed to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy.

Advanced Boiling Water Reactors, November 18–19, 1992, Bethesda, MD. The Subcommittee will continue its review of the Final Safety Evaluation Report (FSER) for the ABWR design.

Control and Electrical Power Systems, December 8, 1992, Bethesda, MD. The Subcommittee will review the NRC staff's proposed resolution of Generic Issue 120, "Online Testability of Protection Systems."

Joint Control and Electrical Power Systems/Probabilistic Risk Assessment, December 9, 1992, Bethesda, MD. The Subcommittees will review the proposed final amendment to the Station Blackout Rule (10 CFR 50.63) and the associated Regulatory Guide 1.9, Revision 3, regarding the reliability of diesel generators.

Planning and Procedures, December 9, 1992, Bethesda, MD (3 p.m.–5:30 p.m.). The Subcommittee will discuss proposed ACRS activities and related matters. Qualifications of candidates nominated for appointment to the ACRS will also be discussed. Portions of this meeting will be closed to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy.

ACRS Full Committee Meetings

390th ACRS Meeting, October 8–10, 1992, Bethesda, MD. Items are tentatively scheduled.

A. *Insights from Common-Mode Failures*—Briefing by and discussion with representatives of the NRC staff on insights gained from an analysis of selected operating events involving common-mode failures. Representatives of the nuclear industry will participate, as appropriate.

B. *Environmental Qualification of Safety-Grade Digital Computer Protection and Control Systems*—Review and comment on the NRC research effort on environmental qualification of safety-grade digital computer protection and control systems. Representatives of the NRC staff and the nuclear industry will participate, as appropriate.

C. *Use of Probabilistic Risk Assessment in the Regulatory Process*—Briefing by and discussion with representatives of the NRC staff regarding the use of PRA by the NRC staff in the regulatory process.

D. *Yankee Rowe Nuclear Station-Reactor Pressure Vessel Embrittlement*—Briefing by and discussion with representatives of the NRC staff regarding lessons learned from the NRC staff's review of the reactor pressure vessel embrittlement issue at the Yankee Rowe Nuclear Power Station. Representatives of the licensee will participate, as appropriate.

E. *Format and Content of Design Certification Applications*—Review and comment on SECY–92–287, "Form and Content for a Design Certification Rule," for standardized nuclear power plant designs. Representatives of the NRC staff and the nuclear industry will participate, as appropriate.

F. *Branch Technical Position on Equipment Qualification for License Renewal*—Review and comment on Branch Technical Position regarding qualification of electrical equipment for nuclear power plant license renewal. Representatives of the NRC staff and the nuclear industry will participate, as appropriate.

G. *Human Factors Aspects of Operating Events*—Briefing by and discussion with representatives of the NRC staff regarding the status of the NRC staff work on the use of onsite evaluation teams to analyze the human factors aspects of selected operating events.

H. *Operator Training and Requalification*—Briefing and discussion regarding the results of the pilot simulator examination program, and proposed changes to 10 CFR part 55 requirements for requalification examinations. Representatives of the NRC staff and the nuclear industry will participate, as appropriate.

I. *Maintenance of Nuclear Power Plants*—Review and comment on the proposed NRC Regulatory Guide, "Monitoring the Effectiveness of Maintenance at Nuclear Power Plants," for implementation of the Maintenance Rule and an associated NUMARC document. Representatives of the NRC staff and the nuclear industry will participate, as appropriate.

*J. *Stability of Boiling Water Reactors*—Review and comment on proposed resolution of core power stability issues in GE boiling water reactors. Representatives of the NRC staff and the nuclear industry will participate, as appropriate. Portions of this session will be closed as necessary to discuss Proprietary Information.

K. *Design Acceptance Criteria*—Review and report on Design Acceptance Criteria in the areas of man-machine interface and control and protection systems. Representatives of the NRC staff and the nuclear industry will participate, as appropriate.

L. *NRC Staff Review of ITAAC for the GE ABWR*—Discuss proposed ACRS report on the process for the NRC staff's review of the Inspections, Tests, Analyses, and Acceptance Criteria (ITAAC) for the ABWR design. Representatives of the NRC staff and the nuclear industry will participate, as appropriate.

M. *ACRS Activities*—Discuss recommendations of the ACRS Planning and Procedures Subcommitee on matters proposed for consideration by the full Committee.

*N. *ACRS Subcommittee Activities*—Discuss assigned activities of designated subcommittees including, the ACRS Planning and Procedures Subcommittee. Portions of this session will be closed as appropriate to discuss information the release of which would represent a clearly unwarranted invasion of personal property.

*O. *Activities of ACRS Members*—Discuss related activities of individual members of the Committee including, participation in meetings not sponsored by the ACRS. This session will be closed to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy.

*P. *Appointment of Members*—Discuss qualifications of candidates proposed for appointment as members of the Committee. This session will be closed to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy.

Q. *Resolution of ACRS Comments and Recommendations*—Discuss response from NRC Executive Director for Operations regarding NRC staff reaction to ACRS comments and recommendations.

*R. *Conduct of ACRS Business*—Discuss qualifications of nominees and elect Member-at-Large to the ACRS Planning and Procedures Subcommittee. This session will be closed as appropriate to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy.

S. *Miscellaneous*—Discuss miscellaneous matters related to the conduct of Committee activities and complete discussion of topics that were not completed at previous sessions as time and availability of information permit.

391st ACRS Meeting, November 5–7, 1992, Bethesda, MD. Agenda to be announced.

392nd ACRS Meeting, December 10–12, 1992, Bethesda, MD. Agenda to be announced.

ACNW Full Committee and Working Group Meetings

ACNW Working Group on Potential for Presence of Natural Resources at a High-Level Waste Repository Site, October 20, 1992, St. Tropez Hotel, Las Vegas, NV. The Working Group will discuss potential for the presence of natural resources at the proposed Yucca Mountain high-level waste repository.

47th ACNW Meeting, October 21, 1992, St. Tropez Hotel, Las Vegas, NV. Items are tentatively scheduled.

A. Invite comments from State and Local Governments, for example, compatibility of NRC, EPA, and DOE requirements.

B. Invite DOE to discuss schedules for work in progress at Yucca Mountain.

C. Hear a briefing on information available on the June 29, 1992 earthquake that occurred near the proposed Yucca Mountain High-Level Waste Repository site and on evolving plans for seismic hazard studies.

D. Continue discussions of a supplemental request from Chairman Selin made on April 24, 1992, on a systems-analysis approach to reviewing the overall high-level waste program.

E. Review a DOE Study Plan, possibly the magmatic disruption study plan.

F. Consider potential impacts that different waste forms (spent fuel, vitrified wastes from different sources) could have on repository performance.

G. Discuss administrative matters related to Committee activities and items that were not completed at previous meetings as time and availability of information permit.

48th ACNW Meeting, November 16–17, 1992, Bethesda, MD. Agenda to be announced.

ACNW Working Group on the Impact of Long-Range Climate Change in the Area of the Southern Basin and Range, November 18, 1992, Bethesda, MD. The Working Group will discuss the historical evidence and the potential for climate changes in the Southern Basin and Range and the impact of climate change on natural processes affecting the performance of the proposed high-level waste repository at Yucca Mountain.

ACNW Working Group on Performance Assessment, December 16, 1992, Bethesda, MD. The Working Group will hear a briefing by DOE representatives regarding the status of the DOE's Total System Performance Assessment. Also, this Group will discuss the progress of Phase 2 of the HLW Iterative Performance Assessment effort by NRC.

49th ACNW Meeting, December 17–18, 1992, Bethesda, MD. Agenda to be announced.

Dated: September 17, 1992.

Andrew L. Bates,

Acting Advisory Committee Management Officer.

[FR Doc. 92–23033 Filed 9–22–92; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–332]

Allied-General Nuclear Services, Inc.; Barnwell Nuclear Fuel Plant; Notice of Denial of Request to Amend Construction Permit No. CPCSF–4 to Change the Latest Completion Date and Opportunity for Hearing

I

Allied-General Nuclear Services, Inc. (AGNS) holds Construction Permit No. CPCSF–4 which authorizes the construction of the Barnwell Nuclear Fuel Plant in Barnwell County, South Carolina. The construction permit was issued on December 29, 1970.

II

On November 11, 1976, AGNS submitted a request for an amendment to Construction Permit No. CPCSF–4 to extend the latest construction completion date from December 31, 1976, to December 31, 1979. In subsequent action on December 30, 1977, the U.S. Nuclear Regulatory Commission ordered the termination of all activities associated with the *G*eneric *E*nvironmental *S*tatement on the Use of Recycle Plutonium in *M*ixed *O*xide Fuel in Light Water Cooled Reactors (GESMO). The activities proposed to be undertaken in the Barnwell Nuclear Fuel Plant were among those affected by that order. On May 8, 1978, the Commission issued its Memorandum of Decision terminating all plutonium recycle related proceedings, including those under Docket No. 50–332.

Since the original request for extension of the latest completion date of November 11, 1976, AGNS has submitted several additional requests on anniversary dates corresponding to the expiration dates which would have been in effect had the Commission acted upon and granted the requested extension. Until the present time the Commission has not acted upon these requests.

Although AGNS has been persistently requesting extensions of the latest completion dates, its actions have not been consistent with the purpose of the construction permit, nor the Commission's Rules in 10 CFR parts 2 and 50 in that the applications do not state an intent to complete construction in order to seek an operating license for the facility. In fact, AGNS has removed buildings and equipment which would be necessary for the purpose of reprocessing nuclear fuel, thereby demonstrating the lack of an intent consistent with their original purpose. Therefore, AGNS has not shown good cause for extension of the completion date of the construction permit, as required by 10 CFR 50.55(b).

III

Based on the foregoing the NRC staff finds that AGNS has not shown good cause for failure to complete the Barnwell facility in its request for extension of the latest completion date for Construction Permit No. CPCSF–4. Therefore, the request of AGNS for extension of the latest completion date for Construction Permit No. CPCSF–4 is denied and Construction Permit No. CPCSF–4 is terminated, effective sixty days from the date of this order. By letter, dated May 12, 1992, AGNS stated that it would not oppose such termination. The staff has toured the site and the facility and determined that no environmental remediation of the site is necessary.

IV

By October 23, 1992, the licensee may demand a hearing with respect to the denial described above. Any person whose interest may be affected by this denial, and who desires to participate as a party may request a hearing on this action on extension of the construction permit.

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, within 30 days of the publication of this notice. 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 Richard E. Cunningham, Director, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards: 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 any petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Bennett Boskey, Volpe, Boskey and Lyons, World Center Building, 918 16th Street, NW., Washington, DC 20006, attorney for the applicant, and must comply with the requirements for requesting a hearing set forth in NRC regulation, 10 CFR Part 2, Subpart G, "Rules of General Applicability," Section 2.714.

The petition shall set forth with particularity the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, including the reasons why petitioner should be permitted to intervene, with particular reference to (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; (3) The possible effect of any order that may be entered in the proceeding on the petitioner's interest, and the specific aspect or aspects of the subject matter of the proceeding as to which petitioner wishes to intervene.

If Allied-General Nuclear Services, Inc., or any other person whose interest may be affected requests a hearing, the Commission will issue an order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such a hearing is whether this denial action should be sustained.

For further details with respect to this action, see (1) the licensee's applications for amendment to extend the latest completion date, dated November 11, 1976, November 9, 1978, November 23, 1981, August 16, 1982. August 24, 1983, August 15, 1984, August 20, 1987, and July 11, 1990, and (2) the Commission's letter to the licensee, dated September 16, 1982.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Document Control Desk.

V

In the absence of any request for a hearing, the action to deny shall be final sixty days from the date of this notice without further proceedings.

Dated at Rockville, Maryland, this 16th day of September 1992.

For the Nuclear Regulatory Commission.

Robert M. Bernero,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 92–23032 Filed 9–22–92; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–31182; File No. SR–Amex–92–34]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Partial Approval of Proposed Rule Change by the American Stock Exchange, Inc. Relating to Procedures for Handling and Executing Market-On-Close Orders

September 15, 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 September 10, 1992, 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 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. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. At the same time, the Commission is granting accelerated partial approval to the proposal.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to (1) extend, until December 15, 1992, the pilot program amending Rule 109 [1] to provide that the procedures currently used to execute market-on-close ("MOC") orders in certain stocks on expiration Fridays [2] be made applicable to all MOC orders in all Amex-listed stocks on every trading day; and (2) obtain permanent approval for the pilot program prior to its expiration on December 15, 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

In June, 1991, the Commission approved, for a one-year pilot period,[3] an Exchange proposal which provides that the procedures used to execute all MOC orders on every trading day be the same as those procedures currently used to execute MOC orders on expiration Fridays in stocks that are components of a stock index on which an option and/or stock contract is traded (*e.g.*, the Standard and Poor's 500 Composite Stock Price Index). The procedures, in place since June 1991, provide that all buy and sell MOC orders be paired-off against each other, and if there is an imbalance, that the imbalance be executed against the closing bid if it is on the sell side and against the closing offer if it is on the buy side. The paired-off orders are executed at the same price as the imbalance. If there is no imbalance, the paired-off orders are executed at the price of the last sale on the Exchange prior to the close of trading in that stock. Thus, this procedure assures that all MOC orders in a particular stock will be executed at the same price. In addition, those orders that are paired-off in implementing the procedure are reported as "stopped

[1] This pilot program was approved by the Commission for a one-year period beginning on June 14, 1991 and expiring on June 14, 1992. See Securities Exchange Act Release No. 29312 (June 14, 1991), 56 FR 28583 (June 21, 1991). The Commission approved a three-month extension to the pilot program, expiring September 15, 1992, on June 15, 1992. See Securities Exchange Act Release No. 30812 (June 15, 1992), 57 FR 27991 (June 23, 1992).

[2] Expiration Friday is the one trading day each month when stock index futures, stock index options and options on stock index futures expire or settle concurrently.

[3] See note 1, *supra*.

stock", so that customers with unexecuted limit orders on the specialist's book will know that the MOC transaction was executed outside the regular auction market, and that for this reason their orders may have not participated.

In June, 1992, the Exchange filed a report with the Commission detailing its experience with these procedures for the execution of MOC orders during the one year pilot program.[4] As the report indicates, on the days studied [5] the MOC procedures did not, in the Amex's view, result in an increase in volatility and only on three occasions was there an increase in order flow during the final hour of trading on the Exchange. An analysis of the trading in those stocks which experienced an increase in order flow did not, Amex believes, reveal an effort to manipulate the closing price.

On June 15, 1992, the Commission approved a three-month extension of the pilot program which expires September 15, 1992. The Exchange now seeks to (1) extend the pilot program for an additional three months in order for the Commission to study further data to be provided by the Exchange on its experience with these market-on-close procedures; and (20) obtain permanent approval for the pilot program prior to its expiration on December 15, 1992.

(2) Basis

The proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system

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.

[4] See letter from Claire P. McGrath, Special Counsel, Legal & Regulatory Policty, Amex, to Mary Revell, Branch Chief, Division of Market Regulation, SEC, dated June 10, 1992.

[5] The Amex's report concentrates on MOC orders entered on expiration Fridays from June 1991 through March 1992.

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. 553, 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 Amex. All submissions should refer to File No. SR-Amex-92-34 and should be submitted by October 14, 1992.

IV. Discussion and Order Granting Accelerated Partial Approval of the Proposed Rule Change

After careful consideration, the Commission has concluded, for the reasons set forth below, that the portion of the proposed rule change to extend the pilot for an additional three months is consistent with Section 6 of the Act [6] 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 an exchange be designed to promote just and equitable principles of trade, to facilitate transactions in securities, 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.

In the order extending the pilot program until September 15, 1992, the Commission stated that the Amex should continue to monitor the closing MOC procedures and report to the Commission any increased volatility or order flow during the last hour of trading. The Commission now extends the pilot program until December 15, 1992, so that the Commission will have the opportunity to obtain and review additional data from the Amex concerning its experiences with the pilot program.

Specifically, before requesting a further extension, the Amex must submit by October 30, 1992, a pilot program report that addresses: (1) Whether there have been any complaints regarding the operation of the pilot; (2) whether the Amex has taken any disciplinary or performance action against any member due to the operations of the pilot; (3) the extent to which the pilot has been used on the Amex; and (4) the impact of the pilot on volatility and order flow. The data the Amex supplies should specifically analyze the effects of the pilot. Accordingly, the report should examine the use of the MOC procedures in Amex stocks other than on expiration Fridays, in addition to analyzing the use of MOC procedures on expiration Fridays in stocks that are not components of an Index.

The Commission believes that a three-month extension of the proposal, until December 15, 1992, is appropriate in order to provide the Commission with additional time to obtain and review data from the Exchange regarding its experience with the pilot MOC procedures. After reviewing such data, the Commission should be able to make a decision with regard to the Amex's proposal requesting permanent approval of the MOC procedures. The Commission also believes that during the next three months of the pilot, the Amex should continue to monitor the closing MOC procedures and report to the Commission any increased volatility or order flow during the last hour of trading.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after publication of the proposed rule change in the **Federal Register**. Accelerated approval enables the Exchange to continue, on an uninterrupted basis, the procedures currently used for handling and executing MOC orders.[7] The

[6] 15 U.S.C. 78f (1988).

[7] The Commission notes that it also recently granted permanent partial approval to a substantially similar proposal submitted by the New York Stock Exchange, Inc. ("NYSE") [see Securities Exchange Act Release No. 30004 (November 27, 1991), 56 FR 63533 (order granting partial approval to File No. SR—NYSE–91–35)]. The portion of the NYSE's proposal which was permanently approved by the Commission makes the NYSE's procedures used for the execution of MOC order on expiration Fridays applicable to every trading day.

additional three-month continuation of the pilot program should allow the Commission sufficient time to obtain and review the Exchange's report and determine whether approval of the procedures on a permanent basis is consistent with the Act. Furthermore, the Commission solicited comments on the Amex's original MOC proposal and on the most recent three-month extension, and no comments were received.

V. Conclusion

For the reasons set forth above, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act.

It is therefore ordered, pursuant to section 19(b)(2) of the Act [8] that the proposed rule change be, and hereby is, approved for a pilot period ending on December 15, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-23018 Filed 9-22-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18961; 812-7903]

G.T. Global Growth Series, et al.; Notice of Application

September 17, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application of Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: G.T. Global Growth Series, G.T. Investment Funds, Inc., G.T. Investment Portfolios, Inc., each portfolio thereof, and any future portfolios thereof that will issue multiple classes of shares which are identical in all material respects to the classes described herein, and any other open-end management investment companies established or acquired in the future that are in the same "group of investment companies" as that term is defined in rule 11a-3 under the Act and which issue multiple classes of shares that are identical in all material respects to the classes described in this application (all such portfolios and companies are collectively referred to as the "Funds"), G.T. Capital Management, Inc. ("G.T. Capital") and G.T. Global Financial Services, Inc. ("G.T. Global").

RELEVANT ACT SECTIONS: Exemption requested pursuant to section 6(c) from sections 2(a)(32), 2(a)(35), 18(f), 18(g), 18(i), 22(c), 22(d) and from rule 22c-1.

SUMMARY OF APPLICATION: Applicants seek an order to permit the Funds (i) to issue and sell two classes of securities representing interests in the same investment portfolio (the "Dual Distribution System") and (ii) to assess, and under certain circumstances waive, a contingent deferred sales charge ("CDSC") on certain redemptions of their shares.

FILING DATE: The application was filed on April 14, 1992 and amended on July 23, 1992 and August 25, 1992. Applicants' counsel has stated that an amendment, the substance of which is incorporated herein, will be filed during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m., on October 13, 1992 and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicants, 50 California Street, San Francisco, California 94111.

FOR FURTHER INFORMATION CONTACT: James M. Curtis, Staff Attorney, at (202) 504-2406, or Barry D. Miller, Senior Special Counsel, at (202) 272-3018 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Funds are organized as series of three registered open end management investment companies: G.T. Global Growth Series, G.T. Investment Funds, Inc., and G.T. Investment Portfolios, Inc. G.T. Global Growth Series is a Massachusetts business trust. G.T. Investment Funds, Inc. and G.T. Investment Portfolios, Inc. are Maryland corporations. G.T. Global serves as the distributor of the shares of each Fund. Shares of the common stock or beneficial interest of the Funds, as applicable, are available through brokers which have entered into agreements to sell shares with G.T. Global. Shares may also be acquired directly through the Funds' transfer agent, G.T. Global Investor Services, Inc. G.T. Capital is the investment manager and administrator for each of the Funds.

2. Applicants propose the establishment of the Dual Distribution System which will allow each Fund to offer investors the option of purchasing shares either subject to a front-end sales charge and a distribution plan adopted in accordance with rule 12b-1 under the Act ("Rule 12b-1 Plan") (the "Class A Shares"), or subject to a CDSC and a Rule 12b-1 Plan (the "Class B Shares"). The Class A Shares would be offered to the public in accordance with the Funds' existing sales charge structure.[1] The Class B Shares will be subject to a CDSC ranging from 6% to 0% of the aggregate purchase payments made by an investor for Class B Shares depending on the length of time such shares are held. No CDSC will be imposed on the appreciation of the value of an investor's shares or on amounts distributed and reinvested. The Class A Shares of each Fund will pay a distribution fee to G.T. Global under the Rule 12b-1 Plan applicable to that class (the "Class A Plan") at a rate of up to .50% per annum of the daily net assets of the Class A Shares. Class B Shares will pay a distribution fee to G.T. Global under the Rule 12b-1 Plan applicable to that class (the "Class B Plan") at a rate of up to 1.00% per annum of the average daily net assets of the Class B Shares. Each Fund will accrue and pay the distribution fee at a rate fixed by the Funds' Boards of Directors [2] (but no in excess of the applicable maximum percentage rate). In addition, Class B Shares may be subject to higher transfer agency charges per account and any other incremental expenses subsequently identified that should be properly allocated to that class which shall be approved by the Commission pursuant to an amended order.[3]

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[8] 15 U.S.C. 78s(b)(2) (1988).

[9] 17 CFR 200.30-3(a)(12) (1991).

[1] In addition, it is proposed that certain Class A Shares that are sold at net asset value may be subject to a CDSC as described herein if they are redeemed within one year of purchase.

[2] The term "Directors" is used herein to refer both to the members of the boards of directors of the Funds that are organized as corporations, and to the members of the boards of trustees of the Funds that are organized as business trusts.

[3] The Funds will request a private letter ruling that the assessment of the additional distribution

Continued

3. The two classes of shares would represent interests in the same portfolio of securities and would have identical voting, dividend, liquidation and other rights and the same terms and conditions, except as specified in condition 1, below. The net asset value of shares of each class of the Funds that are money market funds will be calculated in accordance with the amortized cost method that seeks to maintain a constant $1.00 per share net asset value. The gross income of the outstanding shares of a Fund that is a money market fund will be computed on a *pro rata* basis for each outstanding share regardless of class, and all expenses incurred by such Fund will be borne on a *pro rata* basis by such outstanding shares, except for the expenses specifically payable by each class. The gross income and all expenses, except for the specifically allocated expenses, of each of the other Funds will be allocated between the classes on the basis of their relative net assets. Because of the additional expenses paid by holders of Class B Shares, the net income attributable to the Class B Shares will be lower than the net income attributable to the Class A Shares.

4. Some portion of those fees payable under the Class A Plan and the Class B Plan would be used to pay ongoing commissions to account executives and sales personnel whose clients hold Class A or Class B Shares to compensate those account executives and sales personnel for the ongoing services they provide to their clients.

Account executives or sales personnel selling shares of a Fund may be compensated differently for selling Class A or Class B Shares. Because the amount of compensation an account executive or sales person receives will vary from case to case depending on breakpoints, the length of time that client accounts are maintained, and other factors, applicants believe that it is not possible to generalize as to which class will provide the account executive or sales person with the highest level of compensation.

5. The Funds' prospectuses will describe the services rendered and compensation paid under the Rule 12b–1 Plans and the fees payable by each Fund thereunder. Each prospectus will disclose all material information concerning the Class A Shares and Class B Shares in a manner that would enable an investor to make an informed and comparative analysis of the two classes of shares, and facilitate the making of an investment decision that would be the most advantageous to a given investor.

6. Currently, G.T. Global furnishes the Directors of the Funds with quarterly and annual statements of distribution revenues and expenditures ("Statements") (in accordance with the requirements of paragraph (b)(3)(ii) of rule 12b–1) to enable the Directors to make the findings required by paragraphs (d) and (e) of rule 12b–1. After implementation of the Dual Distribution System, the Directors will receive Statements which set forth distribution revenues and expenditures with respect to each class. In the Statements, only expenditures properly attributable to the sale of Class A or Class B Shares, as applicable, will be used to support the distribution fee charged to shareholders of such class of shares. Expenditures not related to the sale of a particular class will not be presented to the Directors to support the distribution fee charged to shareholders of such class of shares. Distribution expenses attributable to the sale of both classes of shares will be allocated annually to each class of shares based upon the ratio in which the sales of each class of shares bears to the sales of all the shares of each Fund. For this purpose, shares issued upon reinvestment of dividends or distributions will not be considered sales.

7. Class A Shares of a Fund will be exchangeable only for Class A Shares of the other Funds, and Class B Shares will be exchangeable only for Class B Shares of the other Funds. The applicable exchange privileges will comply with rule 11a–3 under the Act.

8. It is expected that the percentage amounts in the CDSC schedule of the Funds will vary depending in part on the front-end sales charge applicable to the Class A Shares of a particular Fund and the compensation paid to sales personnel and account executives for selling shares of the Fund. The CDSC will not be imposed on redemptions of Class B Shares which were purchased more than six years prior to the redemptions (the "CDSC Period") or on those Class B shares derived from reinvestment of dividends/distributions. Likewise, no CDSC will be imposed on an amount which represents an increase in the value of the shareholder's account resulting from capital appreciation above the amount paid for Class B Shares purchased in the CDSC Period. The proposed CDSC will not be imposed on any shares issued by the Funds prior to the date of any order granting the exemptive relief requested hereby.

9. Applicants also request the ability to impose a CDSC on the proceeds of certain redemptions of Class A Shares initially sold without a sales charge. Such Class A Shares would be limited to those sold at net asset value pursuant to the sales charge waiver for large purchases. Currently, this waiver applies to sales where the amount of the purchase exceeds $1,000,000, although this amount may be changed in the future. The CDSC payable on such Class A Shares will be paid to G.T. Global to defray the cost of paying sales commissions to sales personnel and account executives on the sale of such Class A Shares. The CDSC would be imposed only on such Class A Shares issued on or after the date the order requested hereby is granted and only in the event of a redemption transaction within twelve months following the share purchase. The CDSC applicable to those Class A Shares would be calculated in the same manner as the CDSC with respect to the Class B Shares described herein. However, the amount of the CDSC will be limited to 1% of the investor's aggregate purchase payments. In addition, each of the CDSC waivers or reductions described below may be applied to redemptions of Class A Shares that would otherwise be subject to the CDSC.

10. The amount of the CDSC will be calculated as the lesser of the amount that represents a specified percentage of the net asset value of the Class B Shares at the time of purchase and the amount that represents such percentage of the net asset value of the Class B Shares at the time of redemption. As a result, no CDSC will be imposed on an amount which represents an increase in the value of the shareholder's account resulting from capital appreciation above the amount paid for Class B Shares purchased in the CDSC Period. In determining the applicability and rate of any CDSC, it will be assumed that a redemption is made first of Class B Shares representing reinvestment of the dividends and capital gain distributions, second of Class B Shares held by the shareholder for a period equal to or greater than the CDSC Period, and finally of other Class B Shares held by the shareholder for the longest period of time. This will result a charge, if any, imposed at the lowest possible rate.

11. The Funds are requesting the ability to waive or reduce the CDSC (a) on redemptions following death or disability, as defined in section 72(m)(7)

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fee and transfer agency costs and any other special allocations described above with respect to Class B Shares does not result in any dividends or distributions constituting "preferential dividends" under the Internal Revenue Code of 1986, as amended.

of the Internal Revenue Code of 1986, as amended, of a shareholder if redemption is made within one year after death or disability of a shareholder, as relevant; (b) in connection with certain distributions from an IRA, or other qualified retirement plan; (c) in connection with redemptions of Class B Shares purchased by current or retired officers, directors or trustees, and current or retired employees of the Funds, G.T. Capital, or G.T. Global, or affiliated companies, and by the members of the immediate families of such persons; (d) in connection with redemptions made by registered representatives or full time employees of brokers and dealers which have entered into dealer agreements with G.T. Global, and their children, siblings and parents; (e) in connection with redemptions of Class B Shares made pursuant to a shareholder's participation in any systematic withdrawal plan adopted by a Fund; (f) in connection with redemptions by certain large accountholders of a Fund's shares; [4] (g) in connection with redemptions the proceeds of which are reinvested in Class B Shares of any of the Funds within 365 days, or a shorter period, after such redemption; (h) in connection with redemptions effected by advisory accounts managed by G.T. Capital or any affiliated company or by any such affiliated company itself; (i) in connection with certain redemptions by tax exempt employee benefit plans; (j) on redemptions effected pursuant to each Fund's right to liquidate a shareholder's account if the aggregate net asset value of shares held in the account is less than the effective minimum account size; and (k) in connection with certain redemptions by banks, trust companies, registered investment advisers, and other financial institutions with trust powers which use trust funds to purchase shares of a Fund. If the Funds waive or reduce the CDSC, such waiver or reduction will be uniformly applied to all offerees of the Funds' Class B Shares. Also, in waiving or reducing a CDSC, the Funds will comply with the requirements of rule 22d–1 under the Act. The CDSC will be waived or reduced by a Fund as provided in such Funds's prospectus at the time the investor purchased the shares.

[4] Specifically, if immediately prior to a redemption the value of a shareholder's account, either in the Fund being redeemed on an individual basis or in such Fund and all other Funds on an aggregate basis, equals $1 million or more but does not exceed $2 million, that shareholder would be entitled to make a redemption at either a lower CDSC than would otherwise be applicable or no CDSC, as discussed in the relevant Fund's prospectus. Likewise, if the value of a shareholder's account in the Fund being redeemed exceeds $2 million, the shareholder would be entitled to make a redemption at either a further reduced CDSC or no CDSC, as disclosed in the relevant Fund's prospectus.

Legal Analysis

1. The proposed Dual Distribution System does not create the potential abuses relating to complex capital structures and mutuality of risk which section 18 was designed to correct. Since all shares of money market funds would participate *pro rata*, and the shares of each other Fund would participate based on the relative net assets of each class, in each Fund's income and each Fund's expenses, except for the specially allocated expenses, the proposed arrangement would not increase the speculative character of the shares of the Funds or disturb the mutuality of risk among all shareholders.

2. Both classes of shares would be redeemable at all times and neither class of shares would have any preference or priority over the other class in the usual sense, *i.e.*, no class would have distribution or liquidation preferences with respect to particular assets and no class would be protected by any reserve or other account.

3. Applicants believe that the interest of the two classes of shares as to the investment management and administration fee of each Fund are the same and not in conflict. The fee is used solely to compensate G.T. Capital for providing investment management and administrative services that are common to all investors, regardless of the class of shares held.

4. Rather than maintaining each Fund's existing shares in one fund and organizing separate funds or portfolios of each Fund utilizing the CDSC arrangement, G.T. Capital and G.T. Global believe that shareholders would benefit if both distribution options were available in a single fund. To the extent that the Funds are able to maintain and expand their respective shareholder base through the Dual Distribution System, their shareholders will benefit to the extent such Funds' *pro rata* operating expenses per share be lowered. Moreover, if the exemptive order requested herein is not granted, the Funds' shareholders will be disadvantaged by not having the same options which are currently available to shareholders of other mutual fund complexes which have obtained comparable exemptive relief. The Dual Distribution System has been developed to provide investors with the option within the same Fund of choosing to purchase shares with either the front-end sales load or the CDSC, as is currently featured in other mutual fund complexes.

Applicants' Conditions

Applicants agree that the order of the Commission granting the requested relief shall be subject to the following conditions:

1. Class A and Class B Shares will represent interests in the same portfolio of investments of each Fund, and be identical in all respects, except as set forth below. The only differences between Class A and Class B Shares of the same Fund will relate solely to: (a) the impact of the respective rule 12b–1 fees imposed on the respective Class A and Class B Shares of a Fund, the higher transfer agency costs paid by the Class B Shares of a Fund and any other incremental expenses subsequently identified that should be properly allocated to one class which shall be approved by the Commission pursuant to an amended order, (b) voting rights on matters which pertain to the Rule 12b–1 Plan applicable to each class of a Fund's shares, (c) the different exchange privileges of the Class A and Class B Shares as described in the prospectus (and as more fully described in the statement of additional information) of each Fund, and (d) the designation of each class of shares of each Fund.

2. The Directors of the Funds, including a majority of the independent Directors, will approve the Dual Distribution System. The minutes of the meetings of the Directors regarding the deliberations of the Directors with respect to the approvals necessary to implement the Dual Distribution System will reflect in detail the reasons for determining that the proposed Dual Distribution System is in the best interests of both the Funds and their shareholders.

3. On an ongoing basis, the Directors, pursuant to their fiduciary responsibilities under the Act and otherwise, will monitor each Fund for the existence of any material conflicts between the interests of the two classes of shares. The Directors, including a majority of the independent Directors, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. G.T. Capital and G.T. Global will be responsible for reporting any potential or existing conflicts to the Directors. If a conflict arises, G.T. Capital and G.T. Global at their own cost will remedy such conflict up to and including establishing a new registered management investment company.

4. Any Rule 12b–1 Plan adopted or amended to permit the assessment of a rule 12b–1 fee on any class of shares which has not had its Rule 12b–1 Plan approved by the public shareholders of that class will be submitted to the public shareholders of such class for approval at the next meeting of shareholders after the initial issuance of the class of shares. If still required by the Commission, such meeting will be held within sixteen months of the date that the registration statement relating to such class first becomes effective or, if applicable, the date that the amendment to the registration statement necessary to offer such class first becomes effective.

5. The Directors of the Funds will receive periodic (not less than quarterly) and annual statements concerning distribution expenditures complying with paragraph (b)(3)(ii) of rule 12b–1, as amended from time to time. In the Statements, only expenditures properly attributable to the sale of Class A or Class B Shares, respectively, or to the provision of services to holders of such shares, will not be presented to the Directors to justify any fee attributable to such class. The Statements, including the allocations upon which they are based, will be subject to the review and approval or of the Independent Directors in the exercise of their fiduciary duties.

6. Dividends/distributions paid by each Fund with respect to its Class A or Class B Shares, to the extent any dividends/distributions are paid, will be calculated in the same manner at the same time on the same day and will be in the same amount, except that distribution and/or service fee payments made by a Fund under its Class A or Class B Plan, and any incremental transfer agency costs relating to Class A or Class B Shares, will be borne exclusively by the respective class.

7. The methodology and procedures for calculating the net asset value and dividends/distributions of the Class A or Class B Shares, and the proper allocation of expenses between those classes, has been reviewed by an expert (the "Expert") who has tendered a report to applicants, which has been provided to the staff of the Commission, which states that the methodology and procedures are adequate to ensure that such calculations and allocations will be made in an appropriate manner. On an ongoing basis, the Expert, or an appropriate substitute Expert, will monitor the manner in which the calculations and allocations are being made under the Dual Distribution System and, based upon such review, will render at least annually a report to the Funds that the calculations and allocations are being made properly. The reports of the Expert shall be filed as part of the periodic reports filed with the Commission pursuant to Sections 30(a) and 30(b)(1) of the Act. The work papers of the Expert with respect to such reports, following request by a Fund (which the Fund agrees to provide), will be available for inspection by the Commission staff upon the written request to the Fund for such work papers by a senior member of the Division of the Investment Management, limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director and any Regional Administrators or Associate and Assistant Administrators. The initial report of the Expert is a "Special Purpose" report on the "Design of a System" and the ongoing reports will be "Special Purpose" reports on the "Design of a System and Certain Compliance Tests," as defined and described in the Statement of Auditing Standards No. 44 of the American Institute of Certified Public Accountants ("AICPA"), as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

8. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividends and distributions of the classes of shares and the proper allocation of expenses between the classes of shares. This representation has been concurred with by the Expert in the initial report referred to in condition (7) above and will be concurred with by the Expert, or an appropriate substitute Expert, on an ongoing basis at least annually in the ongoing reports referred to in condition (7) above. Applicants will take immediate corrective measures if this representation is not concurred with by the Expert or appropriate substitute Expert.

9. The prospectus of each Fund will include a statement that a salesperson and any other person entitled to receive compensation for selling shares of the Fund may receive different compensation for selling Class A or Class B Shares.

10. G.T. Global will adopt compliance standards regarding when Class A and Class B Shares may be appropriately sold to particular investors. Applicants will require all persons selling Class A or Class B Shares to agree to conform to such standards.

11. The conditions pursuant to which the exemptive relief is granted and the duties and responsibilities of the Funds with respect to the Dual Distribution System will be set forth in guidelines that will be furnished to the Directors.

12. Each Fund will disclose in its prospectus the respective expenses, performance data, distribution arrangements, services, fees, sales loads, contingent deferred sales loads, and exchange privileges applicable to each class of shares offered through the prospectus. Class A and Class B Shares will be offered and sold through a single prospectus. The shareholder reports of each Fund will disclose the respective expenses and will disclose performance data applicable to each class of shares. The shareholder reports will contain, in the statement of assets and liabilities and statement of operations, information related to the Fund as a whole generally and not on a per class basis. Each Fund's per share data, however, will be prepared on a per class basis with respect to all classes of shares of such Fund. The footnotes to the shareholder reports will explain the reasons for the differences between the classes of shares. To the extent any advertisement or sales literature describes the expenses or performance data applicable to Class A or Class B Shares, it will disclose the expenses and/or performance data applicable to both classes. The information provided by applicants for publication in any newspaper or similar listing of a Fund's net asset value and public offering prices will separately present Class A and Class B Shares.

13. Applicants acknowledge that the grant of the exemptive relief requested by this Amendment to the application will not imply Commission approval, authorization or acquiescence in any particular level of payments that the Funds may make pursuant to their Rule 12b–1 Plans in reliance on the exemptive order.

14. A money market fund will have more than one class of shares outstanding only when and for so long as it declares its dividends on a daily basis, accrues its payments for the Rule 12b–1 Plans and transfer agency expenses daily, and has received undertakings from the persons that are entitled to receive payments under the Rule 12b–1 Plans and for distribution fees, transfer agency expenses, and other incremental expenses subsequently identified and allocated to one class or another if such allocation is approved by the Commission pursuant to an amended order, waiving such portion of any such payments to the

extent necessary to assure that payments (if any) required to be accrued by any class of shares on any day do not exceed the income to be accrued to such class on that day. In this manner, the net asset value per share for all shares in such Fund will remain the same.

15. Applicants will comply with the provisions of proposed rule 6c–10 under the Act, Investment Company Act Release No. 16619 (Nov. 2, 1988), as such rule is currently proposed and as it may be re-proposed, adopted, or amended.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–23079 Filed 9–22–92; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–18959; 812–7545]

SPDR Trust, Series 1, et al.; Notice of Application

September 17, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Order under the Investment Company Act of 1940 ("Act").

APPLICANTS: SPDR Trust, Series 1 ("Trust") and PDR Services Corporation ("Sponsor").

RELEVANT ACT SECTIONS: Order requested pursuant to sections 6(c) and 17(b) granting exemptions from sections 4(2), 14(a), 17(a), 22(d), 22(e), 24(d), 26(a)(2)(C) and rule 22c–1, and pursuant to section 17(d) and rule 17d–1 to permit applicants to engage in certain affiliated transactions.

SUMMARY OF APPLICATION: Applicants seek an order (1) permitting a unit investment trust to issue non-redeemable securities ("SPDRs"); (2) permitting secondary market transactions to SPDRs at negotiated prices, rather than at a current public offering price described in the prospectus; (3) permitting dealers to sell SPDRs to purchasers in the secondary market unaccompanied by a prospectus, when prospectus delivery is not required by the Securities Act of 1933; (4) permitting certain expenses associated with the creation and maintenance of the Trust to be borne by the Trust, rather than the Sponsor; (5) exempting the Sponsor from the Act's requirement that it purchase, or place with others, $100,000 worth of SPDRs; (6) permitting affiliated persons of the Trust to deposit securities into, and receive securities from, the Trust in connection with the purchase and redemption of SPDRs; (7) permitting the Trust to reimburse the Sponsor for payment of an annual licensing fee to Standard & Poor's; and (8) permitting the Trust to satisfy redemption requests within five business days rather than seven calendar days.

FILING DATE: The application was filed on June 25, 1990; amended and restated applications were filed on February 6, 1991, February 28, 1992, June 8, 1992 and August 7, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 19, 1992, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writers interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicants, c/o American Stock Exchange, Inc., 86 Trinity Place, New York, New York 10006.

FOR FURTHER INFORMATION CONTACT: Barry A. Mendelson, Staff Attorney, at (202) 504–2284, or Barry D. Miller, Senior Special Counsel, at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Trust is a unit investment trust that will be organized under the laws of the State of New York. The Trust is designed to provide investors with a low-cost instrument that closely tracks the Standard & Poor's 500 Composite Stock Price Index ("S&P 500 Index"), that trades like a share of common stock, and that pays quarterly dividends proportionate to those paid by the portfolio of stocks that constitutes the S&P Index. The Sponsor is a wholly-owned subsidiary of the American Stock Exchange ("AMEX"). State Street Bank and Trust Company ("Trustee") will act as trustee of the Trust. PDR Distributors, Inc. ("Distributor"), a registered broker-dealer and wholly-owned subsidiary of Signature Financial Group, Inc., will serve as the distributor of the Trust's securities, known as SPDRs (for Standard & Poor's Depositary Receipts).

2. SPDRs were developed in response to the suspension of trading in "index participations" ("IPs"), which were contracts of indefinite duration based on the value of a basket of securities. IPs could be based on any basket of securities, including the S&P 500 index. The SEC approved IPs for trading on the AMEX, Philadelphia Stock Exchange, and Chicago Board Options Exchange. Trading in IPs was suspended in response to the decision of the Seventh Circuit in *Chicago Mercantile Exchange* v. *SEC*, 883 F.2d 537 (7th Cir. 1989), *cert. denied*, 110 S. Ct. 3214 (1990), in which the court held that IPs were within the exclusive jurisdiction of the Commodity Futures Trading Commission. Applicants characterize the response to IPs during the four months in which IPs were traded on the AMEX as quite favorable, given that trading was inhibited by the specter of litigation. Applicants believe that SPDRs, like IPs, will have broad retail appeal and will make available to small investors an exchange-traded index-based investment. Unlike IPs, however, SPDRs represent an interest in an actual portfolio of securities, and therefore, in applicants' opinion, do not present the elements of futurity that the Seventh Circuit attributed to IPs.

3. SPDRs will be issued in aggregations of 50,000 known as "Creation Units." Each SPDR will be worth one-tenth the value of the S&P 500 Index, or approximately $40 at the current level of the index. Each Creation Unit, therefore, will cost about $2 million.

4. All orders to purchase Creation Units from the Trust must be placed with the Distributor, who shall be responsible for transmitting such orders to the Trustee. The Distributor will furnish to purchasers confirmation that the orders have been accepted, but shall reject any order that is not in proper form. Upon acceptance of an order, the Distributor will instruct the Trustee to initiate the appropriate procedures, as set forth below. The Distributor will maintain records of the orders placed with it, the confirmations and rejections it issues to those placing orders, and the instructions it issues to the Trustee. It also will maintain a record of the instruction files transmitted by the Trustee to the NSCC, as described below. The Distributor will be responsible for distributing prospectuses and may provide certain other administrative services, such as those

related to state securities compliance. The Sponsor will pay the Distributor a flat annual fee. The Sponsor will not seek reimbursement from the Trust for the payment of such fee without obtaining relief from the SEC.

5. Investors wishing to purchase a Creation Unit must transfer to the Trust a "Portfolio Deposit," which consists of: (a) a portfolio of securities that is substantially similar, in composition and weighting, to the component securities ("Index Securities") of the S&P 500 Index; (b) a cash payment equal to a *pro rata* portion of the dividends accrued on the Trust's portfolio securities since the last dividend payment by the Trust, net of expenses and liabilities, and (c) a cash payment or credit ("Balancing Amount") designed to equalize the net asset value of the S&P 500 Index and the net asset value of a Portfolio Deposit. The Balancing Amount is required because, among other things, a Portfolio Deposit, unlike the S&P 500 Index, can not contain fractional shares. An investor making a Portfolio Deposit also will be charged a nominal service fee ("Transaction Fee") to defray securities settlement costs, as discussed below.

6. The Sponsor will recalculate daily the securities component and the cash component of a Portfolio Deposit. The Sponsor will make available to investors a list of the names and the required number of shares of each Index Security, and the amount of cash, comprising a Portfolio Deposit on any given day. The cash equivalent value of an Index Security may be included in the cash component of a Portfolio Deposit in lieu of the security if: (a) The Trustee were to determine that the Index Security is likely to be unavailable or available in insufficient quantity for inclusion in a Portfolio Deposit (for example, where the security is subject to a trading halt or stop order, or is the subject of a tender offer), or (b) a particular investor is restricted from investing or engaging in transactions in such Index Security (for example, where the investor is a broker-dealer restricted by regulation or internal policy from investing in securities issued by a company on whose board one of its directors serves, or a company whose securities the broker-dealer is underwriting). In the latter situation, the Trustee generally will use the cash equivalent payment to purchase the appropriate number of shares of the Index Security that the investor was unable to purchase.

7. SPDRs will not be individually redeemable, except upon termination of the Trust. To redeem, an investor must accumulate enough SPDRs to reconstitute a Creation Unit. An investor redeeming a creation Unit will receive Index Securities and cash identical to the Portfolio Deposit required of an investor wishing to purchase a Creation Unit on that day.

8. Because a redeeming shareholder will receive a Portfolio Deposit in exchange for its Unit, and only a minute portion of a Portfolio Deposit consists of cash, the Trustee will not be forced to maintain large cash reserves for redemptions. This should allow the Trust's resources to be committed as fully as possible to tracking the S&P 500 Index, enabling the Trust to track the Index more closely than other basket products that must allocate a much greater portion of their assets for cash redemptions.

9. Persons obtaining SPDRs from the Trust in Creation Unit size aggregations may hold those SPDRs or sell some or all of them into the secondary market. SPDRs will be listed on the AMEX and traded in the secondary market in the same manner as other equity securities. The price of SPDRs on the AMEX will be based on a current bid/offer market. Transactions involving the sale of SPDRs will be subject to customary brokerage commissions and charges.

10. Applicants expect that the price at which SPDRs trade will be disciplined by arbitrage opportunities created by the ability to purchase or redeem Creation Unit-size aggregations at net asset value, which should ensure that SPDRs will not trade at a material discount or premium in relation to net asset value.

11. Applicants expect that purchasers of Creation Units will include institutional investors who wish to keep a portion of their portfolios tracking the S&P 500 Index and who find SPDRs a cost-efficient means to do so, with the added benefit of exchange-traded liquidity should they wish to sell some or all of their holdings. In addition, arbitrageurs (which could include institutional investors) may purchase Creation Units to take advantage of potential arbitrage opportunities if SPDRs are selling on the AMEX at a premium to net asset value. Finally, the AMEX specialist, exercising its responsibility to provide a fair and orderly secondary market for SPDRs, may from time to time find it appropriate to purchase SPDRs in Creation Unit-size aggregations from the Trust for use in its market-making activities on the AMEX floor. Applicants expect that secondary market purchasers of SPDRs will include both institutional investors and retail investors.

12. To be eligible to purchase a Creation Unit, an organization must be a participant in the continuous net settlement system of the National Securities Clearing Corporation ("NSCC") or a Depository Trust Company ("DTC") participant, but is not required to be an AMEX member. The procedures employed to process a purchase order will depend upon whether the transaction is settled through NSCC or DTC, as described in the next two paragraphs. Procedures for redeeming a Creation Unit are analogous to those for purchasing one, although redemption requests are placed with the Trustee, rather than the Distributor.

13. An organization that is a participant in the continuous net settlement system of NSCC and that desires to use the NSCC "package" that automates movement of the five hundred Index Securities will place its purchase order by telephone with the Distributor, who will transmit the order to the Trustee. Once the Trustee has accepted the order, the Distributor will transmit a confirmation of acceptance to the organization that placed the order. Each night at approximately 7:30 p.m. New York time, the Trustee will transmit to NSCC an instruction file indicating the number of SPDRs to be credited to the account of each organization that placed an accepted order. Each of those organizations previously will have authorized the Trustee to instruct NSCC on its behalf to move Index Securities and cash from its account to the Trustee's account as payment for purchases of Creation Units. Accordingly, upon receipt of the instruction file, NSCC will incorporate instructions for the required position movements of the five hundred Index securities, and the appropriate number of SPDRs, into its continuous net settlement system. Each transaction will settle on the fifth business day after the trade date.

14. Placement of purchase orders to be executed via DTC terminals for DTC transfer is identical to that for orders to be processed through NSCC up to the point at which the Distributor sends a confirmation, except that the orders must state exactly when the transfer of securities and cash is to be effected. "In-kind" payment for Creation Units via DTC involves line by line position movements of the required shares in each of the five hundred Index Securities from the purchaser to the Trustee—and the return movement of SPDRs from the Trustee to the purchaser—through use of the DTC Participant Terminal System. Both the

Trustee and the purchaser will be required to reconcile delivery and receipt of the correct number of shares of each Index Security and the correct number of SPDRs. In addition, transmission of the appropriate cash component of the Portfolio Deposit, plus the Transaction Fee, must be accomplished in a manner acceptable to the Trustee, normally through a DTC cash transfer system.

15. SPDRs will be registered in book-entry form only; certificates will not be issued. The DTC or its nominee will be the registered owner of all outstanding SPDRs. Records reflecting the beneficial owners of SPDRs will be maintained by the DTC or its participants.

16. Persons purchasing Creation Units will be cautioned in the prospectus that some activities on their part may, depending on the circumstances, result in their being deemed statutory underwriters. For example, a broker-dealer firm may be deemed a statutory underwriter if it purchases Creation Units from the Trust, breaks them down into the constituent SPDRs, and sells the SPDRs directly to its customers; or if it chooses to couple the creation of a supply of new SPDRs with an active selling effort involving solicitation of a secondary market demand for SPDRs. The prospectus will state that whether a person is an underwriter depends upon all the facts and circumstances pertaining to that person's activities. The prospectus will explain that (a) a statutory underwriter will be subject to certain liability provisions of the Securities Act, and (b) dealers who are statutory underwriters, and dealers effecting transactions in SPDRs that are part of an "unsold allotment" within the meaning of section 4(3)(C) of the Securities Act, will be unable to take advantage of the prospectus delivery exemption provided to dealers by section 4(3) of the Securities Act.

17. Under a proposed new AMEX rule, each investor purchasing SPDRs in the secondary market (except as set forth below) will receive a "Product Description" designed to provide a brief and readily understandable description of the salient aspects of SPDRs. The Product Description will advise investors that a prospectus is available without charge upon request. Although the AMEX rule can not ensure delivery of a Product Description to investors purchasing SPDRs through a non-member broker-dealer in a transaction away from the AMEX floor, applicants expect that such transactions should be extremely rare. In addition, applicants note that transactions effected on regional exchanges pursuant to unlisted trading privileges can be covered by conditioning the grant of such privileges upon imposition of an exchange requirement that Product Descriptions be delivered. Purchases effected over the counter may be somewhat more difficult to address, although applicants note that the NASD may wish to promulgate an advice to members regarding the need to distribute a Product Description to every SPDR purchaser on the same terms as required by the AMEX rule.

18. The Trustee will be paid a "Trustee's Fee" not to exceed .15% of the Trust's net asset value on an annualized basis. The Trustee also will receive a Transaction Fee directly from investors in connection with each purchase and redemption of a Creation Unit, to defray securities settlement costs. The Transaction Fee will be about $1,500 (subject to discounts for quantity purchases), although an additional amount not to exceed three times the Transaction Fee will be charged to investors who purchase and redeem via the DTC rather than the continuous net settlement system of NSCC, to cover the increased expense associated with settlement outside the NSCC clearing process. To the extent the Transaction Fee exceeds the Trustee's actual settlement costs, and subject to certain limitations, such excess will be subtracted from the Trustee's Fee. The Trustee's Fee also will be reduced by the amounts earned by the Trustee in respect of cash held for the benefit of the Trust and not otherwise expended on behalf of the Trust.

19. The Trust will make quarterly distributions of an amount representing the dividends accumulated on portfolio securities during such quarter, net of fees and expenses. Additional distributions will be made to the minimum extent necessary to comply with certain provisions of the Internal Revenue Code and to avoid the imposition of excise taxes imposed by section 4982 of the Code.

20. The composition of the Trust's portfolio will be adjusted from time to time to conform to changes in the S&P 500 Index. The Trustee will aggregate certain of these adjustments and make conforming changes to the Trust's portfolio at least monthly. Adjustments will be made more frequently in the case of changes to the S&P 500 Index that are significant, such as the substitution of one security for another. All adjustments to the Trust's portfolio will be made by the Trustee pursuant to specifications set forth in the Trust Agreement and will be non-discretionary.

21. Beneficial owners of SPDRs will have no voting rights with respect to the securities held by the Trust. On any particular item for which an Index Security confers voting rights, the Trustee will vote the Trust's shares in the same proportion as all other shares of the security are voted. If this arrangement is not permitted, the Trustee shall abstain from voting.

22. The Sponsor and the AMEX are paying the Trust's organizational expenses. The Trust will reimburse the Sponsor for these expenses ratably over a five-year period. Should the Trust terminate prior to its fifth anniversary, the remaining unamortized organizational expenses will continue to be borne by the Sponsor and the AMEX, and will not be charged against the Trust.

23. The term of the Trust will be 25 years, but the Trust will terminate earlier in the following circumstances: if SPDRs are de-listed from the AMEX; by agreement of the holders of two-thirds of the outstanding SPDRs; if DTC or NSCC no longer provide necessary services; if the Trustee is no longer a participant in NSCC; if Standard & Poor's stops publishing the S&P 500 Index; or if the license agreement with Standard & Poor's for use of the "S&P 500" trademark is terminated. In addition, the Sponsor will have the discretionary right to terminate the Trust (i) within the first 90 days of operation, if the net asset value of the Trust is less than $100,000; (ii) at any time after six months of operation, if net asset value is less than $150 million; and (iii) at any time after three years of operation if net asset value is less than $350 million (adjusted annually for inflation after the Trust's fourth year of operation).

24. Within a reasonable period after termination, the Trustee shall use its best efforts to sell all portfolio securities not previously distributed to investors redeeming Creation Units. SPDRs not redeemed prior to termination will be redeemed in cash at net asset value based on the proceeds of the sale of portfolio securities.

25. Applicants assert that SPDRs afford significant benefits in the public interest. As explained above, the Trust should be able to track the S&P 500 Index more closely than other basket products that must allocate a portion of their assets for cash redemptions. In addition, SPDRs will provide a low-cost market-basket security that, unlike open-end index funds, can be traded at negotiated prices throughout the business day. Finally, SPDRs will compete with a comparable product available on a foreign stock exchange

and help attract capital to the U.S. equity market.

Applicants' Legal Analysis

1. Applicants seek an order granting exemptions from sections 4(2), 14(a), 17(a), 22(d), 22(e), 24(d), and 26(a)(2)(C) and rule 22c–1 and permitting them to engage in affiliated transactions otherwise prohibited by section 17(d) and rule 17d–1.

2. Section 4(2) of the Act defines a unit investment trust ("UIT") as an investment company that, among other things, issues only redeemable securities. Because SPDRs are not individually redeemable, applicants request an order that would permit the Trust to register and operate as a UIT. Applicants note that beneficial owners of SPDRs wishing to redeem may purchase additional SPDRs and tender the resulting Creation Unit for redemption. Moreover, to the extent a security's redeemability affords its holder a degree of liquidity, exchange-listing of SPDRs provides a similar benefit. Because the market price of SPDRs will be disciplined by arbitrage opportunities, beneficial owners should be able to sell SPDRs at approximately net asset value. Finally, applicants note that the Commission in 1990 granted relief substantially similar to that requested here. *See* The SuperTrust Trust For Capital Market Fund, Inc. Shares, Investment Company Act Release Nos. 17613 (July 25, 1990) (notice) and 17809 (Oct. 19, 1990) (order).

3. Section 22(d), among other things, prohibits a dealer from selling a redeemable security that is being currently offered to the public by or through an underwriter, except at a current public offering price described in the prospectus. Rule 22c–1 generally requires that a dealer selling, redeeming, or repurchasing a redeemable security do so only at a price based on its net asset value. Secondary market transactions in SPDRs will take place at negotiated prices (generally the current bid/offer price quoted on the AMEX), not at a current offering price described in the prospectus, and not at a price based on net asset value. Thus, purchases and sales of SPDRs by dealers in the secondary market will not comply with section 22(d) and rule 22c–1. Although SPDRs are not individually redeemable, the applicability of section 22(d) and rule 22c–1 is not free from doubt because SPDRs can be redeemed in Creation Unit-size lots. Accordingly, applicants have requested an exemption from these two provisions.

4. The concerns sought to be addressed by section 22(d) and rule 22c–1 with respect to pricing are equally satisfied by the proposed method of pricing SPDRs. While there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c–1, appear to have been enacted (a) to prevent dilution caused by certain riskless-trading schemes by principal underwriters and contract dealers, (b) to prevent unjust discrimination or preferential treatment among buyers resulting from sales at different prices, and (c) to assure an orderly distribution of investment company shares by eliminating price competition from dealers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price. According to applicants, none of these purposes will be thwarted by permitting SPDRs to trade in the secondary market at negotiated prices. First, secondary market trading in SPDRs, because it does not involve the Trust as a party, can not result in dilution of a beneficial owner's investment. Second, to the extent different prices exist during a given trading day, or from day to day, such variances occur as result of third-party market forces, such as supply and demand and interest rates, not as a result of unjust or discriminatory manipulation. Therefore, secondary market trading in SPDRs will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the proposed distribution system will be orderly because arbitrage activity will ensure that the difference between the market price of SPDRs and their net asset value remains narrow. In any event, to the extent section 22(d) was designed to avoid disruption in the distribution system, this provision was designed to protect investment companies and their selling group dealers, not members of the investing public. Applicants contend that they have the right to waive such protection.

5. Section 24(d) of the Act provides, in relevant part, that the prospectus delivery exemption provided to dealer transactions by section 4(3) of the Securities Act does not apply to any transaction in a redeemable security issued by a UIT. Applicants contend that section 24(d) is inapplicable to SPDRs because SPDRs are not redeemable securities. Although SPDRs can be redeemed in Creation Unit-size lots, applicants argue that the substantial dollar amount required to aggregate 50,000 SPDRs represents a formidable barrier for most investors, providing another reason for not viewing SPDRs as redeemable securities for the purposes of section 24(d). Because the applicability of section 24(d) is not free from doubt, however, applicants have requested an exemption from that section to permit dealers trading in SPDRs to rely on the prospectus delivery exemption provided by section 4(3) of the Securities Act. Assuming section 24(d) applies, the exemption is necessary because, according to applicants, the imposition of prospectus delivery requirements on transactions by dealers in the secondary market will materially and adversely impede the success of the SPDRs product.

6. In 1954, when the relevant provisions of section 24(d) were enacted, securities issued by UITs were not typically, if ever, listed on an exchange. Applicants are unable to locate anything in the legislative history that envisions the application of section 24(d) to securities issued by a UIT that are listed on a national securities exchange for trading in the secondary market.

7. Applicants note that the secondary market for SPDRs is significantly different from the typical secondary market for UIT securities, which usually is maintained by the sponsor. SPDRs will be listed on a national securities exchange and will be traded in a manner similar to the shares of common stock issued by operating companies and closed-end investment companies. Dealers selling shares of operating companies and closed-end funds in the secondary market generally are not required to deliver a prospectus to the purchaser. Applicants contend that the SPDRs should be subject to the same regulatory scheme as securities issued by operating companies and closed-end funds.

8. Applicants point out that the Commission has previously determined that exchange listing affects the prospectus delivery requirements applicable to a particular security. As amended in 1988, rule 174 under the Securities Act shortens, from 90 days to 25 days after the offering date, the period during which dealers must deliver a prospectus to secondary market purchasers if the security (like SPDRs) is listed on a national securities exchange as of the offering date. According to the release amending rule 174, Securities Act Release No. 6763 (April 4, 1988): "The existence of regulatory requirements applicable to exchange-listed * * * securities and market processes provide adequate investor protection to permit relaxation of the prospectus delivery requirements. Listing standards, filing and disclosure requirements, and market information requirements assure the availability and timely dissemination of material

information." Applicants contend that SPDRs, as a listed security, meet these criteria and likewise merit a reduction in the unnecessary compliance costs and regulatory burdens resulting from the imposition of prospectus delivery obligations in the secondary market. Because SPDRs will be exchange-listed, prospective investors will have access to several types of information about the product. Information regarding sales price and volume will be continually available on a real time basis throughout the day on brokers' computer screens and other electronic services, such as Quotron. The previous day's price and volume information will be published daily in the financial section of newspapers. The Sponsor also will publish daily, a per SPDR basis, the amount of accumulated dividends, net or accrued expenses. In addition, SPDRs, as a novel, cost-effective, index security, should generate significant interest in the financial community. Applicants expect that broker-dealers and market analysts will familiarize themselves with the product, follow its performance, and share their opinions of the product with clients and other investors, resulting in even greater amounts of available information for investors.

9. In addition to all the information set forth above, investors will receive the Product Description. While not intended to substitute for a full prospectus, the Product Description will contain useful information about SPDRs. Applicants also note that SPDRs will be readily understandable to retail investors as a product that tracks the S&P 500 Index, which is well known to most investors and widely recognized as a performance indicator of the overall securities market.

10. Section 26(a)(2)(C) requires, among other things, that the trust indenture prohibit payments to the trust's depositor (*i.e.*, the Sponsor), and any affiliated person of the depositor, except payments for performing certain administrative services not relevant hereto. Applicants seek an exemption from section 26(a)(2)(C) of the Act to permit the Trust to reimburse the Sponsor or AMEX, up to a maximum of 20 basis points of the Trust's net asset value on an annualized basis, for the following expenses: (a) annual licensing fees for use of the "S&P 500" trademark; (b) federal and state annual registration fees for the issuance of SPDRs; (c) expenses of the Sponsor relating to the printing and distribution of marketing materials describing SPDRs and the Trust (including, but not limited to, associated legal, consulting, advertising, and marketing expenses); and (d) the initial fees and expenses incurred in connection with the organization of the Trust, which will be capitalized and amortized over five years on a straight-line basis.

11. Ordinarily, the sponsor of a UIT has several sources of income, and expenses normally incurred by the sponsor in connection with the creation and maintenance of a UIT can be offset against the income from such sources. As the proposed Trust is structured, however, the usual sources of income are not available because the Sponsor will not impose a sales load, maintain a secondary market, or deposit Index Securities, into the Trust. Although the Sponsor's parent company, the AMEX, will earn some income on the trading fees imposed on transactions occurring on the exchange, applicants expect that such fees will generate substantially less revenue than what would have been generated by a normal sales load or sales charges on secondary market trades of SPDRs. In light of the above, applicants contend that the abuse sought to be remedied by section 26(a)(2)(C)— "double dipping" by UIT sponsors collecting money from their captive trusts on top of the profits already generated by sales charges and other sources of income—will not be present if the requested exemption is granted.

12. Applicants contend that allowing the Trust to reimburse the Sponsor for the foregoing expenses would be no more disadvantageous to beneficial owners of SPDRs than allowing such expenses to be imposed indirectly as offsets to sales loads an other charges, as is done in typical UITs. Moreover, the Trust will pay the Sponsor only its actual out-of-pocket expenses; no component of profit will be included, as is the case where a sales load is imposed. Finally, the payment is capped at 20 basis points of the Trusts net asset value on an annualized basis. Expenses in excess of that figure will be absorbed by the Sponsor.

13. Section 14(a) provides, in part, that no registered investment company may make an initial public offering of its securities unless it has a net worth of $100,000, or provision is made in connection with the registration of such securities that (i) firm agreements to purchase $100,000 worth of such securities will have been made by not more than 25 persons, and (ii) all proceeds, including sales loads, will be refunded to investors if the investment company has a net worth of less than $100,000 within 90 days after the effective date of the registration statement.

14. Rule 14a–3 under the Act provides an exemption from section 14(a) for UITs that invest only in "eligible trust securities" and agree to certain investor safeguards, including the refund of any sales loads collected from investors. Applicants will comply in all respects with rule 14a–3, except that it will not restrict its investments to eligible trust securities, which do not include equity securities, and it will not refund the Transaction Fee discussed above. The fact that the Trust's portfolio is invested in equity rather than debt securities, applicants contend, does not negate the effectiveness of the safeguards nor subject investors to greater risk of loss due to investment in an undercapitalized investment company Applicants cite several prior orders granting relief from section 14(a) for UITs investing in equity securities. With respect to the Transaction Fee, applicants assert that it is not a sales load, and therefore is not covered by the refund provision. In any event, the Transaction Fee will be paid not by small retail investors but by institutional and other sophisticated, well-capitalized investors who can afford the $2 million purchase price of a Creation Unit. Such investors are able to assume the risk, which will be disclosed in the prospectus, of forfeiting the relatively small additional amount represented by the Transaction Fee.

15. Section 17(a) generally prohibits an affiliated person of a registered investment company from purchasing from or selling to such company any security or other property. Because purchases and redemptions will be "in-kind" rather than cash transactions, section 17(a) may prohibit affiliated persons of the Trust from purchasing or redeeming Creation Units. Moreover, because the definition of affiliated person includes anyone owning five percent or more of an issuer's outstanding voting stock, every purchaser of a Creation Unit will be affiliated with the Trust so long as fewer than twenty Creation Units are extant. Applicants seek an exemption from section 17(a) of the Act pursuant to sections 6(c) and 17(b), to permit affiliated persons of the Trust to purchase and redeem Creation Units.

16. Applicants contend that no usefull purpose would be served by prohibiting affiliated persons from a making "in kind" purchases or "in kind" redemptions of Creation Units. The composition of the Portfolio Deposit deposited by a purchaser or given to a redeemer will be the same regardless of

the investor's identity, and will be valued pursuant to the same objective standards applied to valuing the Trust's portfolio securities. Thus, "in kind" purchases and redemptions will afford no opportunity for affiliated person to effect a transaction detrimental to the other holders of SPDRs. Applicants believe that "in kind" purchases and redemptions will not result in abusive self-dealing or overreaching by affiliated persons of the Trust.

17. Applicants request an order pursuant to rule 17d–1 that would permit the Trust to reimburse the Sponsor or the AMEX for the payment by either such party to Standard & Poor's of the annual fee required under a license agreement. The license agreement allows applicants to use the S&P 500 Index as a basis for SPDRs and to use certain of Standard & Poor's trademark rights. Applicants believe that relief is necessary because the Trust's undertaking to reimburse the Sponsor (an affiliated person of the Trust), and/or the AMEX (an affiliated person of the Sponsor) arguably constitutes a joint enterprise or joint arrangement in which the Trust is a participant, in contravention of section 17(d) and rule 17d–1.

18. Applicants contend that the terms and provisions of the license agreement were negotiated at arms length and that the annual license fee is for fair value, bargained for in good faith and, to the best of their knowledge, is an amount comparable to that charged for similar arrangements. Applicants submit that the proposed transaction will result in an arrangement wherein the participants deal with each other in a manner similar to, and no less advantageous than, others who might be similarly situated.

19. Applicants request an exemption from the requirement imposed by section 22(e) of the Act to provide payment or satisfaction of redemptions within seven days following tender of a Creation Unit for redemption. This request is necessary because the Trust's clearing agent, NSCC, clears all trades through its system in five business days and short settlement of trades will not be available in connection with the SPDR clearing process. NSCC is closed for business on certain holidays. If a Beneficial Owner were to tender a Creation Unit for redemption during a seven day period preceding such a holiday, NSCC's five business day settlement system would result in a redemption on the eighth calendar day following tender, resulting in a violation of section 22(e).

20. NSCC is the appropriate institution to provide securities clearing services for the Trust. It is the nation's largest clearing agency, clearing 95% of all domestic equity trades, and has a well-established reputation in the financial community. In addition, the clearance and settlement of five hundred separate securities essentially as a single transaction requires sophisticated clearing services. Applicants have found that NSCC is able to provide these services and has enhanced its existing clearing processes to handle purchases and redemptions of Creation Units. The use of NSCC will provide beneficial owners of SPDRs with state-of-the-art securities handling, clearance, and transfer systems services, which, given the complexity of mirroring the component shares of the S&P 500 Index, is of extreme importance to all such owners.

21. In contrast to other investment companies that provide for "in kind" redemptions on occasion, the Sponsor has determined to incorporate the "in kind" purchase and redemption mechanism for SPDRs into the standard processing cycle for stock clearance and settlement through the continuous net settlement system of NSCC. Because there are no significant additional system or operational procedures needed to redeem SPDRs beyond those already in place for NSCC participants, applicants believe that this approach will make redemptions less costly to administer, enhance the appeal of the product, and thereby promote the liquidity of SPDRs in the secondary market, which will benefit all beneficial owners.

22. The prospectus and all relevant sales literature will disclose that redemption will be effected in five business days following the date on which a request for redemption is made. Given the rationale for what amounts to a delay of one additional day in the redemption process on some occasions, applicants contend that the redemption mechanism described above will not lead to unreasonable, undisclosed, or unforeseen delays in the redemption process.

Applicants' Conditions

Applicants agree that the order granting the requested relief will be subject to the following conditions:

1. Applicants will not register a new series of the Trust, whether identical or similar to Series 1, by means of filing a post-effective amendment to the Trust's registration statement or by any other means, unless Applicants have requested and received with respect to such new series, either exemptive relief from the SEC or a no-action position from the Division of Investment Management of the Commission.

2. Applicants will not seek to have the Trust's registration statement declared effective until after the SEC has approved a new rule change of the AMEX pursuant to rule 19b–4 under the Securities Exchange Act of 1934 to enable the AMEX to list SPDRs and to require AMEX-member broker-dealers effecting transactions in SPDRs to deliver to purchasers the Product Description describing the terms and characteristics of the SPDRs product.

3. The Trust's prospectus and the Product Description will clearly disclose that, for purposes of the Act, SPDRs are issued by the Trust and that the acquisition of SPDRs by investment companies is subject to the restrictions of section 12(d)(1) of the Act.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–23081 Filed 9–22–92; 8:45 am]

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[Rel. No. IC–18958; Int'l Series Release No. 458; 812–7888]

WestLB Finance USA Inc., et al.; Notice of Application

September 16, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: WestLB Finance USA Inc. ("Finance") and Westdeutsche Landesbank Girozentrale ("Landesbank").

RELEVANT ACT SECTIONS: Exemption requested pursuant to section 6(c) from the provisions of subparagraphs (a)(1) and (a)(3) of rule 3a–5 under the Act.

SUMMARY OF APPLICATION: Applicants seek an order under section 6(c) from the provisions of subparagraphs (a)(1) and (a)(3) of rule 3a–5 in connection with the offer and sale of applicant's securities to raise funds for the business operations of its parent company without registering as an investment company.

FILING DATE: The application was filed on March 18, 1992 and amended on June 18, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be

received by the SEC by 5:30 p.m. on October 13, 1992, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, 1211 Avenue of the Americas, New York, New York 10036.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 272–3026, or Nancy M. Rappa, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representatives

1. Finance is a company established under Delaware law as a wholly-owned subsidiary of Landesbank, a bank organized under the laws of the Federal Republic of Germany. Landesbank, a commercial bank, is the largest of nine German state banks and the fifth largest bank in Germany. Landesbank was incorporated in 1969 in the State of North Rhine-Westphalia, Germany ("Rhine-Westphalia"). Landesbank is owned by the regional authorities of the Rhineland and of Westphalia-Lippe, public authorities with responsibility for certain counties, together with the associations of regional savings banks in the same area. These contributors of Landesbank's capital are, in effect, its stockholders, and also by virtue of a statute guarantors of its obligations; they are jointly and severally liable for the obligations of Landesbank, if Landesbank's assets are insufficient to satisfy those obligations. Rhine-Westphalia also is obligated to maintain Landesbank's financial position so that Landesbank always is able to carry out its functions.

2. Applicants state that Landesbank provides, directly or through its subsidiaries, a wide range of banking and investment services in Germany as well as internationally. Landesbank's principal business is the receipt of demand and other deposits, the issuance of bonds and notes, the extension of credit, and the underwriting and dealing in debt and equity securities. Landesbank also is a state and municipal bank for Rhine-Westphalia and its municipalities and is a clearing bank for all savings banks located in North Rhine-Westphalia. In the United States, Landesbank commercial banking services are provided through its New York branch and its Los Angeles and Chicago representative offices, and its investment banking services are provided by two wholly-owned subsidiaries grandfathered under the International Banking Act of 1978: RWS Securities, Inc. and RWS Securities Services Gesellschaft für Wertpapiervermittlung m.b.H. On December 31, 1991, total assets for Landesbank totaled DM 190.1 billion and, for the Landesbank group, DM 205.2 billion.

3. Landesbank is subject to extensive supervision by the Federal Banking Supervisory Authority of Germany, an independent federal authority, and by the Deutsche Bundesbank, or German Federal Central Bank. Applicants state that the regulatory supervision, which relates principally to equity capital ratios, liquidity, foreign exchange limitations, credit diversification, and reserve requirements, is comparable in many respects to the supervision of United States commercial banks. Landesbank files with regulatory authorities financial and compliance statements on a monthly and quarterly basis, and also is required to file annual audited financial statements. Landesbank's United States branch, Westdeutsche Landesbank Girozentrale, New York Branch (the "New York Branch") is licensed by the State of New York and is subject to supervision and regulation by the Superintendent of Banks of the State of New York. The New York Branch is examined by the New York State Banking Department and is subject to banking laws and regulations applicable to a foreign bank that operates a New York branch. As a foreign bank with a United States branch, Landesbank also is subject to federal regulation and supervision under the International Banking Act of 1978, the Foreign Bank Supervision Enhancement Act of 1991, and the Bank Holding Company Act of 1956.

4. Finance is organized under the laws of Delaware. All of its outstanding capital stock is owned by Landesbank. Initially, Finance's sole business will consist of issuing and selling Finance's commercial paper notes (the "Notes") and depositing the net proceeds from the sale thereof (the "Deposits") at the Cayman Islands branch of Landesbank (the "Cayman Branch") pursuant to a deposit agreement (the "Deposit Agreement") to be entered into by Finance, the Cayman Branch, and Landesbank. Finance may in the future issue and sell other debt securities and deposit the net proceeds from the sale thereof at the Cayman Branch in a manner similar to the Deposits or obtain Landesbank's guarantee on such debt securities.

5. Finance proposes to issue and sell in the United States short-term negotiable promissory notes of the type exempt from the registration requirements of the Securities Act of 1933, as amended (the "Securities Act"), by virtue of section 3(a)(3) thereof and generally referred to as commercial paper. The Notes will be sold in minimum denominations of $100,000, will have a maturity not exceeding nine months, and neither will be payable on demand prior to maturity nor eligible for any extension, renewal, or automatic "rollover" at the option of either the holders or Finance. Landesbank and Finance currently do not intend to sell commercial paper notes in the United States in excess of an aggregate amount for Landesbank and Finance of US $2.5 billion at any time outstanding.

6. Substantially all of Finance's assets will consist of a single evidence of indebtedness of the Cayman Branch issued to Finance evidencing Finance's deposits. Under certain provisions of the Deposit Agreement, the Cayman Branch unconditionally agrees to repay to Finance each Deposit made by Finance at the Cayman Branch, including accrued interest thereon, on the maturity date of the Deposit. In the Deposit Agreement, the Cayman Branch waives any right of set-off it may have in respect of the Deposits. In addition, each holder of the Notes ("Noteholders") is assigned as security and granted a security interest in the Deposit and accrued interest corresponding to the Note. If Finance fails to pay a Note in accordance with its terms, the Deposit Agreement entitles the Noteholder to receive payment of the Cayman Branch, together with accrued interest.

7. Each Deposit shall (a) mature and be payable on the maturity date of the corresponding Note issued by Finance, and (b) bear interest at a rate per annum equal to or greater than the effective interest rate of the discount at which such Note is issued. Each Deposit shall be evidenced by an appropriate notation or reference on a master evidence of indebtedness to be issued by the Cayman Branch to Finance, and be held by the issuing and paying agent for the account of Finance.

8. Landesbank confirms expressly in the Deposit Agreement that the aforementioned obligations of the Cayman Branch to Finance and to the Noteholders are its own obligations.

Landesbank in the Deposit Agreement expressly waives any defense available to it against performance of its obligations to the extent that such defenses exist under Cayman Islands law and are based on insolvency, moratorium, liquidation, or similar laws of the Cayman Islands affecting the Cayman Branch, or based on currency or foreign exchange laws of the Cayman Islands or acts of state of the Cayman Islands government relating to expropriation, seizure, or moratorium of payment affecting the Cayman Branch as such or affecting the obligations of the Cayman Branch to repay its deposits in general.

9. To assure that proceeds from the sale of the Notes will be deposited with the Cayman Branch, Finance and the Cayman Branch will enter into an agreement with a commercial bank (the "Commercial Bank") pursuant to which the Cayman Branch will have an operating account with the Commercial Bank (the "Issuing and Paying Agency Agreement"). To this account the payments of the proceeds of the sale of the Notes to the Cayman Branch will be made, and from this account the payments by Finance or the Cayman Branch to the Noteholders will be made by appropriate debits or credits, respectively.[1]

10. The Notes will be offered publicly, through one or more major dealers and by Landesbank directly, only to the types of sophisticated and largely institutional investors that ordinarily participate in the United States commercial paper market. Finance undertakes to insure that each dealer and Landesbank will furnish to each offeree a memorandum describing the business of Landesbank and Finance, and providing the most recent annual audited financial statements for Landesbank, together with a description of the material differences between the German accounting principles utilized in the preparation of the financial statements of Landesbank and generally accepted accounting principles as applied in the United States. The memorandum prepared by each dealer and Landesbank will be updated as promptly as practicable to reflect adverse changes in the financial status of Finance of Landesbank which are material to investors, and will be at least as comprehensive as memoranda customarily used in offering commercial paper in the United States. Finance will appoint a major commercial bank to act as issuing and paying agent for the Notes.

11. Under German law and pursuant to the Deposit Agreement, the repayment obligation of the Cayman Branch with respect to the Deposits is an obligation of Landesbank. Landesbank's obligations regarding its liabilities to Finance will rank at least *pari passu* among themselves and with all other unsecured and unsubordinated indebtedness (including deposit liabilities) of Landesbank and superior to the rights of shareholders; the Noteholders will have a direct cause of action against Landesbank in the event of any default in payment on the Notes.

12. Landesbank, in connection with the offering of the Notes, will submit to the jurisdiction of any state or federal court in the Borough of Manhattan in the City of New York, and will appoint Finance as agent to accept any process which may be served, in any suit, action, or proceedings brought against Landesbank based upon its obligations to Finance as described herein. Such consent to jurisdiction and such appointment of an authorized agent to accept service of process will be irrevocable until all amounts due and to become due with respect to outstanding Deposits and all other outstanding obligations of Landesbank to Finance as described herein have been paid. The authorized agent will not be, or be obligated to act as, a trustee for the Noteholders.

13. Finance may, from time to time, offer other of its debt securities (other than the Notes) or non-voting preferred stock for sale in the United States. The obligations of Finance in respect of any such debt securities and non-voting preferred stock issued by Finance will be supported by Landesbank's guarantee, unless an application is filed seeking to amend any order issued on this application to substitute Landesbank's guarantee with a functional equivalent of a guarantee.

Applicants' Legal Analysis

1. Finance will meet the requirements of rule 3a–5 except that, as set forth herein, the debt securities and any non-voting preferred stock of Finance which may in the future be issued will not be guaranteed in a technical sense by the parent company, as required by subparagraphs (a)(3) and (a)(5), respectively, but rather Landesbank will provide the functional equivalent of a guarantee. The proceeds from the sale of Notes by Finance will be lent to or deposited with the Cayman Branch. The entitlement of the Noteholder to receive payment by the Cayman Branch of the Deposit corresponding to such Note in case of failure of Finance to pay the Note upon maturity, is a sufficient guarantee for the Noteholder. If Landesbank were to issue the Notes directly, it would not be subject to the provisions of the Act pursuant to rule 3a–6. If, in the alternative, Landesbank chooses to use Finance as a financing vehicle, the same policy considerations should apply and Finance should be granted an exemption. The business and fiscal considerations behind Landesbank's desire to use Finance as a financing vehicle to sell the Notes in the United States in no way impinge upon the public policy concerns, such as investor protection, that underlie the Act. Those concerns are satisfied by the parent-subsidiary relationship between Landesbank and Finance and the security interest granted by Landesbank in the Deposits. As a consequence, the Noteholders ultimately will look to Landesbank and payment of the Notes will not depend upon the operations of investment policy of Finance.

2. For reasons discussed below, Landesbank requires the structure of the transaction described in this notice, where the debt obligations of Finance are in a technical sense not unconditionally guaranteed by the parent bank, but the parent bank is directly obligated to pay the Notes of Finance. If Landesbank or one of its branches were to unconditionally guarantee the obligations of Finance to pay the Notes, or to issue a letter of credit supporting the Notes, the funding by the issuance of such Notes would be more costly for Landesbank. Pursuant to the German Federal Banking Law and the regulations of the German Federal Banking Supervisory Authority, Landesbank, in case of a guarantee in a technical sense or a letter of credit, possibly would have to maintain additional liable funds at prescribed

[1] In a letter dated June 22, 1992, applicants' counsel states that the Issuing and Paying Agreement provides that payment by the Noteholders will be effected by wire transfer of funds to the Commercial Bank's account at the Federal Reserve Bank of New York or by delivery to the Commercial Bank of a check drawn to the Commercial Bank's order by another member bank on such Federal Reserve Bank. Finance is required to instruct the Commercial Bank to transfer the proceeds of the sale of commercial paper to the Cayman Branch's account with the Commercial Bank. The Issuing and Paying Agreement states that the Cayman Branch will have exclusive control over the account, and the sole right of withdrawal of funds therefrom. Thus, according to applicants' counsel, Finance will have no opportunity to channel the investor's funds away from the investor, the Commercial Bank, and Landesbank. Once the investor pays for the paper, the funds are in the Commercial Bank's account with the Federal Reserve, and must flow from there into the Cayman Branch's account with the Commercial Bank as a Deposit. At that moment the investor has a right of action against Landesbank under his or her security interest in the Deposit.

levels corresponding to the amount of the outstanding Notes of Finance guaranteed by Landesbank. Such additional funds would not have to be maintained if Landesbank itself would issue such notes, and need not be maintained under the proposed structure. In addition, the structure further reflects the agent-principal relationship between Landesbank and Finance for purposes of Federal tax law, whereby Finance will not be taxed on the imputed margin on the deposits, but rather on the fee-based compensation. Absent an exemption, Landesbank would be denied efficient access to this dollar-dominated commercial paper market

Applicants' Undertakings

Applicants have agreed to the following undertakings which would be imposed as conditions to any order granted on the application:

1. Landesbank will confirm expressly in the Deposit Agreement that the aforementioned obligations of the Cayman Branch to Finance and the Noteholders are Landesbank's own obligations.

2. Finance and the Cayman Branch will enter into an Issuing and Paying Agency Agreement with a commercial bank pursuant to which the Cayman Branch will have an operating account with such commercial bank. To this account the payments of the proceeds of the sale of the Notes to the Cayman Branch will be made, and from this account the payments by Finance or the Cayman Branch to the Noteholders will be made by appropriate debits or credits, respectively.

3. In the event of a default in payment of principal or interest (or any other payments provided for in the Notes) on any debt securities issued by Finance, the Noteholders will not only be entitled to receive payments by the Cayman Branch or Landesbank of the Deposit corresponding to such Note but may also enforce such rights in the competent courts against the Cayman Branch or Landesbank without first proceeding against Finance.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-23082 Filed 9-22-92; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice 1702]

Public Information Collection Requirements Submitted to OMB for Review

AGENCY: Department of State.

ACTION: The Department of State has submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, 44 U.S.C. chapter 35.

SUMMARY: In order to extend the benefits of diplomatic immunity under the Vienna Convention on Diplomatic Relations, 1961 and the Vienna Convention on Consular Relations, 1963 and to issue official identification cards, the Department of State must obtain information from foreign government representatives concerning the appointment and termination of diplomatic and consular officers, foreign government employees and their dependents in the United States. The following summarizes the information collection proposals submitted to OMB:

1. Type of request—Reinstatement.
   Originating office—Office of Protocol.
   Title of information collection—Notification of Appointment of Foreign Diplomatic and Career Consular Officer.
   Frequency—On occasion.
   Form Number—DSP-110.
   Respondents—Foreign government representatives.
   Estimated number of respondents—2,000.
   Average hours per response—30 minutes.
   Total estimated burden hours—1,000.
2. Type of request—Reinstatement.
   Originating office—Office of Protocol.
   Title of information collection—Notification of Appointment of Foreign Government Employee.
   Frequency—On occasion.
   Form Number—DSP-111.
   Respondents—Foreign government representatives.
   Estimated number of respondents—5,000.
   Average hours per response—30 minutes.
   Total estimated burden hours—2,500.
3. Type of request—Reinstatement.
   Originating office—Office of Protocol.
   Title of information collection—Notification of Appointment of Honorary Consular Officer.
   Frequency—On occasion.
   Form Number—DSP-112.
   Respondents—Foreign government representatives.
   Estimated number of respondents—200.
   Average hours per response—30 minutes.
   Total estimated burden hours—100.
4. Type of request—Reinstatement.
   Originating office—Office of Protocol.
   Title of information collection—Notification of Dependents of Diplomatic, Consular and Foreign Government Employees (Continuation Sheet).
   Frequency—On occasion.
   Form Number—DSP-114.
   Respondents—Foreign government representatives.
   Estimated number of respondents—7,000.
   Average hours per response—10 minutes.
   Total estimated burden hours—840
5. Type of request—Existing without OMB Control No.
   Originating office—Office of Protocol.
   Title of information collection—Notification of Change, Identification Card Request.
   Frequency—On occasion.
   Form Number—DSP-113.
   Respondents—Foreign government representatives.
   Estimated number of respondents—5,000.
   Average hours per response—10 minutes.
   Total estimated burden hours—600.
6. Type of request—Reinstatement.
   Originating office—Office of Protocol.
   Title of information collection—Notification of Termination of Diplomatic, Consular or Foreign Government Employment.
   Frequency—On occasion.
   Form Number—DSP-115.
   Respondents—Foreign government representatives.
   Estimated number of respondents—6,000.
   Average hours per response—10 minutes.
   Total estimated burden hours—720.

44 U.S.C. 3504(h) does not apply, as no rulemaking is being conducted in connection with this information collection.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed forms and supporting documents may be obtained from Gail J. Cook (202) 647-3538. Comments and questions should be directed to (OMB) Lin Liu (202) 395-7340.

Dated: September 11, 1992

Philip Tinney,

Acting Assistant Secretary for Diplomatic Security.

[FR Doc. 92-23005 Filed 9-22-92; 8:45 am]

BILLING CODE 4710-43-M

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

Advisory Board; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Advisory Board of the Saint Lawrence Seaway Development Corporation, to be held at 4:30 p.m., October 19, 1992, in Milwaukee, Wisconsin at the Pfister Hotel, 424 East Wisconsin Avenue, Milwaukee, Wisconsin 53202. The agenda for this meeting will be as follows: Opening Remarks; Consideration of Minutes of Past Meeting; Review of Programs; Business; and Closing Remarks.

Attendance at meeting is open to the interested public but limited to the space available. With the approval of the Administrator, members of the public may present oral statements at the meeting. Persons wishing further information should contact not later than October 12, 1992, Marc C. Owen, Advisory Board Liaison, Saint Lawrence Seaway Development Corporation, 400 Seventh Street, SW., Washington, DC 20590; 202-366-0091.

Any member of the public may present a written statement to the Advisory Board at any time.

Issued at Washington, DC on September 16, 1992.

Marc C. Owen,

Advisory Board Liaison.

[FR Doc. 92-23007 Filed 9-22-92; 8:45 am]

BILLING CODE 4910-61-M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC-54; OTS No. 1313]

Ogden First Federal Savings and Loan Association, Ogden, UT; Final Action; Approval of Conversion Application

Notice is hereby given that on August 13, 1992, the designee of the Chief Counsel, Office of Thrift Supervision, acting pursuant to the authority delegated to him, approved the application of Ogden First Federal Savings and Loan Association, Ogden, Utah, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1776 G Street, NW., Washington, DC, 20552, and the Office of Thrift Supervision, Seattle Area Office, 2201 Sixth Avenue, suite 1500, Seattle, Washington 98121.

Dated: September 18, 1992.

By the Office of Thrift Supervision,

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92-23091A Filed 9-22-92; 8:45 am]

BILLING CODE 6720-01-M

RESOLUTION TRUST CORPORATION

Coastal Barrier Improvement Act; Property Availability; Falcon Crest Ranch II, San Diego County, CA

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as Falcon Crest Ranch II, located near the City of El Cajon, San Diego County, California, is affected by section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written notices of serious interest to purchase or effect other transfer of the property may be mailed or faxed to the RTC until December 22, 1992.

ADDRESSES: Copies of detailed descriptions of the property, including maps, can be obtained from or are available for inspection by contacting the following person: Mr. E. Ted Hine, Resolution Trust Corporation, 4000 Mac Arthur Boulevard, East Tower, Suite 315, Newport Beach, CA 92660-2516, (714) 263-4648, Fax (714) 852-7766.

SUPPLEMENTARY INFORMATION: The Falcon Crest Ranch II property is located in an unincorporated area east of the City of El Cajon in eastern San Diego County, California. The site is situated at Broad Oaks, Creek Hills and El Capitan Real Roads which are linked to Interstate Highway 8 by Blossom Valley Road. The property has recreational value and is adjacent to the Cleveland National Forest and El Capitan Reservoir which are located immediately to the northeast. The property is covered property within the meaning of section 10 of the Coastal Barrier Improvement Act of 1990, Public Law 101-591 (12 U.S.C. 1441a-3).

Characteristics of the property include: The property consists of approximately 605 acres of undeveloped land and is dominated by a ridge-line running along the northwestern side of the property which drops off to the San Diego River Valley. The southern portion of the site is characterized by a shallow bowl shaped valley cut by two primary drainages from the ridge to the north. The vegetation on the property consists of mixed chaparral (approximately 315 acres), Diegan coastal sage scrub (approximately 260 acres), and southern oak woodland (approximately 30 acres).

Property size: Approximately 605 acres.

Written notice of serious interest in the purchase or other transfer of the property must be received on or before December 22, 1992 by the Resolution Trust Corporation at the address stated above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;

2. Agencies or entities of State or local government; and

3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest to purchase or effect other transfer of the property must be submitted by December 22, 1992 to Mr. E. Ted Hine at the above **ADDRESSES** and in the following form:

Notice of Serious Interest

RE: Falcon Crest Ranch II

Federal Register Publication Date: September 23, 1992.

1. Entity name.

2. Declaration of eligibility to submit Notice under criteria set forth in Coastal Barrier Improvement Act of 1990, Public Law 101-591, section 10(b)(2), (12 U.S.C. 1441a-3(b)(2)).

3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).

4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.

5. Authorized Representative (Name/Address/Telephone/Fax).

Dated: September 17, 1992.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Secretary.

[FR Doc. 92-22993 Filed 9-22-92; 8:45 am]

BILLING CODE 6714-01-M

Coastal Barrier Improvement Act; Property Availability; Harmony Road, Larimer County, CO

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as Harmony Road, located in the City of Fort Collins Larimer County, Colorado, is affected by section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written notices of serious interest to purchase or effect other transfer of the property may be mailed or faxed to the RTC until December 22, 1992.

ADDRESSES: Copies of detailed descriptions of the property, including maps can be obtained from or are available for inspection by contacting the following person: The Harmony Road Corporation, c/o The Beverly Group, Inc., Daniel D. Ryan, 910 Fifteenth Street, suite 940, Denver, CO 80202, (303) 595–9226, Fax (303) 595–8121.

SUPPLEMENTARY INFORMATION: The Harmony Road property consists of two parcels known as the Seven Springs Ranch and the Hahn Farm which are located in the City of Fort Collins, Larimer County, Colorado. The Harmony Road property is situated at the Southwest corner of Taft Hill Road and Harmony Road and extends between South Shields Street and Taft Hill Road. The property contains wetlands, the federally endangered bald eagle, and has recreational value. The site is adjacent to a bike and foot path which is managed by the City of Fort Collins for recreational purposes. The property is covered property within the meaning of section 10 of the Coastal Barrier Improvement Act of 1990, Public Law 101–591 (12 U.S.C. 1441a–3).

Characteristics of the property include: The property consists of approximately 580 acres of undeveloped land between the Horsetooth Reservoir Recreation Area and Fossil Creek Reservoir. The vegetation on the site is characterized as native grassland and the Fossil Creek drainage is contiguous with the property. The native grasslands on the property are considered critical to the support of a healthy prairie dog population which in turn supports the bald eagles and other rare raptors along the Fossil Creek wetlands corridor.

Property size: Approximately 580 acres.

Written notice of serious interest in the purchase or other transfer of the property must be received on or before December 22, 1992, by the Resolution Trust Corporation at the address stated above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;

2. Agencies or entities of State or local government; and

3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest to purchase or effect other transfer of the property must be submitted by December 22, 1992, to the Harmony Road Corporation at the above **ADDRESSES** and in the following form:

Notice of Serious Interest

Re: Harmony Road

Federal Register Publication Date: September 23, 1992.

1. Entity name.

2. Declaration of eligibility to submit Notice under criteria set forth in Coastal Barrier Improvement Act of 1990, Public Law 101–591, section 10(b)(2), (12 U.S.C. 1441a–3(b)(2)).

3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).

4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.

5. Authorized Representative (Name/Address/Telephone/Fax).

Dated: September 17, 1992.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Secretary.

[FR Doc. 92–22994 Filed 9–22–92; 8:45 am]

BILLING CODE 6714–01–M

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information:

(1) The title of the information collection, and the Department form number(s), if applicable;

(2) A description of the need and its use;

(3) Who will be required or asked to respond;

(4) An estimate of the total annual reporting hours, and recordkeeping burden, if applicable;

(5) The estimated average burden hours per respondent;

(6) The frequency of response; and

(7) An estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233–3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before October 23, 1992.

Dated: September 11, 1992.

By direction of the Secretary.

Donald R. Howell,

Chief, Information Management Division.

Revision

1. Offer to Purchase and Contract of Sale, VA Form 26–6705, Credit Statement of Prospective Purchaser, VA Form 26–6705b, and Addendum to VA Form 26–6705 Offer to Purchase and Contract of Sale, VA Form 26–6705C.

2. VA Form 26–6705 serves as an offer to purchase and contract of sale for submitted purchase offers to VA on properties acquired through operation of the guaranteed and direct loan programs. VA Form 26–6705b is used to collect credit and income information necessary to determine whether an applicant qualifies to purchase a VA-owned property. VA Form 26–6705C is an addendum used to simplify the selection process among competing offers and ensure that the offer selected provides the greatest value to VA.

3. Individuals or households; Small businesses or organizations.

4. 64,166 hours.

5. 14 minutes.

6. On occasion.

7. 267,500 respondents.

[FR Doc. 92–23046 Filed 9–22–92; 8:45 am]

BILLING CODE 8320–01–M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information:

(1) The title of the information collection, and the Department form number(s), if applicable;

(2) A description of the need and its use;

(3) Who will be required or asked to respond;

(4) An estimate of the total annual reporting hours, and recordkeeping burden, if applicable;

(5) The estimated average burden hours per respondent;

(6) The frequency of response; and

(7) An estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Ann Bickoff, Veterans Health Administration (161B3), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 (202) 535–7407.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before October 23, 1992.

Dated: September 11, 1992.
By direction of the Secretary.

Donald R. Howell,

Chief, Information Management Division.

Reinstatement

1. Funeral Arrangements, VA Form 10–2065; Application for Medical Benefits, VA Form 10–10; Insurance Information, VA Form 10–10I; and Financial Worksheet, VA Form 10–10F.

2. The forms are used to record funeral arrangements, determine eligibility for medical, complete claims to health insurance carriers to recover the cost of medical care furnished to veterans for treatment for nonservice-connected conditions, and determine the eligibility of other veterans who must certify their inability to defray the cost of needed medical care.

3. Individuals or households.

4. 3,212,738 hours.

5. 27 minutes.

6. On occasion; Annually; One time.

7. 7,200,850 respondents.

[FR Doc. 92–23047 Filed 9–22–92; 8:45 am]

BILLING CODE 8320–01–M

Prosthetics Services Advisory Committee; Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the Department of Veterans Affairs Prosthetics Services Advisory Committee has been renewed for a 2-year period beginning September 1, 1992, through September 1, 1994.

Additionally, the name of this Committee has been changed from Prosthetics Services Advisory Committee to Advisory Committee on Prosthetics and Special-Disabilities Programs.

Dated: September 15, 1992.
By direction of the Secretary.

Diane H. Landis,

Committee Management Officer.

[FR Doc. 92–23051 Filed 9–22–92; 8:45 am]

BILLING CODE 8320–01–M

Scientific Review and Evaluation Board for Rehabilitation Research and Development; Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the Department of Veterans Affairs Scientific Review and Evaluation Board for Rehabilitation Research and Development has been renewed for a 2-year period beginning September 9, 1992, through September 9, 1994.

Dated: September 15, 1992.
By direction of the Secretary.

Diane H. Landis,

Committee Management Officer.

[FR Doc. 92–23050 Filed 9–22–92; 8:45 am]

BILLING CODE 8320–01–M

Privacy Act of 1974; Addition of Routine Use Statement

AGENCY: Department of Veterans Affairs.

ACTION: Notice is hereby given that the Department of Veterans Affairs (VA) is considering adding a routine use statement for the system of records entitled Compensation, Pension, Education and Rehabilitation Records—VA (58 VA 21/22) as set forth in **Federal Register** publication, "Privacy Act Issuances," 1989 Compilation, Volume II, pages 918–922 as amended at 55 FR 28508, July 11, 1990; 55 FR 42540, October 19, 1990; 56 FR 15667, April 17, 1991; 56 FR 16354, April 22, 1991; and 57 FR 12374, April 9, 1992.

The purpose of this additional routine use is to allow VA to disclosure to the Department of the Navy information from the files of veterans whose claims were referred to VA Central Office for an advisory opinion concerning their claims that their disabilities were incurred secondary to occupational radiation exposure. The information furnished to the Navy would include relevant claims data, medical opinions, dose estimates, advisory opinions, and rating decisions.

The Department of the Navy requested this information for use as a feedback system to review and assess their occupational radiation exposure controls and training. They intend to publish summary data pertaining to the number of claims filed, types of diseases listed, and final disposition of these claims on an annual basis, but will not redisclose personal identifying information protected by the Privacy Act.

VA is proposing to allow disclosure to the Department of the Navy of data including names, addresses, VA claim number, Social Security number, disability data and any other information contained in medical opinions, dose estimates, advisory opinions, and rating decisions from claims submitted to VA Central Office for advisory opinions re claims that their disabilities were incurred secondary to occupational radiation exposure. The information may be released to the Department of the Navy only upon receipt of their official written request.

To provide the information requested by the Department of the Navy, VA is proposing to add a routine use statement. A proposed new routine use number of 56 is added to this system of records. This release of information will facilitate the ability of the Department of the Navy to review and assess their occupational radiation exposure controls and training.

VA has determined that release of information under the circumstances described above is a necessary and proper use of information in this system of records and that a specific routine use for transfer of this information is appropriate.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed amended routine use statements to the Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. All relevant material received before October 23, 1992, will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30

p.m., Monday through Friday (except holidays) until November 2, 1992. Any person visiting the Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 170. Visitors to VA field stations will be informed that the records are available for inspection only in Central Office and will be furnished the above address and room number.

If no public comment is received during the 30-day review period allowed for public comment or unless otherwise published in the Federal Register by the Department of Veterans Affairs, the new routine use statement to 58 VA 21/22 included herein is effective October 23, 1992.

Approved: September 14, 1992.

Edward J. Derwinski,

Secretary of Veterans Affairs.

Notice of Addition to Routine Use Statements

In the system identified as 58 VA 21/22, "Compensation, Pension, Education and Rehabilitation records—VA" as set forth in Federal Register publication, Privacy Act Issuances," 1989 Compilation, Volume II, pages 918–922 the following changes are made:

58 VA 21/22

SYSTEM NAME:

Compensation, Pension, Education and Rehabilitation Records—VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

56. Any information contained in the files of veterans whose claims were referred to VA Central Office for an advisory opinion concerning their claims that their disabilities were incurred secondary to occupational radiation exposure may be disclosed to the Department of the Navy. The information to be furnished to the Navy would include the medical opinions, dose estimates, advisory opinions, and rating decisions including veterans' names, addresses, VA claim numbers, Social Security numbers and medical information. The requested information may be disclosed to the Department of the Navy upon receipt of their official written request for such information for their use in the review and assessment of their occupational radiation exposure controls and training.

* * * * *

[FR Doc. 92–23045 Filed 9–22–92; 8:45 am]

BILLING CODE 8320–01–M

Federal Register

Wednesday
September 23, 1992

Part II

Department of Transportation

Coast Guard

Lists of Ports and Terminals Holding Certificates of Adequacy; Notice

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 92-047]

Lists of Ports and Terminals Holding Certificates of Adequacy

AGENCY: Coast Guard, DOT.

ACTION: Notice of holders of Certificates of Adequacy.

SUMMARY: This document publishes lists of all U.S. ports and terminals holding valid Certificates of Adequacy (COAs) issued as evidence that their facilities meet the requirements of Annexes I, II, and V of the 1978 Protocol to the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78). These lists themselves meet the requirements of the Act to Prevent Pollution from Ships (the Act) and of regulations issued under it, to aid owners, operators, and agents of ships in locating ports and terminals with facilities capable of accepting residues and mixtures containing oil or noxious liquid substances (NLSs), or of accepting garbage from seagoing ships. The Coast Guard expects that readier access to these facilities by ships will reduce discharge of oil, NLSs, and garbage into the marine environment.

EFFECTIVE DATE: This notice is effective on September 23, 1992. The lists in this notice include all COAs issued and effective as of August 15, 1992.

FOR FURTHER INFORMATION CONTACT: Ensign Claudia C. Gelzer, Marine Environmental Protection Division (G-MEP), (202) 267-0518.

SUPPLEMENTARY INFORMATION: Table I, published below, consists of a list of ports and terminals holding valid COAs issued under 33 CFR part 158, Subpart B (Criteria for Reception Facilities: Residues and Mixtures Containing Oil). The list provides the names, locations, telephone numbers, and quantities of oily wastes that they can accept. The ports and terminals that have "O" entered in the column under "Daily Capacity of Reception Facility" are small facilities in remote, rugged areas that receive only a few ships operating in a dedicated trade. To comply with the intent of MARPOL 73/78 and of the regulations, ships visiting these ports and terminals have agreed to discharge their oily waste at other ports, where adequate facilities are available.

Table II, published below after Table I, consists of a list of ports and terminals holding valid COAs issued under 33 CFR part 158, Subpart C (Criteria for Certifying That a Port's or Terminal's Facilities Are Adequate for Receiving NLS Residue). The list provides the names, locations, telephone numbers, and quantities of various categories of NLS waste that they can accept. (A list relating names of cargoes to, among other things, their Pollution Categories under Annex II appears in 46 CFR part 153, Table I.) The ports and terminals that have no amounts entered under the column "Daily Capacity," receive only ships that do not require any prewashing of their cargo tanks.

Table III, published below after Table II, consists of a list of ports and terminals holding valid COAs issued under 33 CFR part 158, Subpart D (Criteria for Adequacy of Reception Facilities: Garbage). The list provides the names, locations, and telephone numbers of the facilities.

Definitions of the terms used in these lists appear in 33 CFR 158.120.

Dated: September 15, 1992.

R.C. North,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.

TABLE I.—TERMINALS/PORTS ISSUED ANNEX I CERTIFICATES OF ADEQUACY

State	City	Terminal name	Area	Phone	Daily capacity of reception facility (metric tons)	Oily residue transfer rate (GPM)	Oily ballast transfer rate (GPM)
	Isla Grande	Isla Grande Pier	809	724-2340	30000	100	100
	Guayanilla	Texaco Guayanilla	809	836-3060	4545	80	80
AK	Angoon	Angoon Ferry Terminal	907	465-3946	0	0	0
AK	Angoon	Port of Angoon Alaska	907	788-3653	0	0	
AK	Clark Bay	Clark Bay Ferry Terminal	907	465-3946	0	0	
AK	Craig	Port of Craig Alaska	907	826-3275	0	0	
AK	Excursion Inlet	Excursion Inlet Packing Co	907	586-4244	0	0	
AK	Haines	Haines	907	766-2448	0	0	
AK	Haines	Haines Army Terminal	907	766-2357	0	0	
AK	Haines	Haines Ferry Terminal	907	465-3946	0	0	
AK	Hobart Bay	Hobart Bay Logging Camp	907	225-2675	0	0	
AK	Hollis	Hollis Ferry Terminal	907	465-3946	0	0	
AK	Homer	Port of Homer	907	235-8597	447	100	
AK	Hoonah	Hoonah Ferry Terminal	907	465-3946	0	0	
AK	Hoonah	Port of Hoonah Alaska	907	945-3670	0	0	
AK	Hydaburg	Hydaburg	907	285-3761	0	0	
AK	Juneau	Alaska Mariner Highway System	907	465-3955	1607	250	250
AK	Juneau	Auke Bay Ferry Terminal	907	465-3946	0	0	
AK	Juneau	City and Borough of Juneau	907	586-5255	20	30	
AK	Juneau	Union Oil Juneau, Alaska	907	586-1276	0	0	
AK	Kake	Kake Ferry Terminal	907	465-3946	0	0	
AK	Kake	Port of Kake Alaska	907	785-3804	0	0	
AK	Kasaan	Port of Kasaan Alaska	907	542-2212	0	0	
AK	Kenai	Kenao Pipeline Co. Mikiski Term	907	776-8161	642	500	5950
AK	Kenai	Tesoro Alaska Petroleum Co	907	776-8191	354	500	6000
AK	Kenai	Unocal Chem Division	907	776-8121	590	30	
AK	Ketchikan	Chevron USA Ketchikan	907	225-2106	20	400	400
AK	Ketchikan	City Docks	907	225-3111	20	400	400
AK	Ketchikan	Ketchikan Ferry Terminal	907	465-3946	0	0	
AK	Ketchikan	Unocal	907	225-4176	20	600	600
AK	Klawock	Port of Klawock Alaska	907	755-2261	0	0	
AK	Metlakatla	Annette Island Packing	907	866-4661	0	0	
AK	Metlakatla	Metlakatla Ferry Terminal	907	465-3946	0	0	
AK	Metlakatla	Port of Metlakatla Alaska	907	886-4646	0	0	

TABLE I.—TERMINALS/PORTS ISSUED ANNEX I CERTIFICATES OF ADEQUACY—Continued

State	City	Terminal name	Area	Phone	Daily capacity of reception facility (metric tons)	Oily residue transfer rate (GPM)	Oily ballast transfer rate (GPM)
AK	Pelican	Port of Pelican Alaska	907	735-2202	0	0	
AK	Petersburg	Chevron USA Petersburg	907	772-4251	0	0	
AK	Petersburg	Icicle Seafoods Co	907	772-4294	0	0	
AK	Petersburg	Nelbro Packing Co	907	772-4486	0	0	
AK	Petersburg	Petersburg Ferry Terminal	907	465-3946	0	0	
AK	Petersburg	Port of Petersburg Alaska	907	772-4688	0	0	
AK	Port of	Municipality of Anchorage	907	272-1531	1400	100	
AK	Rig Tender	Puget Sound Tug and Barge Co	907	776-8880	45	50	
AK	Sitka	Port of Sitka	907	465-3439	20	18	
AK	Sitka	Sitka Ferry Terminal	907	465-3946	0	0	
AK	Skagway	Port of Skagway Alaska	907	983-2297	0	0	
AK	Skagway	Skagway Ferry Terminal	907	465-3946	0	0	
AK	Tenakee	Port of Tenakee Springs	907	736-2221	0	0	
AK	Tenakee	Tenakee Springs Ferry Terminal	907	465-3946	0	0	
AK	Wrangell	Wrangell Ferry Terminal	907	465-3946	0	0	
AK	Yakutat	Chevron USA Yukutat	907	784-3411	0	0	
AK	Yakutat	Port of Yakutat Alaska	907	784-3323	0	0	
AK	Valdez	Chevron USA, Inc	907	835-4337	30	N/A	A
AK	Valdez	Port of Valdez	907	835-4313	105		N/A
AK	Valdez	Alaska Marine Highway	907	465-3946	34.2	0	30 GPM
AK	Cordova	City of Cordova Municipal Dock	907	424-3351	95	0	
AK	Valdez	Alaska Pipeline Service Co	907	835-6422	100,000	0	63,000 GAM
AK	Wrangell	Port of Wrangell AK	907	874-3736			
AK	Hawk Inlet	Greens Creek Mining Co	907	789-4171	N/A	N/A	N/A
AK	Dutch Harbor	Petro Marine Services	907	581-1350	161	60	N/A
AK	Unalaska	Ballyhoo Dock	907	581-1254	87.5	60	N/A
AK	Unalaska	Alyeska Seafoods	907	581-1270	161	60	N/A
AK	Akutan	Trident Seafoods, Co	907	698-2211	23.81	30	N/A
AK	Dutch Harbor	American President Lines	907	581-1200	27.32	150	N/A
AK	Dutch Harbor	Delta Western	907	581-1284	35	27	27
AK	Dutch Harbor	East Point Seafoods, Inc	907	581-1225	2	11	N/A
AL	Chicksaw	Mobile-Chicksaw Port Facility	205	456-7648	1587	1050	1050
AL	Jackson Co	Port of Pascagoula	601	762-4041	206	60	100
AL	Mobile	Alabama Dry Dock & Shipbuilding	205	690-7011	2908	200	
AL	Mobile	Alabama State Docks	205	690-6113	4408	1050	1050
AL	Mobile	Amerada Hess Corp	205	456-4688	12000	5000	
AL	Mobile	Mobile Bulk Terminal	205	438-9891	178	300	
AL	Mobile	Mobile River Terminal Co	205	432-3233	4408	1050	
AL	Mobile	Pacific Molasses Co	205	432-8771	4408	1050	
AL	Theodore	Ideal Basic Industries	205	653-5800	4408	1050	
AL	Theodore	Resource Consultants, Inc	205	653-6324	20	1200	1200
AL	Mobile	Louisiana Land & Exploration Co	205	675-7040	206	200	
AS	Pago Pago	South West Marine of Samoa, Inc	684	633-4123	75	50	50
AS	Pago Pago	Port of Pago Pago	684	633-4211			
CA	Alameda	Pennzoil	415	522-4224	450	100	
CA	Benicia	Benicia Port Terminal	707	745-2394	358	100	
CA	Carpinteria	Chevron USA	213	782-1939	0	0	0
CA	Crockett	C&H Sugar	415	772-3918	460	100	
CA	Hunnington	Golden West Refining Co	714	536-8130	2110	0	3500
CA	Long Beach	Copper/T. Smith Stevedoring Co	213	437-3524	459	1200	1200
CA	Long Beach	Domtar Gypsum America Inc	213	436-4611	131	90	
CA	Long Beach	Dow Chemicals USA	213	533-5375	288	80	100
CA	Long Beach	Forest Terminals Corp	213	432-5401	228	1400	1400
CA	Long Beach	Four Corners Pipeline	213	428-9022	7646	280	6720
CA	Long Beach	Gold Bond Building Products	213	435-4465	1309	90	140
CA	Long Beach	International Transportation	213	435-7781	229	200	200
CA	Long Beach	Long Beach Container Terminal	213	435-8585	228	0	61
CA	Long Beach	Maersk Lines Long Beach Pier G	213	435-7706	131	90	
CA	Long Beach	Metropolitan Stevedoring Co	213	830-5340	360	200	200
CA	Long Beach	Ocean Salt Co	213	437-0071	20	70	200
CA	Long Beach	Pacific Coast Cement	213	435-0195	210	70	140
CA	Long Beach	Pacific Container Terminal	213	435-0842	245	0	
CA	Long Beach	Petro-Diamond Terminal Co	213	435-8364	346	253	252
CA	Long Beach	Procter & Gamble Mfg. Co	213	432-6981	346	70	200
CA	Long Beach	Salen Shipping Agencies, Inc	213	436-9961	364	50	250
CA	Long Beach	Standard Fruit & Steamship CP	213	437-3521	2153	50	250
CA	Long Beach	Star Terminal Co Inc	213	436-2273	130	100	100
CA	Long Beach	Stevedoring Services of America	213	432-6477	245	100	
CA	Long Beach	Texaco Refiners & Marketing	213	513-2463	15000	3500	3500
CA	Long Beach	Toyota Motor Sales, USA Inc	213	437-6767	549	300	10
CA	Long Beach	United States Lines, Inc	213	435-3761	228	01400	1400
CA	Los Angeles	Defense Fuel Support Point	213	832-3144	5135	4200	4200
CA	Los Angeles	Indies Terminal Co	213	547-3351	245	0	
CA	Los Angeles	Los Angeles Cruiseship Terminals	213	519-4049	228	200	200
CA	Los Angeles	Matson Terminals Inc	213	519-6438	346	100	100
CA	Los Angeles	Mobil Oil Corporation SW Terminal	213	832-2702	174	350	350
CA	Los Angeles	Overseas Terminal Co	213	832-3341	0	0	

TABLE I.—TERMINALS/PORTS ISSUED ANNEX I CERTIFICATES OF ADEQUACY—Continued

State	City	Terminal name	Area	Phone	Daily capacity of reception facility (metric tons)	Oily residue transfer rate (GPM)	Oily ballast transfer rate (GPM)
CA	Los Angeles	Pasha	213	437-0911	244	90	90
CA	Los Angeles	Penzoil Petroleum Terminal	213	385-0311	346	110	110
CA	Los Angeles	Petrolane, Inc	213	833-5275	2178	200	
CA	Los Angeles	Southern California Outport	213	514-4970	638	90	
CA	Los Angeles	Todd Pacific Shipyards Corp	213	832-3361	346	250	
CA	Los Angeles	Union Oil Co-Supertanker Term	213	832-4519	20	5000	
CA	Los Angeles	UNOCAL Corp	213	513-7600	1200	4200	4200
CA	Los Angeles	Western Oil Fuel Co	213	549-7711	837	70	70
CA	Oakland	Matson Container Terminal	415	271-9819	460	100	
CA	Oakland	Pacific Dry Dock and Repair	415	893-7020	67	400	400
CA	Oakland	Schnitzer Steel Products	415	444-3919	460	100	
CA	Oakland	Sealand Services	415	271-1000	460	100	
CA	Oakland	Stevedoring Services of America	415	271-1800	460	100	
CA	Richmond	Burmah-Castrol Terminal	415	236-6312	30	700	
CA	San Diego	Bay City Marine Inc	619	224-6655	2975	300	500
CA	San Diego	Campbell Industries	619	233-7115	1489	150	150
CA	San Diego	Continental Maritime	619	234-8851	2975	300	300
CA	San Diego	Embarcadero Marine Inc	619	233-6884	1052	250	250
CA	San Diego	National Steel and Ship Building	619	696-7938	3346	300	300
CA	San Diego	Naval Supply Ctr. Pt. Loma Annex	619	225-2355	4738	5600	5600
CA	San Diego	Port of San Diego	619	291-3900	3346	300	300
CA	San Diego	Southwest Marine, Inc	619	238-1000	2975	300	300
CA	San Diego	Tuna Clipper Marine	619	232-1838	1654	300	500
CA	San Francisco	Continental Maritime Inc	415	957-1500	3360	200	200
CA	San Francisco	Baker Commodities Inc	415	282-4188	460	100	
CA	San Francisco	California Stevedore & Ballast	415	826-7100	460	100	
CA	San Francisco	Continental Grain Co	415	824-7177	460	100	
CA	San Francisco	Forest Terminals Inc	415	951-5113	1346	100	
CA	Oakland	Oakland Center Terminal	415	834-5822	460	100	
CA	San Francisco	Pier 70	415	546-9111	460	100	
CA	San Francisco	San Francisco Port Commission	415	391-8000	460	100	
CA	San Pedro	American President Lines	213	432-5991	228	200	200
CA	San Pedro	Chevron USA Inc	213	632-3324	150	1400	1400
CA	San Pedro	Evergreen Terminal	213	519-6942	20	22	
CA	San Pedro	Gatx Terminals Corp	213	547-0881	547	400	
CA	San Pedro	Gatx Tank Storage Terminal	213	547-9655	257	50	
CA	San Pedro	Kaiser International Corp	213	514-2880	346	70	
CA	Terminal	Hugo Neu Proler T1 210	213	775-6626	346	200	200
CA	Wilmington	Berth 200-A	213	830-8181	131	90	90
CA	Wilmington	Berths 180-181, LA Harbor	213	834-3444	0	0	
CA	Wilmington	Cargill Inc	213	830-8231	228	200	20
CA	Wilmington	Gatx LA Marine Terminal	213	835-0187	0	800	
CA	Wilmington	LA Terminals	213	549-5822	228	200	200
CA	Wilmington	Marine Terminal	213	834-7254	7463	1500	
CA	Wilmington	Marine Terminals Corp	213	432-5904	288	1400	1400
CA	Wilmington	Shell Oil Co	213	834-2638	3000	4900	
CA	Wilmington	United Fruit Co	213	834-2631	346	22	22
CA	Wilmington	Wilmington Liquid Bulk Terminals	213	549-0961	500	2100	2100
CA	Wilmington	Champlin Petroleum Co	213	834-7254	7463	1500	
CA	Wilmington	Pacific Molasses Company	213	549-1810	530	200	200
CA	Oakland	Maersk Line	415	398-1515	460	100	
CA	San Francisco	Marine Terminals	415	986-6576	460	100	
CA	Port Hueneme	Port of Hueneme	805	488-3677	1348	417	500
CA	Los Angeles	Texaco Venture Marine Terminal	213	327-0110	2250		3000
CA	Richmond	Pasha Services	415	234-8550	248	150250	
CA	Los Angeles	Southwest Marina, Inc	213	519-0600 Ext.	2,000	100 GPM	130
CA	Wilmington	United States Borax & Chemical Corp	213	835-0121	446	40	40
CA	Los Angeles	Refiners Marketing Co	213	519-7679	1527	62.5	62.5
CA	El Segundo	El Segundo Marine Terminal	213	615-5489	300	1400	1400
CA	Wilmington	Golden Eagle Refining Co. Inc	213	834-4495	15683.40	140	8750
CA	Long Beach	C. Brewer Terminals	213	435-5623	437.5		
CA	San Francisco	Service Engineering Co	415	957-1777	3166	200	200
CT	East Hartford	Andrew Wilgoos Turbine Lab	203	565-3975	90	50	50
CT	East Hartford	Texaco Sales Terminal	203	568-9600	0	0	
CT	East Hartford	The Atlas Oil Company	203	568-7220	0	0	
CT	Groton	Pfizer Inc	203	441-3206	102	150	150
CT	Groton	United Fuel Corp	203	445-4095	1488	250	250
CT	Middletown	Peterson Oil	203	346-7775	0	0	
CT	Middletown	United Technologies Corporation	203	344-4317	273	125	125
CT	New London	New London Terminals Div	203	442-3939	240	115	115
CT	Norwich	Dahl Oil Company	203	889-3525	0	0	
CT	Norwich	Lehigh Oil Company	203	889-1311	0	0	
CT	Norwich	State of CT Norwich Hospital	203	889-7361	0	0	
CT	Portland	Chevron Asphalt	203	342-1440	408	115	115
CT	Portland	Rocky Hill Oil Co., Inc	203	563-8123	30	133	133
CT	Rocky Hill	F.L. Roberts & Co., Inc	203	529-6821	0	0	
CT	Wethersfield	Amerada Hess Wethersfield	203	529-7781	0	0	

TABLE I.—TERMINALS/PORTS ISSUED ANNEX I CERTIFICATES OF ADEQUACY—Continued

State	City	Terminal name	Area	Phone	Daily capacity of reception facility (metric tons)	Oily residue transfer rate (GPM)	Oily ballast transfer rate (GPM)
CT	Wethersfield	Northeast Petroleum	203	529-3299	0	0	
DE	Deleware City	Texaco R&M Inc De City Plant		302-834-6205	27,000	21,000 GP	5,000 GPM
DE	Wilmington	Sico Company		302-654-3177	264 MT	100 GPM	N/A
FL	Dania	Port Denison	305	920-2581	189.6	100	100
FL	Ft. Lauderdale	Port Everglades	305	523-3404	5380	150	100
FL	Ft. Lauderdale	Tracor Marine, Inc	305	463-1211	77	200	200
FL	Ft. Pierce	Ft. Pierce	305	464-5600	120	50	50
FL	Ft. Pierce	Indian River Terminal Company	305	465-7700	113.51	200	200
FL	Jacksonville	Amerada Hess Corporation	904	757-4498	281	50	500
FL	Jacksonville	Amoco Oil Co	904	757-5706	61	125	207
FL	Jacksonville	Bellinger Shipyard	904	221-0981	1336	90	100
FL	Jacksonville	Celotex Corporation	904	751-4400	1458	207.5	312.5
FL	Jacksonville	Chevron U.S.A. Inc	904	353-1094	368	207.5	312.5
FL	Jacksonville	Commodores Ponts Terminal Corp	904	353-0828	2934	90	150
FL	Jacksonville	Jacksonville Port Authority	904	633-5140	1458	207	312
FL	Jacksonville	Naval Supply Center Jacksonville	904	757-5354	2367	150	
FL	Jacksonville	North Florida Shipyard, Inc	904	354-3278	256	50	50
FL	Jacksonville	Phillips Pipeline Co	904	353-6740	122	100	
FL	Jacksonville	Shell Oil Co	904	355-5521	3020	300	
FL	Jacksonville	Trailer Marine Transport Corp	904	354-0352	2720	90	150
FL	Jacksonville	U.S. Gypsum Company	904	768-2501	850	150	150
FL	Key West	Port of Key West	305	294-3721	53.45	67	20
FL	Miami	Port of Miami	305	371-7678	431	150	100
FL	Panama City	Port of Panama City	904	763-8471	4388	1050	
FL	Pensacola	Port of Pensacola	904	436-4270	72	75	100
FL	West Palm	Port of Palm Beach	305	842-4201	3321	150	100
FL	Port St. Joe	Amerada Hess Corp	205	229-6763	1250	2000	3000
FL	Tampa	Hendry Corporation	813	831-1211	1619	100	220
FL	Tampa	Gulf-Tampa Drydock	813	247-3153	179	41.7	41.7
FL	Tampa	International Ship Repair & Marine Ser., Inc	813	247-1118	3113	900	1050
FL	Tampa	West Coast Oil Inc	813	247-1118	3113	900	1050
FL	Tampa	Tampa Electric	813	248-3191	1365	75	150
FL	Tampa	Amoco Oil Company	813	248-3191	1365	75	150
FL	Tampa	American Petrofina of Texas	813	248-3191	1365	75	150
FL	Tampa	Chevron USA, Inc	813	248-3191	1365	75	150
FL	Tampa	Citgo Petroleum Corp	813	248-3191	1365	75	150
FL	Tampa	Florida Power Corp	813	248-3191	1365	75	150
FL	Tampa	Gardinier, Inc	813	248-3191	1365	75	150
FL	Tampa	General Portland Inc	813	248-3191	1365	75	150
FL	Tampa	Gulf Oil Company	813	248-3191	1365	75	150
FL	Tampa	Murphy Oil Company	813	248-3191	1365	75	150
FL	Tampa	Petroleum Packers, Inc	813	248-3191	1365	75	150
FL	Tampa	South States Term. (Gatx)	813	248-3191	1365	75	150
FL	Tampa	Tenco Services, Inc	813	248-3191	1365	75	150
FL	Tampa	Texaco, Inc	813	248-3191	1365	75	150
FL	Tampa	Union Oil Co. of California	813	248-3191	1365	75	150
FL	Tampa	Western Fuels Company	813	248-3191	1365	75	150
FL	Tampa	Tampa Electric Hookers Pt	813	248-3191	1365	75	150
FL	Tampa	Tampa Shipyards	813	247-1183	1050	100	100
FL	Tampa	National Portland Cement Company	813	746-1177	100	10	10
FL	Tampa	Gulf Portland Cement Inc	813	248-2000	1365	75	150
FL	Tampa	Ideal Basic Industries	813	248-3129	1365	150	150
FL	Tampa	CF Industries	813	247-5531	1050	100	100
FL	Tampa	Banana	813	729-5602	1365	75	150
FL	Tampa	Texas Gulf Chemicals Co	813	247-5674	1365	75	150
FL	Tampa	Manatee Terminals, Inc	813	722-7719	1365	75	150
FL	Tampa	Paktank Florida Inc	813	247-5417	1365	75	150
FL	Tampa	Manatee Scrap Processing	813	702-5388	1365	75	150
FL	Tampa	Sulpher Terminals Co., Inc	813	248-4949	1050	100	100
FL	Tampa	W.R. Grace—Port Sutton	813	248-2185	1575	100	100
FL	Tampa	Garrison Terminals, Inc	813	229-1958	1575	100	100
FL	Tampa	Cargill, Inc	813	247-3602	1575	100	100
FL	Tampa	Eller and Co., Inc	813	247-5511	1575	100	100
FL	Tampa	Southern Stevedoring Co	813	223-5461	1365	75	150
FL	Tampa	Southport Stevedores Inc	813	248-6168	1365	75	150
FL	Tampa	International Minerals & Chemicals Corp	813	248-1971	1365	75	150
FL	Tampa	Shell Oil Corp	813	831-1121	1050	100	100
FL	Tampa	Commercial Metals Co	813	248-1918	1050	100	100
FL	Tampa	Eastern Cement Corp	813	729-7311	1365	75	150
FL	Tampa	Eastern Associated Terminals	813	248-5038	1050	100	100
FL	Tampa	Tampa Cement, Inc	813	248-2110	1050	100	100
FL	Tampa	Louisville Scrap Material Co	813	248-2110	1050	100	100
FL	Tampa	Tampa Bulk Services, Inc	813	837-0192	1050	100	100
FL	Tampa	Standard Gypsum	813	837-0192	1365	75	150
FL	Tampa	Sel Maduro Inc	813	223-4721	1050	100	100
FL	Tampa	Gold Bond Building Products	813	839-2111	1050	100	100
FL	Tampa	Tampa Barge Service, Inc	813	247-5408	1065	75	150

TABLE I.—TERMINALS/PORTS ISSUED ANNEX I CERTIFICATES OF ADEQUACY—Continued

State	City	Terminal name	Area	Phone	Daily capacity of reception facility (metric tons)	Oily residue transfer rate (GPM)	Oily ballast transfer rate (GPM)
FL	Tampa	Marathon Petroleum Company	813	248-2878	1365	75	150
FL	Tampa	Tampa Export Company, Inc	813	248-2876	1365	75	150
FL	Tampa	Dravo Basic Materials Co., Inc	813	248-1070	1050	100	100
FL	Tampa	Harborside Refrigerated Services	813	248-6996	1575	100	100
FL	Tampa	Apollo Stevedoring Company, Inc	813	722-0558	1365	75	150
FL	Tampa	Royster Company	813	248-6778	1575	100	100
FL	Tampa	Atlantic Land and Improvement Co	813	248-8111	1050	100	100
FL	Tampa	Sol Walker and Company	813	248-5796	1050	100	100
FL	Tampa	Trans Florida Terminal	813	248-5796	1050	100	100
FL	Tampa	Morton Salt Company	813	248-2715	1050	100	100
FL	Tampa	Florida Power-Boca Grande	813	964-2461	1050	100	100
FL	St. Petersburg	City of St. Petersburg Cruise Terminal	813	893-7654	1365	75	150
FL	St. Petersburg	City of St. Petersburg Cargo Terminal	813	893-7654	1365	75	150
FL	Tampa	Pennzoil Sulpher Co	813	248-3411	1365	75	150
FL	Tampa	Pasco Terminals, Inc	813	248-3411	1365	75	150
FL	Palmetto	Florida Power and Light	813	722-7727	147.6	350	350
FL	Gibsonton	Mitsui and Co USA (International	813	677-8483	1575	100	100
FL	Gibsonton	Agrico Chemical Co	813	677-8404	1575	100	100
FL	Tampa	Bay Terminals and Stevedoring	813	225-2610	1622	150	150
FL	Tampa	G & C Stevedoring	813	223-3139	1622	150	150
FL	Tampa	Seagull Terminal and Stevedoring	813	223-3216	1622	150	150
FL	Jacksonville	U.S. Gypsum Co	904	768-2501	1529	75	100
FL	Jacksonville	Occidental Chemical Corp	904	632-3813	404	150	150
FL	Jacksonville	B.P. Oil Inc	904	757-4650	318	207.5	312.5
FL	Fernandina	Nassau Terminal (Fernandina)	904	261-0753	1550	90	150
FL	Jacksonville	Jacksonville Shipyards, Inc	904	798-3700	4485	400	500
FL	Jacksonville	Witco Chemical Corporation	904	353-0941	6875	150	N/A
FL	Jacksonville	Atlantic Drydock	904	251-3164	97	50	500
FL	Jacksonville	Itapco	904	791-8822	368	240	240
FL	Jacksonville	Coastal Fuels	904	358-6725	850	350	350
FL	Jacksonville	Steuart Petroleum	904	355-9675	122	100	
GA	Brunswick	Brunswick Port Authority	912	265-3700	601	350	440
GA	Brunswick	Georgia Authority	912	264-7295	342	300	350
GA	Brunswick	LCP Chemicals-Georgia	912	265-8560	6563	440	440
GA	Garden City	Gold Bond Building Products	912	964-1561	274	100	100
GA	Garden City	Koch Asphalt Co	912	964-1913	196	300	350
GA	Port Wentworth	Savannah Sugar Refinery	912	964-1361	601	350	440
GA	Port Wentworth	Stone Container Corp	912	964-1271	1312	100	N/A
GA	Savannah	Amoco Oil Company	912	964-6282	601	350	440
GA	Savannah	Belcher Oil Company	912	964-1811	196	300	350
GA	Savannah	Blue Circle Atlantic Inc	912	236-6318	1500	100	N/A
GA	Savannah	Bulk Terminal Management	912	964-2785	1500	100	100
GA	Savannah	Chevron USA	912	232-0184	3111	123	123
GA	Savannah	Colonial Oil Industries, Inc	912	236-1331	347	175	N/A
GA	Savannah	Damond Manufacturing Co	803	233-3003	134	50	50
GA	Savannah	East Coast Terminal Company	912	236-1531	1500	100	N/A
GA	Savannah	Genstar	912	233-4951	1005	123	N/A
GA	Savannah	Georgia Port Authority	912	964-3811	196	300	350
GA	Garden City	Georgia Steamship Company	912	964-0719	7875	120	120
GA	Savannah	Marcona Ocean Industries, Ltd	912	234-5005	340	350	440
GA	Savannah	Occidental Chemical Agricultural	912	964-1214	-196	300	350
GA	Savannah	Panocean Southland Inc	912	964-1811	196	300	350
GA	Savannah	Powell Duffryn Terminals	912	236-1579	3925	100	100
GA	Savannah	Sayler Marine Corp	912	234-2266	123	100	100
GA	Savannah	Union Oil Company	912	233-9266	601	350	440
GA	Wentworth	Atlantic Wood Industries, Inc	912	964-1234	10	350	440
GA	Goleta	Gaviota Marine Terminal	303	866-0419			
GA	Garden City	Koch Asphalt Company	912	964-1913	196	300	350
GA	Savannah	Southern States Phosphate and	912	232-1101			
GA	Savannah	Domtar Gypsum Products Co	912	233-4951	1005	135	N/A
GA	Savannah	Powell Duffryn Terminal, Inc	912	236-1579	3295	100	100
Guam	Piti	Drydock 'AFDL-21'	671	477-7345	185	400	250
Guam	Piti	Port Authority of Guam	671	477-9931-35	10.1	80	100
Guam	Cabras Island	Kaiser Cement Corp	671	477-1530	59.52		13.2
Guam		Guam Oil & Refining Co., Inc	671	565-2921	6,000	3,500	3,500
HI	Honolulu	Honolulu Shipyard			273.4	150	150
HI	Hilo	Hilo Harbor	808	935-4877	105	75	75
HI	Kawaii	Kawaii Harbor	808	935-4877	105	75	75
HI	Honolulu	Honolulu Shipyard	808	848-6262	273	150	150
HI	Ewa Beach	Barbers Pt. Offshore Tanker Terminal	808	682-5711	425	15500	150
HI	Ewa Beach	Hawaii Independent Refinery, Inc	808	682-4505	563	10000	10000
HI	Honolulu	Chevron U.S.A., Inc., Pier 30	808	527-2747	154	500	500
HI	Honolulu	Honolulu Commercial Harbors	808	548-4134	840	100	100
HI	Eleele	Port Allen Harbor	808	245-6996	176	84	84
HI	Kahalui	Port of Kahalui	808	877-6051	105	100	100
HI	Peal Harbor	Navy Supply Center	808	471-0725	333	100	100
HI	Honolulu	Barbers Point Offshore Tanker Terminal	808	682-5711	425		N/A

TABLE I.—TERMINALS/PORTS ISSUED ANNEX I CERTIFICATES OF ADEQUACY—Continued

State	City	Terminal name	Area	Phone	Daily capacity of reception facility (metric tons)	Oily residue transfer rate (GPM)	Oily ballast transfer rate (GPM)
HI	Ewa Beach	Hawaiian Independent Refinery, Inc	808	682-4505	563	10,000	10,000
HI	Pearl Harbor	Fuel Department	808	471-0725	2,000 BBls	250	250
HI	Kahului	Kahului Harbor	808	877-6051	105.3	100	100
HI	Hilo	Hilo Harbor	808	935-4877	105.3	75	75
HI	Kawaihae	Kawaihae Harbor	808	882-7565	105.3	75	75
HI	Lihue	Nawiliwili	808	245-6996	175.5	84	84
IL	Chicago	International Port District	312	646-4400	294	35	
IN	Portage	Burns International Port	219	787-8636	103	30	
LA	Arabi	Amstar Corporation	504	271-5331	1100	200	N/A
LA	Arabi	Kaiser Aluminum & Chemical	504	271-7046	20	150	150
LA	Baton Rouge	Exxon Company USA	504	359-7518	15000	7700	7,700
LA	Baton Rouge	Formoss Plastics Corp	504	356-3341	6048	50	
LA	Baton Rouge	Port of Greater Baton Rouge	504	387-4207	104,909	88	88
LA	Belle Chasse	Miss. River Grain Elevator	504	656-2213	199	75	75
LA	Belle Chasse	B.P. Oil Inc	504	656-7711	6530	0	10,000
LA	Belle Chasse	Chevron Chemical Co	504	394-4320	50	150	150
LA	Belle Chasse	Dockside Elevators, Inc	504	524-0611	4200	650	650
LA	Burnside	Burnside Terminal	504	473-4245	1175	2500	2,500
LA	Carville	Cos-Mar Company	504	642-5454	180	100	100
LA	Chalmette	Exxon Co, USA	504	359-7605	6000	1400	
LA	Chalmette	Tenneco Oil Company P&M	504	279-9481	100	40	40
LA	Convent	Delta Bulk Terminals	504	524-7105	640	133	133
LA	Convent	Diamond Shamrock	504	562-7402	20	30	30
LA	Convent	Zen-Noh Grain Elevator	504	562-3571	2940	700	700
LA	Darrow	Cooper/T. Smith Stevedoring	504	473-4288	24	60	60
LA	Darrow	River Cement Company	504	473-6748	1581	150	N/A
LA	Davant	Electro-Cal Transfer Corp	504	524-4181	2300	45	500
LA	Destrehan	Bunge Corporation	504	466-5300	595	22	22
LA	Destrehan	St. Charles Grain Elevator Co	504	466-2753	3000	350	350
LA	Destrehan	Tulane Anchorage	504	464-1466	980	1150	1150
LA	Donaldsonville	Agrico Chemical	504	473-4271	150	50	0
LA	Donaldsonville	C & F Industries, Inc	504	473-8291	1200	2450	2450
LA	Donaldsonville	Triad Chemical	504	473-9231	2976	1050	1050
LA	Geismar	Allied Corporation	504	642-8311	180	100	100
LA	Goodhope	GATX Terminal Corp	504	443-2511	802	300	300
LA	Gramercy	Kaiser Aluminum & Chemical Corp	504	525-0460	20	650	N/A
LA	Grameron	Colonial Sugar, Inc	504	529-1102	61	2000	2000
LA	Hackberry	OXY Cities Services N.G.L. Inc	318	762-4201	1699	182	
LA	Hahnville	Becker Industries Corp	504	783-6872	1100	1000	1000
LA	Hahnville	Occidental Chemical Corp	504	783-6611	389	10	350
LA	Hahnville	Union Carbide Corp	504	468-4300	645	100	100
LA	Harvey	BP North America Petroleum, Inc	504	368-2560	4200	1000	1000
LA	Harvey	Delta Commodity, Inc	504	340-4911	199	75	75
LA	Houma	Texas Pipe Line Company	504	876-5645	1250	133	133
LA	Lake Charles	CITGO Pipeline	318	491-6237	11000	2000	5000
LA	Lake Charles	CONOCO	318	491-5855	1670	400	
LA	Lake Charles	Lake Charles Carbon	318	437-3200	31	15	
LA	Lake Charles	Lake Charles Harbor & Terminal	318	439-3661	812	180	700
LA	Lake Charles	Olin Corporation	318	491-3320	1670	400	400
LA	Lake Charles	PPG Industries	318	491-4266	1670	400	400
LA	Lake Charles	Truckline LNG	318	478-9936	1000	100	
LA	Avondale	International Matex	504	436-4466	40	420	N/A
LA	Meraux	Murphy Oil, Inc	504	271-4141	47	35	
LA	New Orleans	Avondale Industries Shipyard	504	436-5165	2350	2000	2000
LA	New Orleans	Buck Kreiks Co	504	524-7681	1400	1000	
LA	New Orleans	Chevron Pipeline Co	504	364-2496	1000	100	N/A
LA	New Orleans	Dixie Machine & Welding Inc	504	581-3088	100	20	20
LA	New Orleans	I.T.O. Corporation	504	899-9544	1200	50	50
LA	New Orleans	Port of New Orleans	504	528-3209	9413	617	6833
LA	New Orleans	Southern Scrap Material Co., Ltd	504	944-3371	3000	350	350
LA	Paulina	Peavey Grain Elevator	504	482-4405	47	100	
LA	Plaquemines	Dow Chemical Corp	504	389-8646	58	21	21
LA	Plaquemines	Georgia Gulf Corp	504	685-2500	159	50	50
LA	Port Sulphur	Freeport Sulphur	504	564-3981	5400	105	105
LA	Port Sulphur	International Marine Terminals	504	656-7341	3000	350	350
LA	Reserve	Godchaux Henderson Sugar, Co	504	536-1161	1200	100	100
LA	St. James	Koch Gathering Systems	504	265-2112	500	1000	1000
LA	St. James	Shell Pipeline Corporation	504	588-4831	1250	100	100
LA	Sulphur	Fredemans Shipyard	318	583-7383	1670	500	500
LA	Uncle Sam	Freeport Chemical Co	504	562-3501	27	100	100
LA	Union	Missouri Portland Cement	504	562-7471	1400	1000	
LA	Westlake	CONOCO	318	491-5222	1050	3500	3500
LA	Westlake	Dravo Basic Materials	318	436-5642	1670	400	
LA	Westlake	Ideal Basic Industries	318	436-7561	20	100	
LA	Westwego	Continental Grain Elevator	504	436-9200	1000	185	1400
LA	Westwego	Gold Bond Building Products	504	341-8596	381	100	
LA	Westwego	Pacific Molasses	504	347-8454	389	60	

TABLE I.—TERMINALS/PORTS ISSUED ANNEX I CERTIFICATES OF ADEQUACY—Continued

State	City	Terminal name	Area	Phone	Daily capacity of reception facility (metric tons)	Oily residue transfer rate (GPM)	Oily ballast transfer rate (GPM)
LA	Westwego	Park Tank	504	623-0000	191	46	
LA	Sunshine	Petrounited Terminals, Inc	504	642-8335	2,205	350	350
LA	AMA	Adm-Growmark System	504	431-8245	10,000	185	
LA	Marrero	Texaco Refining & Marketing, Inc	504	595-6611	150	700	700
LA	Geismar	Shell Chemical Plant	504	473-4261	1,470	75	100
LA	New Orleans	U.S. Gypsum Company	504	241-2020	196	180	180
LA	Reserve	Reserve Elevator Corp	504	568-1036	2,500	1,000	1,000
LA	Garyville	Clark Oil & Refining Corporation	504	535-6256	770	2,100	2,800
LA	Marrero	Amerada Hess Corporation	504	341-9561	12,000	3,000	5,000
LA	Luling	Compass Fleet 122, Inc Anchorage		368-0312	20	1,150	1,150
LA	New Orleans	Algiers Iron Works & Dry Dock Co	504	362-7960	20	100	100
LA	New Orleans	Boland Marine Mfg. Co Inc		944-0223	1,518	100	1,000
LA	Violet	Violet Dock Port Inc	504	682-8528	1,250	50	50
LA	Garyville	Marathon Petroleum Co	504	535-2241	12,000	140,000	140,000
LA	Reserve	Cargill-Terre Haute	504	467-4126	3,163.13	750	750
LA	Convent	Cargill K-2	504	562-7313	3,163.13	750	750
LA	Port Allen	Anchorage Chemical Terminal	504	389-0170	1,470	350	N/A
LA	Westwego	Koch-Ellis Barge & Ship Service	504	436-3766	200	300	300
LA	Harvey	Imtt-Gretna	504	368-2560	4,200	1,000	1,000
LA	Garyville	Petroleum Fuel & Terminal Co	504	535-6256	770	2,100	2,800
MA	Boston	Boston Edison Company	617	424-3547	2,284	200	
MA	Boston	Economic Development & Ind. Co	617	725-3300	1,003	300	
MA	Boston	Mass Port Authority	617	973-5354	730	500	
MA	Boston	Amstar Corp Bunker Hill Refin.	617	242-5335	1,003	300	
MA	Boston	Blue Circle Atlantic Cement	617	241-9040	983	200	
MA	Boston (East)	Boston Fuel Transportation, Inc	617	567-9100	983	200	
MA	Boston (East)	Mobil Oil Corporation	617	381-4039	298	300	
MA	Boston (South)	Belcher of South Boston, Inc	617	269-8400	1,391	200	
MA	Chelsea	Cumberland Farms Inc	617	884-5980	983	200	
MA	Chelsea	Eastern Minerals	617	884-0029	3,126	300	300
MA	Chelsea	Gulf Oil Products Company	617	884-5980	983	200	
MA	Chelsea	Northeast Petroleum	617	884-7570	125	200	
MA	Chelsea	U.S. Gypsum Co	617	241-9100	1,003	300	
MA	Chelsea	Ultramar Petroleum Inc	617	288-1100	983	200	
MA	Dorchester	Boston Gas Co	617	288-3820	983	200	
MA	E. Braintree	Citgo Petroleum Corporation	617	848-2595	298	300	
MA	East Boston	Amerada Hess Corp	203	529-7781	76	200	
MA	East Boston	General Ship	617	569-4200	2,530	300	300
MA	Everett	Coldwater Seafood Corporation	617	387-2050	1,151	300	
MA	Everett	Everett Marine Lng Terminal	617	423-5959	730	500	
MA	Everett	Exxon Co, USA-Everett Terminal	617	381-2800	983	200	
MA	Everett	Independent Cement Corporation	617	387-3829	1,155	300	
MA	Everett	Prolerized New England Company	617	389-8300	298	300	
MA	Fall River	Borden & Remington Corp	617	675-0181	1003	300	
MA	Fall River	Northeast Products Co., Inc	617	678-8367	1004	300	
MA	Gloucester	Americold/Quincy Market Cold	617	283-6100	1003	300	
MA	Lynn	General Electric Company	617	594-3834	1155	300	
MA	New Bedford	Frionor Kitchens, Inc	617	997-0031	122	200	
MA	New Bedford	Glen Petroleum Corp	617	996-8271	327	200	
MA	New Bedford	Global Petroleum Corp	617	997-4534	327	200	
MA	North	C.H. Sprague & Son Co	603	431-1000	983	200	
MA	Quincy	General Dynamics Corp	617	471-4200	214	50	
MA	Quincy	Quincy Oil, Inc	617	773-2500	1391	200	
MA	Quincy	The Procter & Gamble MFG Co	617	471-9100	298	300	
MA	Revere	Belcher New England, Inc	617	284-4490	1391	200	
MA	Revere	Gibbs Oil, Div. of BP Oil, Inc	617	289-4201	1391	200	
MA	Revere	Northeast Petroleum	617	884-7570	1391	200	N/A
MA	Revere	Revere Terminal Corporation	617	289-2102	1391	200	
MA	Salem	New England Power Co	617	744-5540	1281	200	
MA	Salem	Northeast Petroleum	617	884-7570	1391	200	N/A
MA	Sandwich	ESCO Terminals, Inc	617	888-2001	327	200	
MA	Somerset	Montaup Electric Co	617	678-5283	327	200	
MA	Somerest	New England Power Company	617	678-8321	327	200	
MA	Woods Hole	Woods Hole Oceanographic	617	548-1400	1003	300	
MD	Baltimore	Agrico Chemical Corporation	301	276-8100	546	60	
MD	Baltimore	Amerada Hess Corporation	301	355-0705	124	50	
MD	Baltimore	Amstar Corporation	301	752-6150	115	20	
MD	Baltimore	B.P. Oil Inc	301	355-7200	619	20	
MD	Baltimore	Blue Circle Atlantic	301	355-4440	3872	150	150
MD	Baltimore	Cargill	301	539-5950	390	200	200
MD	Baltimore	Central Soya, Canto Grain Eleva	301	522-5100	2251	350	350
MD	Baltimore	Chesapeake terminal	301	625-1370	1866	133	133
MD	Baltimore	Conoco Docking Facility	301	355-5296	3062	150	
MD	Baltimore	Consolidation Coal Sales Company	301	342-1020	454	75	75
MD	Baltimore	Curtis Bay Coal & Ore Pier	301	347-5201	583	42	42
MD	Baltimore	Essex Industrial Chemical, Inc	301	355-1770	828	60	60
MD	Baltimore	G & M Terminal Incorporated	301	355-8833	575	450	450

TABLE I.—TERMINALS/PORTS ISSUED ANNEX I CERTIFICATES OF ADEQUACY—Continued

State	City	Terminal name	Area	Phone	Daily capacity of reception facility (metric tons)	Oily residue transfer rate (GPM)	Oily ballast transfer rate (GPM)
MD	Baltimore	Gold Bond Building Products	301	563-5315	615	150	150
MD	Baltimore	Indiana Grain-Locust Pt. Elev	301	685-6410	108	50	40
MD	Baltimore	Joseph E. Seagrams & Sons, Inc	301	247-1000	2579	150	150
MD	Baltimore	Lebanon Chemical Corp	301	327-4700	11067	60	
MD	Baltimore	Louis Dreyfus Canada	301	752-6997	119	42	42
MD	Baltimore	Maryland Port Administration	301	955-1160	1820	31	
MD	Baltimore	Petroleum Fuel & Terminal	301	342-7800	1075	450	450
MD	Baltimore	Port Covington Piers 4,5,6	301	347-5201	583	42	41.67
MD	Baltimore	Rukert Terminal Corp	301	276-1013	154	100	100
MD	Baltimore	Shell Oil Co	301	354-0404	327	600	
MD	Baltimore	Support Terminal Services, Inc	301	355-6262	49	60	
MD	Baltimore	Texaco Refining & Marketing Inc	301	355-6500	58	50	
MD	Baltimore	The Proctor & Gamble Mfg. Co	301	576-1291	113	50	50
MD	Baltimore	United States Gypsum Company	301	355-6600	860	50	50
MD	Piney Point	Stuart Petroleum	301	994-1200	686	100	100
MD	Sparrows Point	Bethlehem Steel	301	388-7707	959	100	200
MD	Baltimore	Eastalco Aluminum Co	301	354-1113	1516.6	150	150
MD	Baltimore	Amoco Oil Co	301	636-0522	491	450	450
MD	Baltimore	Atlantic Terminal	301	355-9434	1120	133	N/A
MD	Baltimore	Star Enterprise	301	355-6500	58 MT	50 GPM	N/A
MD	Baltimore	Transpacific Communications	301	385-0426	636.6 MT	200	N/A
ME	Bangor	Barrett Paving	207	942-4681	305	50	100
ME	Bangor	Irving Oil Co	207	942-6323	305	50	100
ME	Bangor	Mobil Oil Co	207	942-8248	305	50	100
ME	Bangor	Webber Oil Co	207	942-5501	305	50	100
ME	Bar Harbor	CN Marine Terminal	207	288-3395	0	0	
ME	Brewer	Mainway Terminal Inc	207	989-2410	305	50	305
ME	Brewer	Webber Tanks Inc	207	989-7770	305	50	100
ME	Bucksport	C. H. Sprague & Son Co	207	469-7946	305	50	100
ME	Bucksport	Elden Corp	207	469-7450	305	50	100
ME	Bucksport	Webber Tanks Inc	207	469-3165	305	50	100
ME	Cousins Island	Central Maine Power-Wyman	207	846-9055	197	50	50
ME	Eastport	Federal Marine Terminals, Inc	207	853-6096	120	50	50
ME	Hampden	Texaco Inc	207	945-9465	305	50	100
ME	Portland	Portland International Lyon's	207	775-5611	197	50	
ME	Searsport	C. H. Sprague & Son Co	207	548-2531	305	50	100
ME	Searsport	Irving Oil Co	207	942-6323	305	50	100
ME	Searsport	Tenco Services	207	548-2201	305	50	100
ME	So. Harpswell	Defense Fuel Supply Point	207	833-6232	306	50	50
ME	So. Portland	Exxon Co. Inc	207	767-2141	306	50	100
ME	So. Portland	Getty Petroleum Corp	207	799-8518	305	50	100
ME	So. Portland	Koch Fuels Inc	207	767-2161	305	50	
ME	So. Portland	Mobil Oil Corp	207	767-3251	259	50	50
ME	So. Portland	Portland Pipeline Corp	207	767-3231	20	28	
ME	So. Portland	Texaco Inc	207	799-3394	200	50	50
ME	So. Portland	Northeast Petroleum	207	799-2294	328	50	
ME	Winterport	Maine Terminal Inc	207	223-5011	305	50	100
ME	Wiscasset	Central Maine Power-Mason	207	882-6212	259	50	50
ME	Yarmouth	Central Maine Power-Wyman	207	846-9055	197	50	50
ME	So. Portland	BP Oil Inc	207	799-8586	305.8	50	100
MI	Bay City	Dow Chemical Seaway Terminal	517	667-0308	120	50	100
MI	Bay City	Saginaw Valley Marine	517	895-8571	120	50	100
MI	Detroit	Harridon Terminal	313	841-7880	444	250	250
MI	Ludington	Dow Chemical USA	616	845-4444	10	50	100
MI	Port Huron	Port Huron Terminal Company	313	982-8596	444	250	250
MI	Saginaw	Berger and Company	517	754-1460	120	50	100
MI	River Rouge	Nicholson Terminal & Dock Co	313	842-4300	6643	330	330
MN	Duluth	Port of Duluth/Superior	218	727-8525	150	60	60
MS	Bay St. Louis	Port Bienville	601	467-9231	389	60	
MS	Gulfport	MS State Port Authority	601	865-4317	354	150	
MS	Pascagoula	Chevron, USA, Inc	601	938-4214	6432	9999	1000
MS	Pascagoula	Ingalls Shipbuilding Division	601	935-4676	370	112	112
NJ	Pennsauken	Texaco R&M	609	662-5600	70	300	300
NJ	Pennsauken	Trailer Marine Transport	609	541-1737	57	100	100
NJ	Camden	South Jersey Port Corp	609	757-4969	172	100	100
NJ	Pennsauken	Amerada Hess Pennsauken	609	663-5111	29	50	N/A
NJ	Burlington	Nat. Gypsum, Gold Bond Building	609	499-3300	370.63	100	100
NJ	Gloucester City	Holt Cargo Systems, Inc	609	459-6400	242	500	500
NJ	Paulsboro	Mobil Oil Paulsboro Refinery	609	423-1040	840	250	1000
NJ	Camden	CITGO Petroleum Corp	609	963-8470	57	100	100
NC	Morehead City	Port of Morehead City	919	762-3158	6394	1000	1000
NC	Wilmington	Amerada Hess Wilmington	919	763-5123	6394	1000	N/A
NC	Wilmington	Cape Fear Terminal Port	919	726-6615	6339	1000	1000
NC	Wilmington	Exxon Terminal	919	799-0144	650	1400	N/A
NC	Wilmington	Gold Bond Building Products	919	799-3954	6394	1000	
NC	Wilmington	Paktank Corp-Wilmington	919	763-0104	1314	95	
NC	Wilmington	Port of Wilmington	919	371-2325	1743	820	N/A

TABLE I.—TERMINALS/PORTS ISSUED ANNEX I CERTIFICATES OF ADEQUACY—Continued

State	City	Terminal name	Area	Phone	Daily capacity of reception facility (metric tons)	Oily residue transfer rate (GPM)	Oily ballast transfer rate (GPM)
NC	Wilmington	Transcarolina Terminal	919	763-4444	6394	1000	
NC	Wilmington	W.R. Grace-Nitrex Plant	919	763-0171	20	28	N/A
NC	Wilmington	Wilmington Shipyard, Inc	919	763-6274	380	480	N/A
NH	Newington	C.H. Sprague & Son	603	431-1000	331	50	50
NH	Newington	Fuel Storage Corp	603	431-6000	327	50	100
NH	Newington	Sea-3 Inc	603	431-5990	327	50	100
NH	Portsmouth	C.H. Sprague	603	431-1000	331	50	50
NH	Portsmouth	Gold Bond Building Products	603	436-4848	305	50	50
NH	Portsmouth	Granite State Minerals Inc	603	436-8505	1003	300	300
NH	Portsmouth	New Hampshire State Port Authority	603	436-8500	1008	300	300
NJ	Bayonne	Constable Terminal Corporation	201	437-2993	278	200	
NJ	Bayonne	Exxon Company USA	201	858-5503	14460	2800	
NJ	Bayonne	Gordon Terminal Service	201	437-8300	279	200	N/A
NJ	Bayonne	Hoboken Shipyards, Inc	600	845-4506	412	20	300
NJ	Bayonne	Imtt-Bayonne	201	437-2200	3325	1000	1000
NJ	Bayonne	Port Belcher of New York	201	437-2104	11760	2800	N/A
NJ	Bayonne	Powell Duffern Terminals	201	437-2600	540	200	N/A
NJ	Bayonne	Rollins Terminals, Inc	201	436-5000	279	200	N/A
NJ	Bayonne	Standard Tank Cleaning Corp	201	339-5222	15360	2800	2800
NJ	Bayonne	Texaco Refining & Marketing Inc	201	436-2200	15008	100	100
NJ	Carteret	Amoco Oil Company	201	541-5131	187	100	
NJ	Carteret	GATX Terminal Corporation	201	541-5161	15008	2800	
NJ	Elizabeth	Atlantic Container Lines	201	289-3000	262	250	
NJ	Elizabeth	Chevron-Bayway Lube Plant	201	354-1700	443	115	
NJ	Elizabeth	Croda Storage Inc	201	353-8933	621	132	
NJ	Elizabeth	Crown Central Petroleum Corp	201	352-0542	0	0	
NJ	Elizabeth	Puerto Rico Marine Management	201	225-2121		0	
NJ	Elizabeth	Sea-Land Service, Inc	201	558-6001	11760	2800	N/A
NJ	Hoboken	Union Drydock & Repair	201	792-9090	14895	2800	2800
NJ	Jersey City	Global Terminal Cont Serv, Inc	201	451-5200	15008	2800	
NJ	Jersey City	Port Maher Terminal	201	963-2100	15008	2800	
NJ	Kearny	Columbia Terminals Inc	201	344-3604	5040	400	
NJ	Linden	BP Tremley Point	201	862-2990	15008	2800	2800
NJ	Linden	Citgo Petroleum Corp	201	862-3300	20843	2800	1200/2800
NJ	Linden	E.I. Du Pont De Nemours & Co	201	474-1726	313	110	N/A
NJ	Linden	Exxon Bayway	201	474-7361	14460	2800	2800
NJ	Newark	Celanese Chemical Co, Inc	201	589-2705	137	150	
NJ	Newark	Port Tenneco Oil Company	201	589-8582	2559	132	
NJ	Newark	Sun Refining & Marketing Co	201	465-3200	25	100	
NJ	Newark	Texaco Refining & Marketing Inc	201	344-6815	15008	2800	
NJ	Newark	Trumbull Asphalt	201	998-2534	390	180	N/A
NJ	Newark	Van Iderstine Co	201	465-1900	11760	2800	
NJ	Perth Amboy	Chevron U.S.A. Inc	201	738-2000	75	1400	
NJ	Perth Amboy	Stolt Terminals Inc	201	826-1144	192	73	
NJ	Port Newark	B.P. North American	201	465-2424	15008	2800	N/A
NJ	Port Newark	Ecuadorian Line Inc	201	589-8894	127	28	
NJ	Port Newark	Hudson Tank Storage Company	201	465-1115	440	100	100
NJ	Port Newark	Interamerican Juice Company, Inc	201	589-4044	0	0	
NJ	Port Newark	Maersk Container Service Co Inc	201	465-1000	15008	2800	N/A
NJ	Port Newark	Turbana Corp Shed 138 Berth 4	201	690-5390	198	100	
NJ	Sewaren	Port Shell Oil Co	201	634-1000	15202	2800	N/A
NJ	Sewaren	Royal Petroleum, Inc	201	634-3344	3500	100	
NJ	Woodbridge	Amerada Hess Port Hudson	201	750-6555	124	50	50
NJ	Woodbridge	Amerada Hess Port New York	201	750-6555	15008	2800	
NJ	Paulsboro	BP Oil Inc Paulsboro Terminal		609-423-4000	57 M Tons	100 GPM	100 GPM
NJ	Glouchester	Holt Cargo Systems	215	456-6400	212		500
NY	Albany	Cibro Petroleum Products, Inc	518	462-4237	262	200	
NY	Albany	Port Mobil	518	436-6575	76	200	
NY	Athens	Peckham Materials Corp	518	945-1120	34	100	
NY	Beacon	Garret-Storm Inc	914	831-1100	0	0	
NY	Bronx	Fred M. Schildwachter & Sons	212	828-2500	0	0	
NY	Bronx	Getty Terminals Corporation	212	324-5134	0	0	
NY	Bronx	Port Castle Coal & Oil Co., Inc	212	823-8800	11760	2800	N/A
NY	Bronx	Port Cibro Petroleum	212	585-0600	576	220/100	
NY	Bronx	Ultramar Petroleum Inc	201	573-0300	512	100	N/A
NY	Brooklyn	Amoco Oil Company	718	389-5961	238	100	
NY	Brooklyn	Amstar Corporation	718	387-6800	11760	2800	
NY	Brooklyn	Coastal Drydock & Ship Repair	718	403-6291	15008	2800	2800
NY	Brooklyn	Lumber Exchange Terminal, Inc	718	383-5000	512	100	
NY	Brooklyn	Newton Creek Water Pollution	212	860-9314	0	0	
NY	Brooklyn	Port Continental Terminal, Inc	718	875-4935	15008	2800	
NY	Brooklyn	South Brooklyn Marine Terminal	718	499-3900	11760	2800	
NY	Brooklyn	Terminelle Corp	718	388-7011	0	0	
NY	Buffalo	Gateway Trade Center Inc	716	826-2890	20	150	
NY	Cementon	Port Lehigh Portland Cement Co	718	943-5300	421	200	
NY	East Elmhurst	Dept. of Corrections	718	728-7659	15008	2800	
NY	East Greenbush	Gold Bond Products Terminal	518	449-7354	419	200	

TABLE I.—TERMINALS/PORTS ISSUED ANNEX I CERTIFICATES OF ADEQUACY—Continued

State	City	Terminal name	Area	Phone	Daily capacity of reception facility (metric tons)	Oily residue transfer rate (GPM)	Oily ballast transfer rate (GPM)
NY	Glenmont	Sears Petroleum & Transport Co	518	436-7942	323	200	
NY	Glenwood	Glenwood Terminal Corrections	516	676-2500	0	0	
NY	Glenwood	Port Long Island Lighting Co	516	671-3100	103	50	
NY	Great Neck	A.H.J. Associates	516	922-7000	337	100	
NY	Great Neck	Universal Utilities, Inc	516	922-7000	337	100	
NY	Highland	Star Terminal Corp	914	691-8171	0	0	
NY	Inwood	Amoco Oil Company	516	239-4913	0	0	N/A
NY	Inwood	Port Wetcher Petroleum	516	239-8800	0	0	
NY	Lackawanna	Bethlehem Steel Corp	716	821-2587	20	300	
NY	Mt. Vernon	Amoco Oil Company	914	667-8339	N/A	N/A	N/A
NY	New Rochelle	Port Westchester Hudson Fuel	914	738-6110	0	0	
NY	New Windsor	Big "S" Oil Co	914	561-4300	135	200	
NY	New York	Con-Edison of New York	718	390-2705	514	100	
NY	New York	Netumar Lines of NY	212	669-1709	512	100	N/A
NY	New York	Pier 42 East River	212	349-5075	307	100	
NY	New York	Port Authority of NY & NJ	212	466-7968	99999	500	
NY	New York	Port Universal Maritime Services	212	269-5121	15008	2800	
NY	New York	Witte Chase	201	344-7600	180	40	
NY	Newburgh	Mid-Valley Petroleum Corporation	914	561-4000	135	200	
NY	North	General Motors	914	631-6000	0	0	N/A
NY	Oceanside	Chevron-Oceanside	516	764-3488	88	50	
NY	Ogdensburg	Port of Ogdensburg	315	393-7580	100	200	
NY	Oswego	Nia. Mohawk Steam Station	315	349-2220	20	50	
NY	Oswego	Port of Oswego authority	315	343-4503	22	400	
NY	Oswego	C.H. Sprague and Son Co	315	343-6070	123.5	50	
NY	Port	Lewis Oil Company	516	883-1000	148	50	N/A
NY	Poughkeepsie	Effron Fuel Oil Company	914	452-2600	744	500	N/A
NY	Poughkeepsie	J.R. Sousa & Sons, Inc	914	452-4330	135	200	
NY	Ravena	Blue Circle Atlantic	518	756-6141	422	200	
NY	Rensselaer	Atlantic Refining & Market Corp	518	449-7138	323	200	
NY	Rensselaer	Petroleum Fuel Terminal	518	465-1557	333	50	50
NY	Rensselaer	Port Bray Terminals	518	462-5052	400	200	
NY	Rensselaer	Ultramar Petroleum Inc	518	463-6609	124	50	N/A
NY	Staten Island	Chester A. Poling, Inc	718	727-1000	147	2800	N/A
NY	Staten Island	Chevron-Gulfport Terminal	718	981-1000	479	115	
NY	Staten Island	First Marine Shipyard Inc.	212	448-1882	14894	2800	N/A
NY	Staten Island	Morania Oil Tankers/Shipyard	718	442-0700	14895	2800	2800
NY	Staten Island	Port Mobil	718	948-2200	21588	5600	5600
NY	Staten Island	Taverna Fuel Co., Inc	718	448-9840	19260	2800	
NY	Staten Island	U.S. Lines	201	272-9600	97	100	
NY	Stony Point	United States Gypsum	914	786-2712	443	100	
NY	Syracuse	Agway Petroleum Corp	315	477-6128	0	0	
NY	Tomphins Cove	Port Orange & Rockland Utilities	914	577-2150	95	50	
NY	Tonawanda	Asland Petroleum Company	716	879-8610	20	200	
NY	Troy	Chevron-Asphalt Troy	518	272-2040	237	50	
NY	Wards Island	Wards Is. Sewage Treatment Plant	212	860-9341	318	50	
NY	Yonkers	A. Tarracone Inc	914	964-9866	0	0	
NY	Yonkers	Refined Sugars, Inc	914	963-2400	30	150	
OH	Ashtabula	Pinney Dock & Transportation	216	964-7186	400	100	100
OH	Cleveland	Cuyahoga Country Port Authority	216	241-8004	238	40	40
OH	Huron	The Pillsbury Company	419	433-4900	80	85	85
OH	Toledo	Toledo-Lucas County Port Auth.	419	243-8251	80	85	85
OH	Cleveland	Reilly Industries, Inc	216	883-2222			
OH	Lorain	Jonick Dock & Terminal Co	216	277-0592			
OR	Astoria	Port of Astoria	503	325-4521	332	150	150
OR	Coos Bay	Union Oil Co of California	503	269-9600	452	350	350
OR	Newport	New Port International	503	265-7758	268	115	115
OR	Portland	Chevron	503	221-7700	300	2400	2400
OR	Portland	Gasco Portland	503	286-9621	330	90	90
OR	Portland	Gatx Corp	503	286-1691	1345	150	
OR	Portland	Georgia-Pacific Corp	503	248-7370	332	150	
OR	Portland	Palmco	503	286-8341	298	150	150
OR	Portland	Texaco Refining & Marketing	503	226-3571	332	150	
OR	Portland	Time Oil Co	503	286-1611	1701	84	167
OR	Portland	Trumbull Asphalt	503	227-2666	1061	400	
OR	Portland	Union Oil Co. Chemical Division	213	977-7146	247	150	150
OR	Portland	Union Oil Co	503	248-1530	355	350	350
OR	Portland	McCall Oil and Chemical	503	221-5755	1764	1050	1050
OR	Astoria	McCall Oil and Chemical	503	221-5755	441	1050	1050
OR	Portland	Shell Oil	503	220-1240	1764	1050	1050
OR	Portland	Kaiser	503	288-5175	1764	1050	1050
OR	Portland	Pacific Molasses	503	286-1601	164	300	300
OR	Astoria	Carmichael-Columbia Oil Inc	503	325-3122			
P.R.	Guayama	Phillips P.R. Core	809	864	1515-25,000	110	110
PA	Erie	Erie International	814	453-6651	20	140	
PA	Erie	Erie Marine Terminal	814	453-6651	20	140	
PA	Philadelphia	Atlantic Pipeline Corp./Fort Mifflin		215-365-6688	20	33,600	33,600

TABLE I.—TERMINALS/PORTS ISSUED ANNEX I CERTIFICATES OF ADEQUACY—Continued

State	City	Terminal name	Area	Phone	Daily capacity of reception facility (metric tons)	Oily residue transfer rate (GPM)	Oily ballast transfer rate (GPM)
PA	Marcus Hook	BP Oil Inc. Marcus Hook		215-499-7071	1,929	30	N/A
PA	Marcus Hook	Sun R&M Co		215-447-1243	3000	700	700
PA	Philadelphia	Northern Shipping Co. Terminal		215-331-7000	459	50	50
PA	Philadelphia	Chevron USA Inc. Girard PT Whar		215-339-7233	17000	5300	5300
PA	Philadelphia	Conrail Greenwich Piers		215-977-5281	1,045	500	500
PA	Philadelphia	United States Gypsum Co		215-724-3200	57 MT	100	100
PA	Philadelphia	Tioga Marine Terminal		215-427-4708	184	500	500
PA	Tinicum Twsp	Chevron USA Inc. Hog Island		215-339-7233	20	12,000GP	N/A
PA	Philadelphia	J.H. Stevedoring Company	215	389-3124	1000+	500	500
PR	San Juan	Clear Ambient Service Co. Inc	809	792-1844/	40	200	200
PR	San Juan	Catano Navy Oil Dock	809	792-2920	125	2100	2100
PR	Playa de Ponce	Muelles Municipales de Ponce	809	836-1290 /843-7	20	43.20	43.20
PR	Yabucoa	Yabucoa Terminal	809	893-2424	18750	3500	3500
PR	Mayaquez	Star Kist Caribe, Inc	809	834-2424	2840	283	283
PR	San Juan	Caribbean Gulf Refining Corp	809	785-0520	40		
PR	San Juan	Pier 10 San Juan	809	722-1111	20	100	100
PR	San Juan	Puerto Rico Drydock & Marine Terminals, Inc	809	721-6060	20		
PR	San Juan	1-3-6-8-9-11-12-13-14-Frontier Base San Juan.	809	724-3262	27		
PR	San Juan	Army Terminal, A,B,C,D,E,F,G,H,J,K,L,M	809	724-3262	27		
PR	San Juan	Port of Mayaques	809	724-3262	27		
PR	San Juan	Pan American Dock—Isla Grande Terminals	809	724-3262	27		
PR	Penuelas	Puntilla Dock	809	840-2626	3,000	500	500
PR	Tallaboa Ponce	Puerto Rican Oil Term. Co	809	836-2055	7100	30	90
PR	San Jaun	Puerto Rican Ports Authority	809	724-3262	90	100	100
PR	Isla Grande	Trailer Marine Transport	809	721-1456	30	100 GPM	100
PR	Yabucoa	Ports Authority Yabucoa	809	893-2408	1030	3499	3499
PR	Guanica	Ports Authority Guanica	809	821-2860	491	70	70
PR	Catano	Caribbean Gulf Refinery	809	785-0520	20,000	120	120
PR	Ponce	Caribe Tuna Open Shed Dock	809	843-6688	533	70	70
PR	Mayaquez	Neptune Pier	809	834-4170	2840	283	283
PR	Guataniha	Penoncho Ward/Texaco	809	836-3060	3182	900	900
PR	Yabucoa	Pr Sun Oil Co	809	893-2424	1030	3499	3499
PR	Ponce	Ponce Municipal Ports	809	848-4992	491	70	70
PR	Catano	Molinos Catano	809	781-8383	30	100	100
PR	Catano	Ochoa Pier	809	783-5147	3,787	80	80
PR	Guayama	Philips Guayama	809	864-1515	2932	4200	4200
PR	Mayaguez	Malecon Pier	809	834-9191	2840	283	283
PR	Mayaguez	Bumble Bee Pier	809	834-3450	2840	283	283
PR	Ponce	Corco Ponce	809	843-3030	7100	90	90
PR	Tayaboa	Olecina Pier	809	835-2647	3763	500	500
PR	Penuelas	Unioncarbide	809	840-2626	536	70	70
PR	Guanica	Ochoa Fertilizer Pier	809	821-2200	491	70	70
PR	Salinas	Prepa Aguirri	809	853-4300	491	70	70
PR	Catano	Agro Ochoa	809	783-5147	3,787	80	80
PR	Catano	Army Terminal	809	723-4030	30,000	100	100
PR	Mayaguez	Bumble Bee Tuna	809	843-3450	3,787	80	80
PR	Ponce	Caribe Tuna Pier	809	843-6688	3,787	80	80
PR	Catano	Catano Ferry Catano	809	724-9177	30,000	100	100
PR	Catano	Catano Ferry San Juan	809	724-9177	30,000	100	100
PR	Catano	Catano Oil Dock	809	724-9177	30,000	100	100
PR	Yabucoa	Construction Dock	809	893-2408	60,000	120	120
PR	Tayaboa	Corco	809	843-3030	45,000	150	150
PR	Mayaguez	Federacion Pequarias	809	843-9191	3,787	80	80
PR	San Juan	Frontier Pier	809	724-9177	30,000	100	100
PR	Catano	Molinos Catano	809	781-8383	30,000	100	100
PR	Guanica	Muelle Molinos	809	821-2860	3,787	80	80
PR	Ponce	National Packing Company	809	844-1180	3,787	80	80
PR	San Juan	Navieras Sheds G-L	809	724-9177	30,000	100	100
PR	Mayaguez	Neptune Packing	809	843-4170	3,787	80	80
PR	Tayaboa	Olecina Pier	809	835-2647	3,787	80	80
PR	Miramar	P.R. Dry Dock 15	809	721-6010	30,000	100	100
PR	Miramar	P.R. Dry Dock 16	809	721-6010	30,000	100	100
PR	Yabucoa	P.R. Sun Oil Co	809	893-2424	60,000	120	120
PR	San Juan	Pan Am Dock	809	724-9177	30,000	100	100
PR	San Juan	Pier 1	809	724-9177	30,000	100	100
PR	San Juan	Pier 11	809	724-9177	30,000	100	100
PR	San Juan	Pier 12	809	724-9177	30,000	100	100
PR	San Juan	Pier 13	809	724-9177	30,000	100	100
PR	San Juan	Pier 14	809	724-9177	30,000	100	100
PR	San Juan	Pier 3	809	724-9177	30,000	100	100
PR	San Juan	Pier 4	809	724-9177	30,000	100	100
PR	San Juan	Pier 5	809	724-9177	30,000	100	100
PR	San Juan	Pier 7	809	724-9177	30,000	100	100
PR	San Juan	Pier 8	809	724-9177	30,000	100	100

TABLE I.—TERMINALS/PORTS ISSUED ANNEX I CERTIFICATES OF ADEQUACY—Continued

State	City	Terminal name	Area	Phone	Daily capacity of reception facility (metric tons)	Oily residue transfer rate (GPM)	Oily ballast transfer rate (GPM)
PR	San Juan	Pier 9	809	724-9177	30,000	100	100
PR	Ponce	Ponce PIER 8	809	848-4992	3,787	80	80
PR	Ponce	Ponce Shed 2	809	848-4992	3,787	80	80
PR	Ponce	Ponce Shed 3	809	848-4992	3,787	80	80
PR	Ponce	Ponce Shed 4	809	848-4992	3,787	80	80
PR	Ponce	Ponce Shed 5	809	848-4992	3,787	80	80
PR	Ponce	Ponce Shed 6	809	848-4992	3,787	80	80
PR	Ponce	Ponce Shed 7	809	848-4992	3,787	80	80
PR	Salinas	Prepa Aquirre	809	853-4300	25,000	80	80
PR	Ponce	Puntilla Dock	809	840-2626	3,787	80	80
PR	San Juan	Sea Lands Sheds E and F	809	724-9177	30,000	100	100
PR	San Juan	Shed A	809	724-9177	30,000	100	100
PR	San Juan	Shed B	809	724-9177	30,000	100	100
PR	San Juan	Shed C	809	724-9177	30,000	100	100
PR	San Juan	Shed D	809	724-9177	30,000	100	100
PR	San Juan	Shed M	809	724-9177	30,000	100	100
PR	Mayaguez	Starkist	809	843-2424	56	80	80
PR	San Juan	Trailer Marine Transport	809	721-1456	30,000	100	100
PR	Tayaboa	Tallaboa Pier	809	843-3030	3,787	80	80
PR	San Juan	Union Carbide	809	843-5689	3,787	80	80
RI	East	astroline Corp	401	438-1666	1004	300	
RI	East	Getty Petroleum Corp	401	434-1322	1004	300	
RI	East	Union Chemicals Div., Union Oil	401	438-7250	118	100	
RI	Providence	C.H. Spraque & Son Co	401	421-4690	327	200	
RI	Providence	George Mann and Co., Inc	401	781-5600	1004	300	
RI	Providence	Independent Cement Corp	401	467-8411	268	300	
RI	Providence	Petrolane Transport	401	781-6640	1003	300	
RI	Providence	Port of Providence	401	781-4717	1004	300	
RI	Providence	Providence Terminal Associates	401	941-4640	1004	300	
RI	Providence	Texaco	401	461-6600	125	200	
SC	Charleston	Braswell Shipyard	803	577-4692	1018	75	228
SC	Charleston	Defense Fuel Support Point	803	723-7442	1103	250	250
SC	Charleston	Delmonte Fresh Fruit	803	723-7442	1103	250	250
SC	Charleston	Exxon Charleston Term	803	723-7442	1103	250	250
SC	Charleston	Gulf Oil Products	803	722-3858	1103	250	250
SC	Charleston	Macalloy Corp	803	723-7442	1103.06	250	250
SC	Charleston	SCSPA Union Pier	803	723-7442	1103	250	250
SC	Charleston	Shipyard River Coal Terminal	803	723-7442	1103	250	250
SC	Georgetown	International Paper Co	803	723-7442	1103	250	250
SC	Georgetown	SCSPA Georgetown	803	723-7442	1103	250	250
SC	Mt. Pleasant	Detyens Shipyard	803	884-2811	2571	600	1791
SC	Mt. Pleasant	SCSPA Wando	803	723-7442	1103	250	250
SC	North	Amerada Hess Charleston	803	554-1581	601	350	440
SC	North	Chem-Marine Corp	803	724-4332	1103	250	250
SC	North	Marathon Petroleum Company	803	554-5440	601	350	440
SC	North	SCSPA North Charleston	803	723-7442	1103	250	250
SC	North	Texaco Refining & Marketing Inc	803	747-5262	601	350	440
SC	North	Westvaco Dock	803	723-7442	1103	250	250
SC	Port Royal	Port of Port Royal, Inc	803	525-6001/524-9	601	350	N/A
SC	Charleston	SCSPA Columbus St. Terminal	803	723-7442	1103	250	250
SC	Georgetown	Georgetown Steel Corp	803	723-7442	1103	250	250
TX	Aransas Pass	American Pertrofina	512	758-3571	1299	245	
TX	Aransas Pass	Exxon Pipeline Company	512	289-4147	1299	245	
TX	Baytown	Exxon Baytown Refinery	713	452-3300	17400	7000	7000
TX	Beaumont	Amoco Pipeline Co	409	835-5381	7000	2000	3000
TX	Beaumont	Brooks Terminal	409	838-3663	155	130	
TX	Beaumont	E.I. Dupont De Nemours & Co. Inc	409	727-9565	118	91	
TX	Beaumont	Mobil Chemical	409	839-1200	20	130	
TX	Beaumont	Port of Beaumont	409	722-3242	2500	3500	
TX	Beaumont	Texas Gulf Chemicals	409	835-5311	1907	0	
TX	Brownsville	Port of Brownsville	512	831-4592	2999	7067	7067
TX	Channelview	Cargill Inc	713	452-4741	1172	125	N/A
TX	Corpus Christi	Amerada Hess Corporation	512	884-4831	12000	3000	5000
TX	Corpus Christi	American Chrome and Chemical Inc	512	883-6421	1299	245	
TX	Corpus Christi	Bay Incorporated	512	289-2100	1500	500	
TX	Corpus Christi	Center Cement Corporation	512	883-6381	1299	245	
TX	Corpus Christi	Champlin Petroleum Company	512	880-5475	20250	4200	4200
TX	Corpus Christi	Coastal Refining and Marketing	512	887-4258	14875	7000	7000
TX	Corpus Christi	Coastal States Grude Gathering	512	887-3820	1299	245	
TX	Corpus Christi	Diamond Shamrock	512	884-6393	1299	245	
TX	Corpus Christi	Interstate Grain Port Terminal	512	289-5651	1299	245	
TX	Corpus Christi	Koch Refining Company	512	241-4811	16500	2800	2800
TX	Corpus Christi	Mobil Pipeline Co.	512	884-8081	1299	245	
TX	Corpus Christi	Port of Corpus Christi Authority	512	882-5633	1299	245	
TX	Corpus Christi	Southwestern Refining Co. Inc	512	884-8863	37250	8750	8750
TX	Corpus Christi	The Permian Corporation	512	884-0491	1299	245	

TABLE I.—TERMINALS/PORTS ISSUED ANNEX I CERTIFICATES OF ADEQUACY—Continued

State	City	Terminal name	Area	Phone	Daily capacity of reception facility (metric tons)	Oily residue transfer rate (GPM)	Oily ballast transfer rate (GPM)
TX	Corpus Christi	Valero Refining Company	512	286-6000	25255	5250	5250
TX	Deer Park	Patank Corp Deer Park Terminal	713	479-6051	2775	1750	
TX	Deer Park	Shell Oil	713	476-6332	12600	100	7000
TX	Deer Park	Union Equity Coop. Exchange	713	479-2801	1172	125	
TX	Freeport	BASF Harbor Terminal	409	238-6357	1333	60	
TX	Freeport	Dow Chemical	409	238-4003	96	100	
TX	Freeport	Phillip 66 Port of Freeport	409	647-4431	3162	150	
TX	Freeport	Port of Freeport (Brazos River)	409	233-2667	192	75	
TX	Galena Park	International Terminals Corp	713	672-2536	2685	175	
TX	Galena Park	US Gypsum	713	672-8261	20	35	
TX	Galena Park	Warren Gas Terminal	713	453-7173	40	112	
TX	Galveston	Galveston Oil Terminal	409	744-6351	805	125	125
TX	Galveston	Pennzoil Sulphur	409	763-5374	4255	100	
TX	Galveston	Port of Galveston	409	766-6172	4255	100	
TX	Galveston	Texas A&M University	409	740-4562	2502	130	
TX	Galveston	Texas International Terminals	409	740-1271	3753	100	
TX	Gregory	Reynolds Metals Company	512	643-6531	1299	245	
TX	Houston	Bludworth Bond Shipyard	713	923-2001	110	125	
TX	Houston	Care Shipping	713	457-6083	172	70	70
TX	Houston	Crown Central Petroleum	713	920-3920	4285	1200	1200
TX	Houston	Hill Petroleum Co	713	923-3421	60	200	500
TX	Houston	Houston Fuel Oil Terminal Co	713	452-3300	4286	300	5600
TX	Houston	Joe D. Hughes Inc	713	422-7577	123	35	
TX	Houston	Lyondell Petrochemical	713	475-4506	20600	350	7000
TX	Houston	Newpark Shipyard	713	928-5051	1728	330	330
TX	Houston	Oiltanking of Texas	713	452-5901	25	50	
TX	Houston	Port of Houston Authority	713	226-2100	0413.38	300	
TX	Houston	Texas Petrochemical	713	474-7458	21	140	
TX	Ingleside	E.I. Dupont De Nemours Co., Inc	512	643-7511	1299	245	
TX	Ingleside	Sun Marine Terminals, Inc	512	776-7535	23	70	
TX	Nederland	Palmer Barge Line	409	982-3937	1260	2100	2100
TX	Nederland	Union Oil Co. of California	409	724-3223	8571	1000	10,000
TX	Nederland	Unocal	409	724-3223	8571	1000	10,000
TX	Orange	Orange County Navigation	409	883-4363	155	130	0
TX	Orange	Port of Orange	409	883-4363	155	130	
TX	Pasadena	Kerley Agriculture	713	477-4400	46	50	
TX	Pasadena	Georgia Gulf Corp	713	473-4453	313	35	70
TX	Pasadena	Occidental Chemical Corp	713	884-4020	60	75	N/A
TX	Pasadena	Occidental Chemical Agricultural	713	479-6008	20	117	
TX	Pasadena	Phillips Petroleum	713	475-3612	233	56	
TX	Point Comfort	Alcoa	512	987-2604	754	35	70
TX	Point Comfort	Point Lavaca-Point Comfort	512	987-2813	869	35	70
TX	Port Arthur	Atlantic Shippers of Texas	409	962-2457	3990	130	
TX	Port Arthur	Bethlehem Steel	409	838-6821	2115	65	175
TX	Port Arthur	Carotex	409	962-0251	155	130	0
TX	Port Arthur	Chevron	409	985-1306	9330	3500	3500
TX	Port Arthur	Costal Marine Service of Texas	409	983-1616	8829	98	98
TX	Port Arthur	Fina Oil & Chemical	409	962-4421	4791	3500	3500
TX	Port Arthur	Great Lake Carbon	409	985-2578	155	130	
TX	Port Arthur	Hall-Buck Marine Services	409	983-6271	30	130	
TX	Port Arthur	Pabtex Terminal	409	962-8343	155	130	
TX	Port Arthur	Port of Port Arthur	409	983-2011	155	2155	
TX	Port Arthur	Sabine Towing & Transportation	409	962-0201	4914	50	100
TX	Port Arthur	Texaco Refining & Marketing	409	982-5711	7200	8400	8400
TX	Port Arthur	Vessel Repair	409	962-1302	1349	200	200
TX	Port Arthur	Comnotex	409	962-0251	20	130	
TX	Port Neches	Erickson Refining	409	722-9366	128	35	35
TX	Port Neches	Texas Chemical	409	722-8381	7200	8400	8400
TX	Seabrook	Baytank (Houston)	713	474-4181	20	182	
TX	Seabrook	Celenese Chemical	713	474-2841	20	150	
TX	Seabrook	Petro United Terminals	713	474-4433	20	350	
TX	Texas City	Aimcor Marine Terminal	409	945-7210	3278	250	250
TX	Texas City	Amoco Chemicals	409	948-1601	184	75	
TX	Texas City	Amoco Oil Docks	409	945-1345	6192	75	7000
TX	Texas City	Arco Pipe Line	713	450-2081	23197	150	
TX	Texas City	Coastal States Crude Gathering	409	945-6622	4255	100	
TX	Texas City	IMC Marine Terminal	409	945-7210	4255	100	100
TX	Texas City	Lowry-Unitank	409	948-6310	7056	600	600
TX	Texas City	Marathon Petroleum Co	409	945-2331	4570	200	
TX	Texas City	Stan Trans, Inc	409	948-3561	294	250	
TX	Texas City	Sterling Chemicals, Inc	409	942-3720	2535	400	
TX	Texas City	Texas City Refining	409	945-4451	2672	650	
TX	Texas City	Union Carbide Corp	409	948-5171	2340	400	
TX	Vidor	Texas Eastern Products Pipeline	409	768-1033	20	130	
TX	Houston	Jacob Stern & Son	713	926-8386	77.9	200	
TX	Galena Park	Amerada Hess Corp	713	453-6301	23,541	7000	8000
TX	Pasadena	Occidental Chemical Corp	713	884-4020	60	75	

TABLE I.—TERMINALS/PORTS ISSUED ANNEX I CERTIFICATES OF ADEQUACY—Continued

State	City	Terminal name	Area	Phone	Daily capacity of reception facility (metric tons)	Oily residue transfer rate (GPM)	Oily ballast transfer rate (GPM)
TX	Beaumont	Mobil Oil Corp	409	833-9411	1419.26	560	3500
TX	Nederland	Sun Marine Terminals, Inc	409	721-4834	793	7000	7000
TX	Houston	Todd Shipyard Corp	713	453-7261	249.3	300	300
TX	Channel View	Lone Star-Falcon	713	452-4740	413	300	
TX	Deer Park	Intercontinental Terminals Co	713	479-6024	721	300	3500
TX	Pasedena	John Bludworth Marine, Inc	713	473-5561	156		80
TX	Texas City	Arch Pipe Mason	713	450-2081	2918	75	1820
TX	Galena Park	Gatx Terminals, Corp	713	455-1231	276	120	
TX	Houston	Pacific Molasses Co	713	923-2736	3220	100	100
TX	Pasedena	Mobil Mining and Minerals	713	472-3641	241	125	
TX	Houston	Greens Port Terminal	713	453-0664	20	182	
TX	Galena Park	Paktank	713	479-6051	127.4	46	
TX	Pasedena	Gatx Terminals Corp	713	475-9235	388	125	
TX	Pasadena	Mobil Mining and Minerals Co	713	920-5311		125	
TX	Houston	Manchester Terminal Corp	713	926-9631	525	150	
TX	Channelville	Lonestar-Falcon	713	452-4740	413.38	300	
TX	Pasadena	John Bludworth Marine, Inc	713	473-5561	156.38		80
TX	Houston	Inbessa America, Inc	713	452-0063	897	600	2100
TX	Pasadena	Gatz Terminals Corp	713	475-9235	206	125	
TX	Houston	Buckingham Gate Ltd. Inc	713	452-4752	764.4	60-80	60-80
TX	Houston	Marine Maintenance Industries	713	928-5911	2167	28	500
TX	Brownsville	Itapco-Border Terminal, Inc	512	831-9641	2999	7067	7067
TX	Brownsville	Brownsville Navigational Dis	512	831-4592			
TX	Brownsville	Amfels, Inc	512	831-8220			
TX	Brownsville	Border Shipyards, Inc	512	831-4300			
TX	Brownsville	Brownsville Refinery Corp	512	831-4521			
TX	Brownsville	Gulmar Inc	512	831-4547			
TX	Brownsville	Itapco-Border Terminal Inc	512	831-4592	2999	7067	7067
USVI	St. Croix	Hess Oil	809	778-4100	4,545	150	150
USVI	St. Thomas	V.I. Ports Authority	809	774-5629	75	110	110
USVI	St. Thomas	V.I. Wapa	809	774-1528	75	110	110
USVI	St. Croix	Vialco	809	778-2323	75	110	110
USVI	St. Thomas	Wico Pier	809	774-1780	75	110	110
V.I.	St. Croix	Hess Oil Virgin Islands Corp	809	778-4100	57,000	10,500	10,500
V.I.		Virgin Islands Port Authority	809	774-1629	30,954	100	100
V.I.	St. Croix	Lialco	809	778-2323	30,000	100	100
VA	Alexandria	Robinson Terminal Warehouse	703	836-8300	229	100	100
VA	Chesapeake	Amerada Hess Chesapeake	201	750-6000	6394	1000	1000
VA	Chesapeake	American Hoechst Corp	801	494-2500	6394	1000	1000
VA	Chesapeake	Amoco Oil Co	804	545-4641	6394	1000	1000
VA	Chesapeake	Atlantic Energy Inc	804	485-1018	6394	1000	1000
VA	Chesapeake	Bernuth Lembcke Co. Inc	804	543-6220	6394	1000	1000
VA	Chesapeake	BP North America Inc	804	543-4444	6394	1000	1000
VA	Chesapeake	Cargill Elevator	804	545-8461	9751	1733	2600
VA	Chesapeake	Elizabeth River Terminals	804	543-0335	6394	1000	1000
VA	Chesapeake	Hitch Terminal	804	545-0735	6394	1000	1000
VA	Chesapeake	Mobil Oil Corp	804	545-4681	6394	1000	1000
VA	Chesapeake	Royster Agricultural Products	804	545-3024	6394	1000	1000
VA	Chesapeake	Swann Oil	804	485-3000	7236	2600	2600
VA	Chesapeake	Tenneco Oil Co	804	543-3514	6394	1000	1000
VA	Chesapeake	Texaco Refining & Marketing	804	543-6811	6394	1000	1000
VA	Chesapeake	Unocal	804	545-8455	6394	1000	1000
VA	Hopewell	Allied Fibers	804	541-5000	6394	1000	1000
VA	Newport News	Chesapeake & Ohio Railway Co	804	380-5000	6394	1000	1000
VA	Newport News	Dominion Terminal Assoc	804	245-2275	6394	1000	1000
VA	Newport News	Koch Fuels, Inc	804	244-6545	6394	1000	1000
VA	Newport News	Massey Coal Term., Inc	804	244-0554	6394	1000	1000
VA	Norfolk	Chemphalt of Carolina	804	545-7371	602	205	250
VA	Norfolk	Colonna's Shipyard, Inc	804	545-2414	2074	500	500
VA	Norfolk	Exxon Company USA	804	440-2540	6394	1000	1000
VA	Norfolk	Lamberts Point Docks	804	446-1200	6394	1000	1000
VA	Norfolk	Lone Star Industries	804	853-6704	224	100	0
VA	Norfolk	Lyon Shipyard, Inc	804	622-4661	78	150	150
VA	Norfolk	Metro Machine Corp	804	543-6801	6451	1000	1000
VA	Norfolk	Norfolk & Western Railway Coal	804	446-5343	9751	1730	2600
VA	Norfolk	Norfolk Oil Transit, Inc	804	622-2687	6394	1000	1000
VA	Norfolk	Norfolk Shipbuilding & Drydock	804	545-3551	3772	371	566.6
VA	Norfolk	Seahorse Marine	804	625-5386	9751	1733	2600
VA	Norfolk	The Jonathan Corp	804	622-0440	6394	1000	1000
VA	Norfolk	U.S. Gypsum Company	804	545-2461	6394	1000	1000
VA	Portsmouth	Aluminum Co. of America	804	485-3301	6394	1000	1000
VA	Portsmouth	Sea-Land Services, Inc	804	393-4071	6394	1000	1000
VA	Yorktown	Amoco Oil Company	804	898-5120	429	800	800
VA	Richmond	California Oils Corp	415	233-7660	600	250	250
VA	Richmond	Meehan Overseas, Ltd	804	275-9248	6394	1000	1000
VA	Newport News	Newport News Shipbuilding &	804	380-2959	3482	900	900
VA	Norfolk	Virginia International Terminals, Inc	804	440-7162	6394	1000	1000

TABLE I.—TERMINALS/PORTS ISSUED ANNEX I CERTIFICATES OF ADEQUACY—Continued

State	City	Terminal name	Area	Phone	Daily capacity of reception facility (metric tons)	Oily residue transfer rate (GPM)	Oily ballast transfer rate (GPM)
VA	Chesapeake	IMTT-Chesapeake	804	485-3000	6394		1000
VA	Norfolk	Allied Terminals	804	545-7301	275	50	50
VA	Chesapeake	Jacobson Metal Co	804	543-2066	2000	135	135
VA	Chesapeake	Louis Dreyfus Energy	804	518-3509	6394	1000	1000
VA	Norfolk	Virginia Drydock Corp	804	494-7387	1295	100	100
WA	Aberdeen	Port of Grays Harbor	206	533-9519	1050	250	250
WA	Anacortes	Port of Anacortes	206	293-3134	1667	250	
WA	Anacortes	Shell Oil Company	206	293-9122	275	2800	2800
WA	Anacortes	Texaco Refining & Marketing, Inc	206	293-0800	1102	4700	4700
WA	Bellingham	Bellingham Cold Storage	206	733-1640	131	83	166.67
WA	Bellingham	Georgia Pacific Corp	206	733-4410	134	83	166
WA	Bellingham	Port of Bellingham	206	676-2500	920	83	166.67
WA	Edmonds	Unocal Edmonds Terminal	206	774-9584	824	350	3506
WA	Everett	Port of Everett	206	259-3764	2657	250	250
WA	Ferndale	Arco Petroleum Products Co	206	384-2200	3750	4000	4000
WA	Ferndale	Intalco Aluminum Corp	206	384-7292	76	40	40
WA	Hoquiam	ITT Rayonier	206	532-2500	1030	1400	
WA	Kalama	Kalama Chemical Inc	206	673-2550	332	150	150
WA	Kalama	North Pacific Grain Growers	206	673-2011	332	150	150
WA	Long View	Reynolds Aluminum Co	206	425-2800	387	150	
WA	Manchester	Naval Supply Center	206	476-2145	1950	666	666
WA	Mukilteo	Defense Fuel Support Point	206	355-2051	1607	250	
WA	Olympia	Port of Olympia	206	754-1660	1607	250	250
WA	Port Angeles	BP North America Petroleum, Inc	206	452-1433	206	85	
WA	Port Angeles	ITT Rayonier	206	457-3391	1607	250	250
WA	Port Angeles	Merrill & Ring	206	452-2367	1607	250	250
WA	Port Angeles	Port of Port Angeles	206	457-8527	1604	250	250
WA	Port Townsend	Port Townsend Paper Corp	206	385-3170	560	7000	7000
WA	Richmond Beach	Chevron U.S.A., Inc	206	542-2131	364	1400	1400
WA	Seattle	American President Lines	206	292-4650	1607	250	
WA	Seattle	Atlantic Richfield	206	623-4635	1350	90	90
WA	Seattle	Cargill, Inc	206	284-4851	1350	90	90
WA	Seattle	Gatx Tst Corporation	206	622-0920	1350	90	
WA	Seattle	Hanjin Container Lines (T-18)	206	447-9422	20	90	90
WA	Seattle	International Terminal Company	206	763-3460	1350	90	90
WA	Seattle	Jacob Sterns & Sons, Inc	206	622-3260	1350	90	90
WA	Seattle	Lake Union Drydock Co	206	323-6400	3190	250	90-250
WA	Seattle	Lockheed Shipbuilding Co	206	292-4745	30	90	90
WA	Seattle	Maritime Contractors, Inc	206	647-0080	59	135	85-135 GPM
WA	Seattle	Matson Terminals, Inc	206	223-2494	1167	89	167
WA	Seattle	Port of Seattle	206	728-3258	1350	90	90
WA	Seattle	Shell Oil Company	206	453-3051	1167	84	167
WA	Seattle	Stevedoring Services of America	206	623-0304	20	90	90
WA	Seattle	Terminal 37	206	622-4520	20	90	90
WA	Seattle	Terminal 91	206	284-2450	1470	1400	1400
WA	Seattle	Texaco Refining & Marketing, Inc	206	623-6101	2800	250	
WA	Seattle	Time Oil Co	206	285-2400	1167	84	167
WA	Seattle	Todd Pacific Shipyards Corp	206	623-1635	1470	1400	1400
WA	Seattle	Wyckoff Co	206	624-3535	1350	90	90
WA	Tacoma	Continental Grain Co	206	572-3511	504	85	
WA	Tacoma	Domtar Gypsum America	206	627-2108	72	85	85
WA	Tacoma	Occidental Chemical Corp	206	593-1362	875	85	85
WA	Tacoma	Pennwalt Corp	206	627-9101	875	85	85
WA	Tacoma	Port of Tacoma	206	383-5841	3217	85	85
WA	Tacoma	Sound Refining, Inc	206	835-6505	5554	1400	1400
WA	Tacoma	U.S. Oil & Refining Co	206	383-1651	1224	856	
WA	Tacoma	Unocal Tacoma Terminal	206	272-3215	1080	350	350
WA	Tacoma	Weyerhaeuser Co	206	593-7921	875	85	
WA	Vancouver	Aluminum Co. of America	206	696-8657	232	150	150
WA	Vancouver	Ideal Cement	206	695-9208	1729	1000	1000
WA	Vancouver	Port of Vancouver	206	693-3611	332	150	150
WI	Green Bay	Anamax Terminal	414	494-5233	148	300	
WI	Green Bay	F. Hurlbut Dock	414	432-7731	148	200	
WI	Green Bay	North Dock, Green Bay	414	432-8632	148	200	
WI	Green Bay	U.S. Oil Company, Inc	414	432-4422	148	300	
WI	Kenosha	Westlake Harbor Terminals	414	652-3125	65	300	
WI	Manitowoc	The Manitowoc Company, Inc	414	684-6621	577	117	113
WI	Milwaukee	Port of Milwaukee	414	278-3511	65	300	
WI	Sturgeon Bay	Bay Shipbuilding Co	414	684-6621	577	117	133
WI	Superior	Fraser S/Y, Inc	715	394-7787	168	40	60

TABLE II.—ANNEX II RECEPTION FACILITIES

State	City	Terminal name	Area code	Phone No.	Type of wastewater facility can receive (category)
CA	Long Beach	Dow Chemical	213	533-5375	B, D
CA	Long Beach	Petro-Diamond Terminals Company	213	435-8364	C
CA	Long Beach	C. Brewer Terminals, Inc	213	435-5623	C
CA	Pittsburg	Pittsburg Terminal	415	432-5496	B, C
CA	Richmond	Unitank Terminal Service	415	236-2020	C
CA	Richmond	Petromark, Inc	415	232-3275	B
CA	Richmond	Chevron USA, Richmond Refinery	415	620-2314	C
CA	San Pedro	GATX Terminals Corporation	213	547-0881	C
CA	Wilmington	Wilmington Liquid Bulk Terminals	213	549-0961	C, D
CT	Groton	Pfizer Inc	203	441-3206	C
CT	New Haven	E.I. Dupont De Nemours & Co	203	562-5151	C
DE	Wilmington	Delaware Terminal Co	302	654-3717	B, C, D
GA	Savannah	Colonial Oil Industries, Inc	912	236-1331	B, C
GA	Savannah	Powell Duffryn Terminals	912	437-2600	B, C, D
GA	Savannah	Powell Duffryn Terminals, Inc	912	236-1579	B, C, D
HI	Honolulu	Chevron U.S.A. Inc	808	527-2747	C
IL	Chicago	Stolt Terminals (Chicago) Inc	312	646-4448	B, C, D
LA	Baton Rouge	Exxon Company, USA	504	359-7518	B, C, D
LA	Bridge City	Paktank Corp. (Westwego)	504	436-2242	C, D
LA	Bridge City	Paktank Corporation-Westwego	504	436-2242	C, NON-S/HV, D
LA	Carville	Cos-Mar Company	504	642-5454	C
LA	Geismer	Shell Chemical Co	504	379-6368	B, C
LA	Hahnville	Union Carbide Corp	504	468-4300	C
LA	Hahnville	Union Carbide Corporation	504	468-4300	C NON-S/HV
LA	Harvey	Delta Commodities	504	340-4911	A, B
LA	Harvey	Delta Commodities, Inc	504	340-4911	A, B-S/HV
LA	Jennings	SBA Shipyards, Inc	201	824-1519A	
LA	Lake Charles	PPG Industries	318	491-4260	B, D
LA	New Orleans	Avondale Industries, Inc	504	436-5165	C NON-S/HV, D
LA	Norco	GATX Terminals Corp	504	443-2511	A, B, D
LA	Norco	GATX Terminals Corporation	504	443-2511	A, B-NON S//HV, D
LA	Plaquemine	Georgia Gulf Corp	504	685-2500	B
LA	Plaquemine	Dow Chemical Company	504	389-6157	C
LA	St. Rose	International Matex Tank	504	468-3997	B NON-S/HV
LA	Sulphur	Fredman Shipyard, Inc	318	583-7383	B, C, D
LA	Sunshine	Petrounited Terminals Inc	504	642-8335	C
LA	Uncle Sam	Agrico Chemical Co	504	562-3501	C
LA	Uncle Sam	Freeport Chemical Company	504	562-3501	C, D
LA	Westwego	Pacific Molasses Co	504	340-3000	A
LA	Westwego	Pacific Molasses Co	504	340-3000	A
MD	Baltimore	Essex Industrial Chemical Inc	301	355-900	C
MD	Sparrows Point	Bethlehem Steele Co	301	388-7706	C, D
NC	Leland	Port of Wilmington	919	371-2325	C
NC	Leland	Koch	919	371-2325	C
NC	Leland	Chemserv Terminals Inc	919	371-2325	C
NC	Leland	Pfizer Inc	919	371-2325	C
NC	Wilmington	Patank Corporation	919	763-0104	C, D
NC	Wilmington	Exxon Company USA	919	799-0144	C
NJ	Bayonne	Constable Terminal Corp	201	437-2993	C
NJ	Bayonne	Exxon Co. USA	201	858-5508	C
NJ	Bayonne	Powell Duffryn Terminals	201	437-2600	A, B, C, D
NJ	Bayonne	Rollins Terminals Inc	201	436-5433	B, C
NJ	Bayonne	Gordon Terminal Service Co	201	437-8300	C, D
NJ	Bayonne	Imtt-Bayonne	201	437-2200	A, B
NJ	Bridgeport	Monstano Chemical, Co	609	467-3000	B, C
NJ	Carteret	GATX Terminals Corporation	201	541-5161	B NON-S/HV, C
NJ	Deepwater	Dupont Marine Terminal	609	540-2706	B
NJ	Elizabeth	Allied-Signal, Inc	201	354-3215	C
NJ	Gibbstown	I. E. Dupont Company	609	423-0105	
NJ	Linden	Exxon Co., USA Bayway Refinery	201	474-7073	C
NJ	Newark	Celanese Chemical Company, Inc	201	589-2705	C, D
NJ	Paulsboro	BP Oil Co	609	423-4000	C
NJ	Pennsauken	Citgo Petroleum Company	609	963-8470	
NJ	Perth Amboy	Stolt Terminals, Inc	201	826-1144	B, C, D
NJ	Port Newark	Hudson Tank Storage Co	201	465-1115	B
NJ	Seawaren	Shell Oil Co	201	855-3310	B, C, D
NJ	Westville	Coastal Eagle Point Oil Co	609	853-3100	C
NY	Staten Island	Proctor & Gamble, Port Ivory	718	816-2199	C
PA	Marcus Hook	Sun Refining and Marketing Co	215	447-5998	C, D
PA	Philadelphia	Chevron USA, Inc—Girad Point	215	339-7233	B, C
PA	Philadelphia	Unitank Terminal Service	215	634-3031	A, B, C, D
PR	Guanica	Ochoa Pier	809	821-2200	B2 C2
PR	Guayama	Philips Guayama	809	864-1515	
PR	Guayama	Phillips P.R. Core	809	864-1515	C1 B2
PR	Tayaboa	Corco	809	843-3030	B2 C2 A
PR	Tayaboa	Tallaboa Pier	809	843-3030	B1 C1
TN	Milwaukee	Milsolv River Terminal	414	252-3550	C
TX	Corpus Christi	American Chrome & Chemicals	512	883-6421	B

TABLE II.—ANNEX II RECEPTION FACILITIES—Continued

State	City	Terminal name	Area code	Phone No.	Type of wastewater facility can receive (category)
TX	Corpus Christi	Koch Refining Co	512	242-8357	B, C
TX	Deer Park	Shell-Oil Company	713	476-6615	C
TX	Deer Park	Intercontinental Terminals Co	713	479-6024	B, C
TX	Freeport	Dow Chemical Co	409	238-4283	B, C
TX	Galena Park	Warren Petroleum Terminal	713	453-7173	C
TX	Galena Park	Paktank Corporation	713	675-9171	A, B, C
TX	Galena Park	Amerada Hess Corporation	713	453-6301	A
TX	Houston	Stolt and Oil Tanking Chemcial	713	452-2212	A, B, C
TX	Houston	Lyondell Petrochemical	713	475-4506	C
TX	Houston	South Coast Terminals, Inc	713	926-7451	C
TX	Houston	Oil Tanking Inc	713	452-2212	A, B, C
TX	Pasadena	Georgia Gulf Corp	713	920-4301	C, D
TX	Seabrook	Baytank Inc	713	474-4181	A, B, C
TX	Seabrook	Hoechst Celaneese Corporation	713	474-2841	C
TX	Seabrook	Petrounited	713	474-4433	C, D
TX	Texas City	Amoco Chemicals Company	409	948-1601	B, C
TX	Texas City	Coastal States Crude Gathering	409	945-6622	C
TX	Texas City	Stan Trans, Inc	409	948-3561	B, C
TX	Texas City	Sterling Chemicals Dock 1	409	942-3448	C
TX	Texas City	Union Carbide Corp	409	948-5171	B, D
TX	Texas City	Unitank-Texas, Inc	409	948-6310	B, C, D
TX	Texas City	Coastal States Crude Gathering	409	945-6622	C S/HV
TX	Texas City	Stantrans, Inc	409	948-3561	B S/HV, C
USVI	St. Croix	Hess Oil	809	778-4100	A C1 B2
USVI	St. Thomas	Vialco	809	774-1780	A B2 C1
VA	Chesapeake	Huntsman Chemical Corp	804	494-2602	B
VA	Chesapeake	Jacobson Metal Co		804-543-20	A AND LOWER
VA	Chesapeake	Tri-Port Terminals		804-545-45	D
VA	Norfolk	Allied Terminals		804-545-73	A AND LOWER
VA	Norfolk	Virginia Drydock Corp		804-494-73	NON-SOLIDIFYING
VA	Yorktown	Amoco Oil Co		804-898-93	C
WI	Milwaukee	Misolv River Terminal	424	252-3550	C

TABLE III.—TERMINALS/PORTS ISSUED ANNEX V CERTIFICATES OF ADEQUACY

State	Number city	Name of terminal	Area code	Phone number
	Pago Pago, American Samoa.	Ronald Reagan Railway Southwest Marine	684	644-4123
	Pago Pago, American Samoa.	Star-Kist	684	644-1291
	Pago Pago, American Samoa.	Starkist (out at MSO as waiver req)		
	Tutuila, American Samoa	Pago Pago Harbor American Samoa	684	633-4251
AK	Akutan	Trident Seafoods	907	698-2311
AK	Alitak	Wards Cove Packing-CWF Alitak	907	836-2226
AK	Anchorage	John Cabot Co	907	349-2783
AK	Anchorage	P.O.L. Terminal	907	272-1531
AK	Anchorage	Terminals No. 1-2 & 3	907	272-1531
AK	Anchorage	ARRC Whittier Dock	907	265-2611
AK	Angoon	Angoon Oil & Gas	907	788-3436
AK	Bethel	Kemp & Palucci Seafoods	907	543-2404
AK	Bethel	City of Bethel	907	543-2310
AK	Chignik Lagoon	Wards Cove Packing Co. (CWF Chignik)	907	840-2227 or (206)
AK	Cordova	Ocean Dock	907	424-6400
AK	Cordova	Chugach Fisheries, Inc	907	424-3504
AK	Cordova	Chugach Fisheries, Inc	907	434-3504
AK	Cordova	St. Elias Ocean Products	2206	285-6800
AK	Cordova	North Pacific Processors	907	424-7111
AK	Craig	Wards Cove Packing Co	907	826-3327
AK	Craig	Silver Lining Seafoods	907	826-3334
AK	Craig	E. C. Phillips & Son, Inc	907	826-3241
AK	Dutch Harbor	East Point Seafood Co		
AK	Dutch Harbor	American President Lines, Ltd	907	581-1200
AK	Dutch Harbor	Royal Aleutian Barge	907	581-1671
AK	Dutch Harbor	Delta Western	907	561-1284
AK	Dutch Harbor	Royal Aleutian Seafoods, Inc	907	581-1771
AK	Dutch Harbor	Unisea, Inc	907	581-1258
AK	Dutch Harbor	Offshore Systems, Inc	907	581-1827
AK	Ekuk	Wards Cove Packing Company	907	236-3585
AK	Haines	Wards Cove Packing Co	907	766-2828
AK	Haines	Highland Resources, Inc	907	766-2576
AK	Haines	Totem Oil Products Supply, Inc	907	766-3190
AK	Haines	White Pass Alaska-Haines	907	766-2338

TABLE III.—TERMINALS/PORTS ISSUED ANNEX V CERTIFICATES OF ADEQUACY—Continued

State	Number city	Name of terminal	Area code	Phone number
AK	Homer	Seward Fisheries/Icicle Seafoods	907	235-8107
AK	Homer	Icile Seafoods, Inc. Homer Plant	907	235-8107
AK	Homer	Port of Homer	907	235-3160
AK	Hoonah	Hoonah Seafoods	907	945-3211
AK	Hoonah	Hoonah Cold Storage	907	945-3264
AK	Juneau	Point Sherman	907	789-0834
AK	Juneau	Silver Bay Logging (Cube Cove)	907	799-2230
AK	Juneau	Hawk Inlet	907	789-4171
AK	Juneau	Delta Western Bulk Fuel Terminal	907	586-2800
AK	Kenai	Inlet Salmon, Inc	907	283-9275
AK	Kenai	Rig Tenders Dock	907	563-1114
AK	Kenai	Kenai Packers	907	283-7787
AK	Kenai	Salamatof Seafoods, Inc	907	283-7000
AK	Ketchican	Anderes Oil Co	907	225-2163
AK	ketchican	Unocal Corporation	907	225-4176
AK	Ketchikan	Silver Lining Seafoods	907	225-6664
AK	Ketchikan	White Pass Alaska-Ketchikan	907	235-2106
AK	Ketchikan	City of Ketchikan Port & Harbors Dept	907	225-3610
AK	Ketchikan	E. C. Phillips & Son, Inc	907	225-3121
AK	Ketchikan	Wards Cove Packing Company	907	225-5030
AK	Klawock	Klawock Timber Alaska, Inc	907	755-2244
AK	Kodiak	Ursin Seafoods, Inc.	907	486-5724
AK	Kodiak	Alaska Fresh Seafoods,Inc	907	486-5749
AK	Kodiak	International Seafoods of Alaska, Inc	907	486-4768
AK	Kodiak	King Crab Inc	206	285-6800
AK	Kodiak	Port of Kodiak, Municipal Harbor	907	486-5438
AK	Kodiak	Petro Marine Services	907	486-3421
AK	Kodiak	Western Alaska Fisheries	907	486-4112
AK	Kodiak	Kodiak Oil Sales	907	486-3245
AK	Kodiak	Alaska Pacific Processors	907	486-3234
AK	Kodiak	Alaska Fresh Seafoods, Inc	907	486-5749
AK	Kodiak	Eagle Fisheries	907	486-5607
AK	Kodiak	Cook Inlet Processing	907	486-6385
AK	Larsen Bay	Kodiak Salmon Packers	907	847-2250
AK	Marshall	Nakamura & Assoc. Inc	907	679-6703
AK	Metlakatla	Port of Metlakatla	907	886-4646
AK	Metlakatla	Old Ferry Terminal	907	886-4451
AK	Naknek	Wards Cove Packing Co., Red Salmon	907	246-4295
AK	Naknek	Pederson Point	907	246-4461
AK	Naknek	King Crab Inc., Naknek	206	285-6800
AK	Naknek	Leader Creek Marina	907	246-4468
AK	Naknek	Nelbro Packing Company	907	246-4285
AK	Nikiski	Nikiski USA—KPL Dock	907	776-8161
AK	Nikiski	Nikiski Union Chemical Dock	907	776-8121
AK	Nikiski	Nikiski Philips Petroleum Co. Lng Dock	907	776-8166
AK	Nikiski	Nikiski Phillips Petroleum Co./Lng Dock	907	776-8166
AK	Nome	City of Nome	907	443-5242
AK	Old Harbor	Old Harbor	907	286-2204
AK	Pelican	Pelican Cold Storage	907	735-2204
AK	Pelican	Pelican Seafoods, Inc	907	735-2204
AK	Petersburg	Nelbro Packing Co	907	772-4486
AK	Petersburg	Unocal	907	772-4219
AK	Petersburg	Petersburg Fisheries, Div. of Icicle Seafoods	907	772-4294
AK	Petersburg	Chatham Straits Seafoods	206	285-6800
AK	Petersburg	Alaskan Glacier Seafood	907	772-3333
AK	Port Bailey	Wards Cove Packing Company	907	454-2454
AK	River	Wards Cove Packing Egegik	206	233-2238
AK	Saint Paul Island	Port of Saint Paul	907	546-2331
AK	Sand Point	City of Sand Point Boat Harbor	907	383-2331
AK	Sandpoint	Trident Seafoods	907	383-4848
AK	Seward	Seward Fisheries	907	224-3381
AK	Seward	Suneel Alaska Coal Terminal	907	224-3120
AK	Seward	Seward Small Boat Harbor	907	224-3138
AK	Seward	Seward Marine Industrial Center	907	224-3138
AK	Seward	Forth Ave Dock	907	224-3138
AK	Sitka	Sitka Sound Seafoods, Inc	907	747-6662
AK	Sitka	Sitka Sound Oil—Unocal	907	747-3224
AK	Sitka	Old Sitka Terminal Samson Tug & Barge	907	747-8559
AK	Sitka	North Pacific Cold Storage	907	747-5811
AK	Skagway	White Pass & Yukon Route/Skagway Terminal	907	963-2449 or 983-2297
AK	Skagway	Skagway Barge Facility	907	983-2449 or 983-2297
AK	Skagway	White Pass Alaska—Skagway	907	983-2214
AK	South Naknek	South Naknek Seafoods, Inc	907	246-6506
AK	South Naknek	Trident—South Naknek	907	246-6510
AK	South Naknek	South Naknek	907	246-6514
AK	Tenakee Springs	Tenakee Springs Harbor	907	736-2221
AK	Tenakee Springs	Tenakee Springs City Dock	907	736-2221

TABLE III.—TERMINALS/PORTS ISSUED ANNEX V CERTIFICATES OF ADEQUACY—Continued

State	Number city	Name of terminal	Area code	Phone number
AK	Tenakee Springs	Snyder Mercantile Company	907	736-2221
AK	Togiak	T.E.A.M. Seafoods, Inc	907	493-5731
AK	Togiak	Togiak Fisheries, Inc	907	493-5331
AK	Unalaska	Alyeska Seafoods, Inc	907	581-1270
AK	Unalaska	City Ballyhoo Dock	907	581-1254
AK	Unalaska	Pacific Alaska Fuel Services/Captains Bay	907	581-1265
AK	Valdez	Sea Hawk Seafoods, Inc	907	835-4837
AK	Valdez	Valdez City Dock	907	835-4313
AK	Valdez	Valdez Container Terminal	907	835-4313
AK	Wrangell	Unocal	907	874-3276
AK	Wrangell	Wrangell City Port Dock	907	874-3736
AK	Wrangell	Wrangell Boat Harbor	907	874-3736
AK	Wrangell	White Pass Alaska-Wrangell	907	874-3977
AK	Wrangell	Wrangell Fisheries, Inc	907	874-3346
AK	Yakutat	Sitka Sound-Yakutat	907	784-3392 or 794-3393
AL	Anchorage	Chevron USA, Anchorage Terminal	907	258-2301
AL	Bayou La Batre	Gulf Star Seafood, Inc	205	824-2448 or 824-2063
AL	Bayou La Batre	Bama Sea Products, Inc	205	824-2050
AL	Bayou La Batre	Graham Fisheries, Inc	205	824-2890
AL	Bayou La Batre	Master Marine, Inc	205	824-4146
AL	Bon Secour	Bon Secour Fisheries, Inc	205	949-7411
AL	Gulf Shores	Plash Seafood	205	986-7801
AL	Kasilof	Carlson Dock	907	262-1746
AL	King Cove	Peter Pan Seafoods, Inc	907	497-2234
AL	Kodiak	East Point Seafood Company	907	486-5799
AL	Mobile	Mobile Bulk Terminal	205	438-9891
AL	Mobile	Mobile River Terminal Company, Inc	205	432-3233
AL	Mobile	Chevron USA, Inc	205	434-8300
AL	Mobile	Pacific Molasses Co	504	340-3000
AL	Mobile	Atlantic Marine, Inc	205	690-7100
AL	Mobile	Belcher Alabama, Inc	205	433-5418
AL	Mobile	Timbraz, Inc	205	456-3836
AL	Mobile	Seaport Shipping, Co	205	433-5401
AL	Mobile	Bender Shipbuilding & Repair Co., Inc	205	430-8000
AL	Mobile	Blakeley Island Terminal/LL&E Petroleum	205	675-7040 Ext. 19
AL	Theodore	Ideal Basic Industries	205	653-6200
CA	Alameda	Harbor Tug & Barge	415	546-2600
CA	Alameda	Encinal Terminal Berths 1-5	415	523-2054
CA	Anchorage	ARRC Seward Dock	907	265-2611
CA	Avila Beach	Union Oil Co. of California-Avila Wharf Terminal	805	595-2666
CA	Benicia	Huntway Refining Co	707	746-1330
CA	Benicia	Distribution & Auto Service	707	746-5510
CA	Benicia	Benicia Refinery Marine Terminal	707	745-7566
CA	Crescent City	Sea Products Co	707	464-4169
CA	Crescent City	Pt. St. George Fish	707	464-5583
CA	Crescent City	Eureka Fisheries, Inc	707	464-3149
CA	Crescent City	Caito Fisheries, Inc	707	464-9483
CA	Crockett	Wickland Oil Terminals	415	787-1076
CA	El Segundo	Chevron USA El Segundo Marine Terminal	213	615-5489
CA	Eureka	Simpson Paper-Humboldt Pulp Mill	707	443-9771
CA	Eureka	Unocal Eureka Terminal	707	443-7600
CA	Eureka	Eureka Forest Products	707	443-7039
CA	Eureka	Eureka Ice & Cold Storage Co	707	443-5663
CA	Eureka	Eureka Fisheries, Inc	707	442-8218
CA	Eureka	Caito Fisheries, Inc	707	443-0550
CA	Fairhaven	North Coast Export	707	443-9348
CA	Fields Landing	Humbolt Bay Forest Products	707	443-5631
CA	Fields Landing	Eureka Fisheries, Inc	707	443-1673
CA	Fort Bragg	Natural Sales Network	707	964-1261
CA	Fort Bragg	Mendocino Fisheries, Inc	707	961-5426
CA	Fort Bragg	Eureka Fisheries, Inc	707	964-0257
CA	Fort Bragg	Caito Fisheries, Inc	707	964-6368
CA	Long Beach	Pacific Northern Oil	213	432-7555
CA	Long Beach	Forest Terminal Corporation	213	432-5401
CA	Long Beach	C. Brewer Terminal	213	435-5623
CA	Long Beach	Sea-Land Service, Inc	213	432-7411
CA	Long Beach	Domtar Gypsum	213	436-4611
CA	Long Beach	Baker Commodities, Inc	213	436-2355
CA	Long Beach	Weyerhaeuser Company	213	432-3373
CA	Long Beach	Petro-Diamond Terminal Company	714	553-0112
CA	Long Beach	Texaco Refining & Marketing, Inc	213	522-6000
CA	Long Beach	California United Terminals	213	435-8235
CA	Long Beach	Terminal 1—Berths 118 and 121	213	499-2222
CA	Long Beach	Terminal 2—Berths 76, 77 and 78	213	499-2222
CA	Long Beach	Pacific Container Terminal (PCT)	213	435-0842
CA	Long Beach	Crescent Terminals	213	432-6477

TABLE III.—TERMINALS/PORTS ISSUED ANNEX V CERTIFICATES OF ADEQUACY—Continued

State	Number city	Name of terminal	Area code	Phone number
CA	Long Beach	Long Beach Berth 83	213	835-5042
CA	Long Beach	Salen Agencies	213	432-3939
CA	Long Beach	Metropolitan Stevedore Company	213	432-8721
CA	Long Beach	Salen Shipping Agencies	213	436-9961
CA	Long Beach	Pacific Coast Cement Company	213	435-0195
CA	Long Beach	Sea-Land Service, Inc	213	432-7411
CA	Long Beach	Koch Carbon	213	436-4680
CA	Long Beach	Powerine Long Beach Marine Terminal	213	432-7327
CA	Long Beach	Morton Salt/Ocean Salt Company	213	437-0071
CA	Long Beach	Gold Bond Building Products	213	435-4465
CA	Long Beach	Cooper T. Smith	213	436-2259
CA	Long Beach	International Transportation Service	213	435-7781
CA	Long Beach	Long Beach Container Terminal, Inc	213	435-8585
CA	Long Beach	Maersk Pacific, Ltd	213	435-7706
CA	Martinez	Martinez Terminals, Ltd	415	228-3227
CA	Monterey	Sea Products Co	408	633-3365
CA	Morro Bay	City of Morro Bay	805	772-1214
CA	Morro Bay	Central Coast Seafood, Inc	805	772-1274
CA	National City	24th Street Marine Terminal	619	291-3900
CA	Oakland	Berth 22/23	415	271-1800
CA	Oakland	Charles P. Howard Terminal	415	271-1815
CA	Oakland	Schnitzer Steel Products Co	415	444-3919
CA	Oakland	Port of Oakland Berth 40	415	889-6555
CA	Oakland	Transbay Container Terminal, Inc	415	839-8228
CA	Oakland	Public Container Terminal	415	271-0404
CA	Oakland	Nineth Avenue Terminal	415	271-0484
CA	Oakland	Producers Seafood, Inc	415	533-5314
CA	Oakland	Bay Bridge Terminal	415	465-5668
CA	Oakland	Sealand Service Inc	415	271-1019
CA	Oakland	Matson Terminals, Inc	415	271-9710
CA	Pittsburg	Pacific Gas & Elec. Co. Pittsburg Power Plant	415	427-3518
CA	Pittsburg	The Dow Chemical Company	415	432-5557
CA	Point Arena	Arena Cove Fishing Pier	707	882-2583
CA	Port Hueneme	SSA—Port Hueneme Office	805	488-6298
CA	Richmond	Texaco Refining & Marketing Inc	415	232-7671
CA	Richmond	Paktank Corp.—Richmond	415	233-0418
CA	Richmond	Castrol Terminal	415	236-6312
CA	Richmond	Arco Products Company	415	236-0313
CA	Richmond	Richmond Terminal ;3	415	232-1371
CA	Richmond	Richmond Terminal Time Oil Company	415	232-7447
CA	Richmond	Pacific Molasses Company	415	232-7321
CA	Richmond	Unocal Richmond Terminal	415	235-7600
CA	Richmond	Richmond Long Wharf	415	620-2314
CA	Rodeo	Unocal Wharf, Union Oil Co. of California	415	799-4411
CA	Samoa	Louisiana-Pacific Corporation	707	443-7511
CA	San Diego	Embarcadero Marine	619	233-6884
CA	San Diego	Continental Maritime San Diego	619	234-8851
CA	San Diego	Naval Supply Center Point Loma Annex	619	553-1314
CA	San Diego	National Steel & Shipbuilding Co	619	544-7727
CA	San Diego	Tuna Clipper Marine	619	692-9701
CA	San Diego	Tenth Avenue Marine Terminal	619	291-3900
CA	San Diego	B Street Pier Cruise Ship Terminal	619	291-3900
CA	San Francisco	Fred F. Noonan Company, Inc., Pier 70	415	546-9111 (W) 236-9670 (H)
CA	San Francisco	Fisherman's Wharf; J3,4,5,7,9,10	415	391-8000
CA	San Francisco	Port of San Francisco Piers 26, 28, 30/32, 45, 50 A & B	415	391-8000
CA	San Francisco	Pier 94/96	415	641-8980
CA	San Francisco	Forest Terminal Corp	415	984-1448
CA	San Francisco	Fred F. Noonan Co., Inc., Pier 70	415	546-9111 or 236-9670 (H)
CA	San Francisco	Baker Commodities Inc	415	282-4188
CA	San Francisco	Pier 70	415	695-2200
CA	San Francisco	M.T.C. Pier 27/29 S.F.	415	966-3157
CA	San Francisco	Port of San Francisco North Container Terminal	415	826-7100
CA	San Francisco	San Francisco Passenger Terminal-Pier 35	415	391-3696
CA	San Francisco	Pier 92	415	826-7100
CA	San Francisco	Stevedoring Services of America, Inc	415	550-3061
CA	San Francisco	H & H Ship Service Company	415	543-4835
CA	San Francisco	Meatball Bait Distributor, Inc	415	441-0111
CA	San Francisco	Continental Grain Company	209	466-5443
CA	San Francisco	Southwest Marine of San Francisco Inc	415	861-7447
CA	San Pedro	Unocal Berths 45, 46, 47	213	326-7561
CA	San Pedro	Jankovich & Son. Inc	213	547-3305
CA	San Pedro	Petrolane, Inc	218	833-5275
CA	San Pedro	Chevron U.S.A. Inc.	213	832-6474
CA	San Pedro	Chevron U.S.A., Inc (Dupe of 754)	213	832-6474
CA	San Pedro	Western Fuel Oil Company	213	549-7711
CA	San Pedro	Hanjin Shipping Company Ltd	213	499-4500
CA	San Pedro	Los Angeles Cruise Ship Terminal	213	514-4049

TABLE III.—TERMINALS/PORTS ISSUED ANNEX V CERTIFICATES OF ADEQUACY—Continued

State	Number city	Name of terminal	Area code	Phone number
CA	San Pedro	Gatx Terminals Corp—San Pedro Terminal	213	547-0881
CA	San Pedro	Gatx Tank Storage Terminals—LA. Harbor	213	830-5666
CA	San Pedro	American President Lines, Inc	213	548-8872
CA	San Pedro	Kaiser International Corporation	213	514-2880
CA	San Pedro	Todd Shipyard Corp	213	832-3361
CA	San Pedro	The Dow Chemical Company	310	533-5700
CA	San Pedro	B.P. North America Petroleum Inc	213	548-6496
CA	San Pedro	Penzoil Products Company Berths 71/72	213	831-2011
CA	Santa Barbara	Santa Barbara Harbor	805	965-6886
CA	Sausalito	Sea K Fish Company	415	331-3477
CA	Stockton	Stockton Port District	209	946-0246
CA	Suisun	Sheldon Oil Company	707	425-2951
CA	Terminal Island	Matson Terminals, Inc	213	519-6537
CA	Terminal Island	Indies Terminal	213	547-3351
CA	Terminal Island	Evergreen	213	514-4004
CA	Terminal Island	Refiners Marketing Company	213	519-7696
CA	Terminal Island	Pan Pacific Fisheries, Inc	213	833-3564
CA	Terminal Island	Mobil Oil Corp., West Coast Pipe Lines	213	832-2702
CA	Terminal Island	Hugo Neu-Proler	213	775-6626
CA	Terminal Island	Southwest Marine, Inc	213	519-0600
CA	Ventura	Seafood Specialties	805	653-0625
CA	Ventura Harbor	Pafco Marine Products	818	650-1799 or (213)
CA	West Sacramento	Port of Sacramento	916	371-8000
CA	Wilmington	Shell Oil Company	213	816-2475
CA	Wilmington	Wilmington Berth 153-155	213	431-8195
CA	Wilmington	United States Borax & Chemical Corp.	213	522-5300
CA	Wilmington	Unocal Lar Marine Terminal	213	513-7614
CA	Wilmington	Distribution & Auto Service	213	835-8806
CA	Wilmington	Wilmington Liquid Bulk Terminals, Inc	213	549-0961
CA	Wilmington	L.A. Terminals	213	549-5821
CA	Wilmington	Ultramar Marine Terminal, Inc	213	834-7254
CA	Wilmington	Fred F. Noonan Company, Inc	213	830-8181
CA	Wilmington	Wickland Oil Terminals	213	834-4495
CA	Wilmington	Chiquita Brands, Banana Discharge Terminal		835-3292
CA	Wilmington	Pacific Lumber Terminal	213	834-2631
CA	Wilmington	Pacific Molasses Company	213	834-5261
CA	Wilmington	Los Angeles Pier 178	213	549-1810
CA	Wilmington	Metropolitan Stevedore Co	213	835-5042
CA	Wilmington	Gatx Terminals Corp—San Pedro Terminal	213	514-4044
CA	Wilmington	Trans Pacific Container Service Corp	213	830-5666
CA	Wilmington	Los Angeles City, Dept. Water/Power, Berth	213	513-7441
CT	New Haven	Gulf Oil	213	834-3444
CT	New Haven	Wyatt Inc	203	467-2581
CT	New London	Admiralty Group, Ltd	203	787-2175
DE	Delaware City	Star Enterprise	203	443-5010
DE	Wilmington	Delaware Terminal Company	302	834-6205
DE	Wilmington	Port of Wilmington	302	654-3717
DE	Wilmington	Sico Oil Company	302	571-4600
FL	Bokeelia	St James Fish Co	302	653-1411
FL	Cape Canaveral	Cape Seafoods, Inc. (DBA Fischer's Seafoods)	813	283-0601
FL	Cape Canaveral	Canaveral Port Authority	407	783-7605
FL	Cape Canaveral	The Fish House of Cape Canaveral	407	783-7831
FL	Cape Canaveral	Protem, Inc	407	783-7605
FL	Carrabelle	Protem, Inc	407	452-8060
FL	Cortez	A.P. Bell Fish Co. Inc.	904	697-3387
FL	Cortez	Sigma International, Inc	813	794-1249
FL	Everglades City	Everglades Fish Corp	813	792-3083
FL	Fernandina Beach	Nassau Terminals Forest Products Terminal	818	695-3241
FL	Fort Lauderdale	Amerada Hess Corporation	904	261-0753
FL	Fort Pierce	Indian River Terminal Company	201	750-6000
FL	Ft. Lauderdale	Coastal Fuels Marketing, Inc	407	465-7700
FL	Ft. Myers Beach	Beach Shrimp Packers, Inc	305	825-4261
FL	Ft. Pierce	Inlet Fisheries, Inc	813	463-5758
FL	Ft. Pierce	Hudgins Fish Company, Inc	407	464-6722
FL	Grant	Hudgins Fish Company, Inc	407	461-5787
FL	Homosassa	Cedar Key Fish & Oyster, Co	407	723-8199
FL	Jacksonville	Atlantic Dry Dock Corp	904	628-2452 or 628-9101
FL	Jacksonville	BP Oil	904	251-3111
FL	Jacksonville	Talleyrand Docks & Terminal	904	757-4650
FL	Jacksonville	Blount Island Marine Terminal	904	630-3044
FL	Jacksonville	Joyserve Company, Ltd	904	757-7806
FL	Jacksonville	Triangle Refineries, Inc	904	354-5000
FL	Jacksonville	J.E.A. Northside Generating Station	904	355-8396
FL	Jacksonville	J.E.A. Southside Generating Station	904	633-4490
FL	Jacksonville	J.E.A. Kennedy Generating Station	904	633-4440
FL	Jacksonville	J.E.A. St. Johns River Coal Terminal	904	633-5280
			904	757-0894

TABLE III.—TERMINALS/PORTS ISSUED ANNEX V CERTIFICATES OF ADEQUACY—Continued

State	Number city	Name of terminal	Area code	Phone number
FL	Jacksonville	Bernuth Lembcke Co, Inc	904	355-6567
FL	Jacksonville	U.S. Gypsum Co	904	768-2501
FL	Jacksonville	North Florida Shipyards, Inc	904	354-3278
FL	Jacksonville	Amoco Oil Co	904	757-5706
FL	Jacksonville	Steuart Petroleum Co	904	355-9675
FL	Jacksonville	Phillips Pipeline Co	904	353-6740
FL	Jacksonville	Bellinger Shipyard	904	798-3700
FL	Jacksonville	Jacksonville Shipyards, Inc	904	798-3700
FL	Jacksonville	Petroleum Fuel & Terminal Co	904	358-2375
FL	Jacksonville	U.S. Navy Fuel Department	904	757-5354
FL	Jacksonville	Distribution & Auto Service	904	751-5720
FL	Jacksonville	Chevron USA, Inc	904	353-1094
FL	Jacksonville	The Celotex Corporation	904	751-4400
FL	Jacksonville	Occidental Chemical Corp	904	632-3800
FL	Jacksonville	U.S. Gypsum Company	904	788-2501
FL	Madeira Beach	Triangle Fisheries	813	391-3684
FL	Marathon	City Fish, Inc	305	743-5545
FL	Marathon	Didi Seafood Corporation	305	289-1452
FL	Marathon	Keys Fisheries, Inc	305	743-6727
FL	Matlacha	Lee County Fishermans Coop	813	283-1173
FL	Matlacha	Quality Seafood, Inc	813	283-3200
FL	Mayport	Atlantic Seafood Co	904	249-4031
FL	Mayport	Miss Becky-Seafood, Inc	904	241-4331
FL	Miami	East River Terminal	305	633-3581
FL	Miami	Bernuth Marine, Inc, withdraw this since	305	633-7711
FL	Miami	Antillean Marine Shipping	305	633-6361
FL	Miami	Hyde Shipping Corp	305	638-4262
FL	Miami	Pioneer Shipping, Inc	306	633-3224
FL	Miami	Thompson Shipping, Co	305	633-8226
FL	Miami	Coastal Fuels Marketing, Inc	305	672-1065
FL	Miami	North River Terminal	305	633-3581
FL	Miami	Hyde Shipping Company	305	638-4262
FL	Milton	Gulf Bait and Seafood	904	623-5442 or 623-1946
FL	Milton	Avalon Seafood Co	904	994-5648
FL	Naples	Turners Seafood, Inc	813	261-7329
FL	Palmetto	Nu-Gulf Industries, Inc	813	722-8992
FL	Palmetto	Manatee Terminal Inc	813	722-7719
FL	Palmetto	Manatee Stevedoring Co., Inc	813	729-5602
FL	Palmetto	National Portland Cement Company	813	746-1177
FL	Palmetto	Florida Power & Light Manatee Terminal	813	722-1163
FL	Palmetto	Eastern Portland Cement Corp	813	729-7311
FL	Palmetto	Belcher Oil Company	813	722-7727
FL	Palmetto	Apollo Stevedoring Company, Inc	813	722-0558
FL	Panama City	Sander's Seafood	904	769-3675
FL	Panama City	Brannon's Seafood, Inc	904	769-0366
FL	Panama City	Tarpon Properties	904	769-0366
FL	Panama City	Panama City Port Authority	904	763-8471
FL	Panama City	Bay Harbor Terminals	904	769-6714
FL	Pensacola	Unocal Pensacola Terminal	904	432-5133
FL	Pensacola	Coastal Fuel Marketing Inc	904	432-2471
FL	Pensacola	Sulphur Terminal Co., Inc	904	432-8393
FL	Pompano Beach	Merritt Seafood Inc	305	941-6174
FL	Pompano Beach	Triple M Seafood, Inc	305	781-8980
FL	Ponce Inlet	Inlet Harbor Marina	904	767-3266
FL	Port Canaveral	C&W Fish Company	407	286-0106
FL	Port Everglades	Port Everglades Authority	305	523-3404
FL	Port Everglades	Exxon Company U.S.A.	305	524-0267
FL	Port Salerno	C&W Fish Company	407	286-0106
FL	Riviera Beach	Port of Palm Beach District	407	842-4201
FL	Riviera Beach	Florida Sugar Marketing & Terminal	407	842-2458
FL	Riviera Beach	Tropical Shipping Co. Ltd	407	881-3968
FL	Riviera Beach	Heavy Lift Services, Inc	407	848-2319
FL	Riviera Beach	Florida Molasses Exchange, Inc	407	848-3301
FL	Riviera Beach	Eastern Cement Corp	407	848-4824
FL	Riviera Beach	LaFarge Corp	407	842-1563
FL	Riviera Beach	Crown Cruise Line	407	845-2101
FL	Riviera Beach	Williams Shipping	407	848-4389
FL	Riviera Beach	Hudgins Fish Company, Inc	407	845-2881
FL	Sebastian	Mays Marina	407	589-2552
FL	Sebastian	Sembler & Sembler, Inc	407	589-4843
FL	St. Petersburg	Pinellas Seafood	813	823-4601
FL	Tampa	Sulfuric Acid Trading Co.	813	248-4940
FL	Tampa	Sulphur Terminals, Inc	813	248-4940
FL	Tampa	Citgo Petroleum Corp	813	247-2161
FL	Tampa	Harborside Refrigerated Services, Inc	813	248-6996
FL	Tampa	Eller & Company, Inc	813	247-5511
FL	Tampa	Phillips Petroleum Co.	813	248-3994
FL	Tampa	Gold Bond Building Products Terminal	813	839-2111

TABLE III.—TERMINALS/PORTS ISSUED ANNEX V CERTIFICATES OF ADEQUACY—Continued

State	Number city	Name of terminal	Area code	Phone number
FL	Tampa	Murphy Oil USA, Inc	813	248-3158
FL	Tampa	Paktank Florida, Inc	813	247-5417
FL	Tampa	Unocal Chemicals	813	837-6482
FL	Tampa	Amoco Oil Co	813	248-3191
FL	Tampa	Gulf Products/Div. BP Oil	813	831-1161
FL	Tampa	Warren Petroleum/Chevron USA	813	831-1711
FL	Tampa	Marathon Petroleum Company	813	247-1459
FL	Tampa	GATX Terminals Corporation	813	248-2148
FL	Tampa	Chevron USA, Inc	813	248-2189
FL	Tampa	Shell Oil Company	813	839-2327
FL	Tampa	Marathon Petroleum Company	816	247-1459
FL	Tampa	Fina Oil and Chemical Company	813	247-3429
FL	Tampa	Lafarge Corporation	813	247-4631
FL	Tarpon Springs	Leonard & Sons Shrimp Co	823	934-4657
FL	West Palm Beach	General Electric Government Services	407	832-8566 X7238
FL	West Palm Beach	General Electric Government Services	407	832-8566 X7238
GA	Brunswick	East River Terminal [Berths 2 and 3]	912	264-4044
GA	Fort Wentworth	Stone Savannah Pulp and Paper Co	912	966-4342
GA	Fort Wentworth	Kock Materials Company	912	964-1913
GA	Fort Wentworth	Savannah Sugar Refinery	912	964-1361
GA	Fort Wentworth	Atlantic Wood Industries, Inc	912	964-1234
GA	Fort Wentworth	Georgia Steamship c./Georgia Pacific	912	964-8624
GA	Savannah	Colonial Oil Industries, Inc	912	236-1331
GA	Savannah	Chevron USA, Inc	904	353-1094
GA	Savannah	Amoco Oil Company	912	966-4200
GA	Savannah	Marcona Ocean Ind. & Kemira Company	912	234-5005
GA	Savannah	Unocal Savannah Terminal	912	233-9266
GA	Savannah	Blue Circel Atlantic, Inc	912	236-6318
GA	Savannah	Southern Bulk Industries	912	964-2785
GA	Savannah	Georgia Ports Authority	912	964-3811
GA	Savannah	Powell Duffryn Terminals, Inc	912	236-1579
GA	Savannah	East Coast Terminal Company	912	236-1531
GA	Savannah	Domtar Gypsum	912	233-4951
GA	Savannah	Southern States Phosphate & Fertilizer Co	912	232-1101
HI	Ewa Beach	Hawaiian Independent Refinery, Inc	808	547-3900
HI	Ewa Beach	Chevron Hawaiian Refinery	808	682-2215
HI	Honolulu	Honolulu Marine Terminal	808	527-2747
HI	Honolulu	Piers 1 & 2	808	548-4134
HI	Honolulu	Pier 5	808	548-4134
HI	Honolulu	Piers 8, 9, 10, 11	808	548-4134
HI	Honolulu	Piers 13 & 14	808	548-4134
HI	Honolulu	Piers 15, 16, 17, 18	808	548-4134
HI	Honolulu	Piers 19 & 20	808	548-4134
HI	Honolulu	Piers 21, 22, 23, 24, 25, 26, 27, 28	808	548-4134
HI	Honolulu	Piers 29 & 30	808	548-4134
HI	Honolulu	Piers 31, 32, 33	808	548-4134
HI	Honolulu	Pier 34	808	548-4134
HI	Honolulu	Pier 35	808	548-4134
HI	Honolulu	Pier 36	808	548-4134
HI	Honolulu	Pier 37	808	548-4134
HI	Honolulu	Pier 38	808	548-4134
HI	Honolulu	Piers 39, 40, 41	808	548-4134
HI	Honolulu	Pier 51	808	548-4134
HI	Honolulu	Piers 52 & 53	808	548-4134
HI	Honolulu	Pier 60	808	548-4134
HI	Honolulu	Kewalo Basin	808	548-4134
HI	Honolulu	Barbers Point	808	548-4134
IL	Chicago	Iroquois Landing	312	374-3600
IL	Chicago	Ceres Terminal North	312	646-4545
IL	Chicago	Continental Grain Co	312	646-2387
IL	Chicago	Continental Grain Co	312	646-2387
IL	Chicago	Cargill Elevator Chicago	312	768-8432
IL	Chicago	Shed 2 Lake	312	646-4400
IL	Chicago	Federal Marine terminals	312	734-5100
IL	Chicago	Shed 3 Lake Calumet	312	646-4400
IL	Chicago	Emeslo Marine Terminal	312	646-3200
IL	Chicago	Indiana Grain Cooperative [Gateway Elev]	312	646-2288
IL	Chicago	Rail to Water Transfer Corporation	312	375-3700
IL	Chicago	Tri River Docks, Inc	312	646-4110
IN	E. Chicago	Citgo Petroleum Corporation	219	398-0734
LA		Mermentau Terminal of Unocal Pipeline	318	536-6098
LA	Abbeville	Zapata Haynie Corp	318	893-2933
LA	Abbeville	Forked Island Terminal (No COA Needed)	318	642-5260
LA	Ama	ADM/Growmark	504	431-8241
LA	Arabi	Amstar Sugar Corporation	504	271-5331
LA	Arabi	Kaiser Aluminum & Chemical Corp. Chalmette	504	271-7046
LA	Arabi	Kaiser Aluminum & Chemical Corp	504	271-7046

TABLE III.—TERMINALS/PORTS ISSUED ANNEX V CERTIFICATES OF ADEQUACY—Continued

State	Number city	Name of terminal	Area code	Phone number
LA	Avondale	International Matex Tank Terminals	504	436-4466
LA	Avondale	Avondale Industries, Inc	604	436-5274
LA	Baton Rouge	Exxon Co., USA	504	359-7518
LA	Belle Chase	B.P. America	504	656-3253
LA	Belle Chasse	Maritime Oil Recovery, Inc	504	393-1330
LA	Belle Chasse	Chevron Chemical Company	504	394-4320
LA	Belle Chasse	B.P. America	504	656-3253
LA	Buras	Chevron Pipe Line Co. Empire/Ostrica Terminal	504	592-7513
LA	Burnside	Burnside Terminal	504	343-8420
LA	Cameron	Louisiana Menhaden Company	318	477-6578
LA	Cameron	Trosclair Canning Company	318	775-5275
LA	Cameron	Zapata Haynie Corporation	818	569-2314
LA	Carlyss	Conoco Clifton Ridge Marine Terminal	318	491-5094
LA	Carville	Cosmar Company	504	642-5454
LA	Chalette	Mobil Oil—Chalmette Refinery	504	279-9481
LA	Chalmette	Exxon Chalmette Refinery	504	561-3537
LA	Chauvin	Indian Ridge Shrimp Co.	504	594-3361
LA	Convent	Cargill, Inc. (K-2)	504	562-7313
LA	Convent	Occidential Chemical Corporation	504	562-9200
LA	Convent	Zen-Noh Grain Corporation	504	562-3571
LA	Convent	Zen-Noh Grain Corporation	504	562-3571
LA	Davant	Texaco Pipeline Inc Davant Terminal	504	876-5645
LA	Davant	Electro-Coal Transfer Corporation	504	524-4181
LA	Destrehan	St. Charles Grain Elevator	504	466-2753
LA	Destrehan	Bunge Corporation	504	466-5300
LA	Donaldsonville	Triad Chemical	504	473-9231
LA	Dulac	Dulac Seafood Co./Terre Mar Corp	504	563-2533
LA	Dulac	Tidelands Seafood Co., Inc	504	563-4516
LA	Dulac	Zapata Haynie Corp	504	563-4424
LA	Dulac	Samanie Shrimp Dock	504	563-4397
LA	Empire	Empire Menhaden Company, Inc	504	657-7281
LA	Empire	Petrou Fisheries, Inc	504	657-9711
LA	Garyville	Marathon Petroleum Company	504	535-2241
LA	Garyville	Clark Oil & Refining Corporation	504	535-6256
LA	Gibbstown	Chalkey Terminal of Unocal Pipeline	318	536-6098
LA	Golden Meadow	Fourchon Int'l Shipping Terminal	504	396-2835
LA	Golden Meadow	Gulf Shrimp Processors, Inc	504	475-5738
LA	Gramercy	Colonial Sugars, Inc	504	869-5521
LA	Gramercy	Kaiser Aluminum & Chemical Corporation	504	869-2270
LA	Gramercy	Laroche Chemicals, Inc	504	869-2106
LA	Gretna	Nola Terminal, BP Oil Company	504	368-2560
LA	Hackberry	Oxy NGL Inc Hackberry LPG Terminal	318	762-4205
LA	Hahnville	Union Carbide Corp	504	468-4411
LA	Hahnville	Agrico Chemical Company—Taft Plant	504	783-6872
LA	Harvey	Delta Commodities, Inc	504	340-4911
LA	Harvey	International-Matex Tank Terminals	504	368-2560
LA	Houma	Texaco Pipeline Inc Houma Terminal	504	876-5645
LA	Houma	D'Luke Seafood, Inc	504	563-7102 or 563-2328
LA	Lake Charles	Lake Charles Harbor & Terminal District	318	439-3661
LA	Lake Charles	Trunkline Lng Co.	318	478-9936
LA	Lake Charles	Olin Corporation Ammonia Docks	318	491-3205
LA	Lake Charles	Olin Corporation Urea Docks	318	491-3205
LA	Lake Charles	Lake Charles Carbon Co.	318	437-3265
LA	Lake Charles	Citgo Petroleum—Clifton Ridge	318	491-6121
LA	Lake Charles	Citgo Petroleum Corporation Refinery	318	491-6165
LA	Lake Charles	Citgo Petroleum Corporation A Dock	318	491-7429
LA	Lake Charles	Citgo Petroleum Corporation B Dock	318	491-7429
LA	Lake Charles	Citgo Petroleum Corporation C Dock	318	491-7429
LA	Lake Charles	Citgo Petroleum Corporation D Dock	318	491-7429
LA	Lake Charles	PPG Industries	318	491-4730
LA	Lake Charles	BP Oil Co. Carbon Products Division	318	583-7930
LA	Lake Charles	Crowley Maritime Corp.	318	474-9600
LA	Marrero	Amerada Hess Corporation	504	341-4225
LA	Metairie	Transocean Terminal Operators	504	832-8219
LA	Metairie	Transocean Terminal Operators	504	832-8219
LA	Morgan City	ABC Bait Co.	504	384-1817
LA	Myrtle Grove	Myrtle Grove Elevator	504	656-2212
LA	New Orleans	Loop Inc	504	368-5667
LA	New Orleans	Dixie Machine Welding & Metal Works, Inc. Andry St	504	581-3088
LA	New Orleans	Buck Kreihs Co., Inc	504	524-7681 or 271-2112
LA	New Orleans	Algiers Ironwork & Dry Dock, Inc	504	362-7960
LA	New Orleans	U.S. Gypsum Co.	504	241-2020
LA	New Orleans	International Petroleum Co of LA	504	254-9030
LA	New Orleans	Pacific Molasses Company	504	340-3000
LA	New Orleans	Ryan-Walsh Stevedoring Co., Inc	504	895-5800
LA	New Orleans	Ryan-Walsh Stevedoring Co., Inc	504	895-5800
LA	New Orleans	Fritz Maritime Agencies	504	524-8713

TABLE III.—TERMINALS/PORTS ISSUED ANNEX V CERTIFICATES OF ADEQUACY—Continued

State	Number city	Name of terminal	Area code	Phone number
LA	New Orleans	Fritz Maritime Agencies	504	524-8713
LA	New Orleans	Gulf & Southern Terminal	504	897-1320
LA	New Orleans	Ryan-Walsh Stevedoring Co. Inc	504	895-5800
LA	New Orleans	I.T.O. Corporation	504	899-9544
LA	New Orleans	International Cruise Terminal, Inc	504	529-4567
LA	New Orleans	Anchor Stevedoring, Co	504	945-6513
LA	New Orleans	Coastal Cargo, Co. Inc	504	942-4227
LA	New Orleans	New Orleans Stevedoring Company	504	942-5557
LA	New Orleans	Ceres Gulf Stevedoring	504	244-9882
LA	New Orleans	Sea-Land Service, Inc	504	948-7992
LA	New Orleans	Puerto Rico Marine Management, Inc	504	942-1100
LA	New Orleans	New Orleans Marine Contractors	504	949-9801
LA	New Orleans	New Orleans Marine Contractors	504	949-9801
LA	New Orleans	Turner Marine Bulk, Inc	504	245-1089
LA	Norco	Shell Oil Co. Norco Mfg. Complex	504	465-7301
LA	Norco	Gatx Terminals Corporation	504	443-2511
LA	Norco	Gatx Terminals Corporation	504	443-2511
LA	Paulina	Peavey Company-St. Elmo Terminal	504	669-4405
LA	Paulina	I.T.O. Corporation	504	522-5246/ 469-5662
LA	Pilottown	Texaco Pipeline Terminal Pilottown	504	876-5645
LA	Plaquemine	Georgia Gulf Corporation	504	389-2500
LA	Port Allen	Petroleum & Fuel Terminal Company	504	383-9211
LA	Port Allen	Anchorage Chemical Terminal	504	389-0170
LA	Port Sulphur	Freeport Sulphur Company	504	564-3981
LA	Port Sulphur	International Marine Terminals	504	656-7341
LA	Reserve	Cargill Inc	504	536-4111
LA	Reserve	Louis Dreyfus Reserve Grain Elevator	504	536-1151
LA	Reserve	Cargill Inc. Molasses Liquid Products	504	536-4121
LA	Reserve	Riverplex International	504	536-8900
LA	St. Bernard	Vic Molero Seafood Inc	504	676-1309
LA	St James	Capline Terminal	504	588-7834
LA	St. James	U.S. Dept. of Energy, St. James Terminal	504	265-3073
LA	St. James	U.S. Dept. of Energy, St. James Terminal	504	265-3073
LA	St. James	U.S. Dept. of Energy, St. James Terminal	504	265-3073
LA	St. Rose	International Matex Tank Terminals	504	468-3997
LA	St. Rose	International Matex Tank Terminals	504	468-3997
LA	Sunshine	Petro United Terminals, Inc	504	642-8335
LA	Taft	Occidential Chemical Corp	504	783-7382
LA	Uncle Sam	Agrico Chemical Co	504	562-3501
LA	Union	Star Enterprise	504	562-7681
LA	Westlake	Conoco Inc-Refinery Dock	318	491-5024
LA	Westwego	Pacific Molasses Company	504	340-3000
LA	Westwego	Gold Bond Building Products Terminal	504	341-8596
LA	Westwego	Paktank Corporation Westwego Terminal	504	436-2242
LA	Westwego	Paktank Corporation (Westwego Terminal)	504	436-2242
LA	Westwego	Koch-Ellis Barge & Ship	504	436-3766
MA	Boston	General Ship Corp. South Boston	617	569-4200
MA	Boston	General Ship Corp. (East Boston)	617	569-4200
MA	Boston	Blue Circle Atlantic Inc	617	241-9040
MA	Boston	Boston Fish Pier	617	973-5500
MA	Charleston	United States Gypsum	617	241-9100
MA	Charleston	Massports Revere Sugar Wharf	617	973-5500
MA	Charlestown	John E. Moran Docks	617	973-5500
MA	Charleston	Mystic Piers No. 48, 49, & 50	617	973-5500
MA	Charleston	Mystic Pier No. 1	617	973-5500
MA	Charleston	Boston Edison Company Mystic Station	617	381-7277
MA	Chatham	Chatham Municipal Fish Pier	508	432-7161
MA	Chelsea	Gulf Oil Co	617	884-5980
MA	Chelsea	Belcher Chelsea	617	889-1391
MA	Chelsea	Atlantic Fuels Marketing Corp	617	288-1100
MA	Chelsea	Eastern Minerals Inc	617	884-0027
MA	East Boston	Mobil Oil East Boston Terminal	617	381-4035
MA	East Boston	East Boston Piers Nos. 1, 3, 4, 5	617	973-5500
MA	East Braintree	Citgo Petroleum Corporation	617	848-2595
MA	Everett	Exxon Company U.S.A	617	381-2802
MA	Everett	Distrigas of Massachusetts Corp	617	381-8540
MA	Everett	Independent Cement Corporation	617	387-3829
MA	Everett	Coldwater Seafood Corporation	617	387-2050
MA	Everett	Prolerized N.E. Co	617	369-8300
MA	Fall River	Fall River/Shell Oil	508	675-6200
MA	Fall River	Borden & Remington, Corp	508	675-0181
MA	Fall River	Fall River Line Pier, Inc	508	674-5707
MA	Fall River	Northeast Products Company, Inc	508	678-8367
MA	Gloucester	John B. Wright Fish Co., Inc	508	283-4205
MA	Gloucester	Star Fisheries	508	283-0890
MA	Gloucester	Frontiero Brothers, Inc	508	283-1282
MA	Gloucester	Ocean Crest Seafoods, Inc	508	281-0232
MA	Gloucester	Americold Corporation	506	283-6100

TABLE III.—TERMINALS/PORTS ISSUED ANNEX V CERTIFICATES OF ADEQUACY—Continued

State	Number city	Name of terminal	Area code	Phone number
MA	Gloucester	Americold Corporation	508	283-6100
MA	Gloucester	Americold Corporation	508	283-6100
MA	Gloucester	Americold Corporation	508	283-6100
MA	Gloucester	Fisherman's Wharf	508	283-6190
MA	Lynn	General Electric River Works	617	594-4826
MA	New Bedford	Blue Gold Sea Farms	508	993-2635
MA	New Bedford	Fish Island Seafood, Inc	508	992-2969
MA	New Bedford	Ocean Obsession Ltd	508	997-0720
MA	New Bedford	Atlantic Coast Fisheries Corp	508	999-2993
MA	New Bedford	Trio-Algarvio Seafood, Inc	508	993-5868
MA	New Bedford	Global Petroleum Corp	508	997-4534
MA	New Bedford	State Pier-New Bedford, MA	508	993-1646
MA	New Bedford	Maritime Terminal, Inc	508	996-8507
MA	New Bedford	Frionor USA, Inc	508	997-0031
MA	Quincy	Proctor & Gamble Mfg. Company	617	847-3684
MA	Quincy	Quincy Oil, Inc	617	773-2500
MA	Revere	Belcher New England	617	284-4490
MA	Revere	BP Oil Company	617	289-4201
MA	Revere	Global Petroleum Corp	617	289-2102
MA	Salem	Salem Harbor Station Terminal	508	744-5540
MA	Salem	Northeast Petroleum Division of Cargill, Inc	508	744-3434
MA	Sandwich	Canal Marine, Inc	508	888-0096
MA	Sandwich	ESCO Terminals, Inc	508	888-2001
MA	Sandwich	Sandwich Marina	508	833-0808
MA	Somerset	New England Power	508	678-8321
MA	Somerset	Montaup Electric Company	508	678-5283
MA	South Boston	Belcher South Boston	617	269-8400
MA	South Boston	Massport Marine Terminal Wharf	617	973-5500
MA	South Boston	Boston Army Base Terminal, Berths 1-10	617	973-5500
MA	South Boston	Paul W. Conley Marine Terminal, Berths 11-17	617	973-5500
MA	South Boston	Boston Edison Company-New Boston Station	617	464-6000
MA	Vineyard Haven	M.V. Fuel & Ice	508	693-6422
MA	Vineyard Haven	R.M. Packer Co	508	693-0900
MA	Vineyard Haven	Tisbury Wharf Co	508	693-0900
MA	Vineyard Haven	Campbell Oil Co	508	693-0900
MA	Woods Hole	Woods Hole, Martha's Vineyard & Nantucket	508	548-5011
MA	Woods Hole	Woods Hole, Martha's Vineyard & Nantucket	508	771-4000
MA	Woods Hole	Woods Hole Oceanographic Institution	508	548-1400
MD	Baltimore	Consolidation Coal Sales Co	301	631-7000
MD	Baltimore	Shell Oil Co	301	354-0404
MD	Baltimore	BP Oil Company	301	355-7200
MD	Baltimore	Rukert Terminals Corp	301	276-1013
MD	Baltimore	Petroleum Fuel & Terminal	301	342-7800
MD	Baltimore	Amstar Sugar Corp	301	752-6150
MD	Baltimore	Eastalco Pier	301	354-1113
MD	Baltimore	Lebanon Chemical Corp	301	327-4700
MD	Baltimore	Essex Industrial Chemicals, Inc	301	354-5306
MD	Baltimore	Agrico Chemical Co	301	276-8100
MD	Baltimore	Conoco Inc	310	355-5296
MD	Baltimore	Support Terminal Services, Inc	301	355-6262
MD	Baltimore	Proctor & Gamble	301	576-5650
MD	Baltimore	U.S. Gypsum Company	301	355-6600
MD	Baltimore	Gold Bond Building Products Terminal	301	631-5315
MD	Baltimore	Chesapeake Terminal	301	355-9430
MD	Baltimore	Atlantic Terminal	301	355-9430
MD	Baltimore	CSX Transportation Curtis Bay Coal & Ore Piers	301	347-5201
MD	Baltimore	Exxon Co. USA	301	563-5118
MD	Baltimore	Independent Cement Corp	301	354-1170
MD	Baltimore	Transmaryland Terminal Corp	301	355-4650
MD	Baltimore	Eastalco Alum Co. Hawkins Point	301	354-1113
MD	Baltimore	Canton Elevator-Ferruzzi U.S.A., Inc	301	631-5100
MD	Baltimore	Star Enterprise	301	355-6500
MD	Baltimore	Fairfield Marine Terminal	301	633-1160
MD	Baltimore	Seagirt Marine Terminal	301	633-1160
MD	Baltimore	Dundalk Marine Terminal	301	633-1160
MD	Baltimore	Locust Point Marine Terminal, North	301	633-1160
MD	Baltimore	Locust Point Marine Terminal, South	301	332-8320
MD	Baltimore	Clinton Street Marine Terminal	301	633-1160
MD	Baltimore	Transpacific Communications, Inc	301	385-0425
MD	Baltimore	Pier 7 North Locust Point	301	685-6410
MD	Baltimore	Amerada Hess Corporation	301	750-6000
MD	Baltimore	Blue Circle Atlantic	301	355-4440
MD	Cambridge	Cambridge Marine Terminal	301	228-6500
MD	Crisfield	Steuart Shipyard	301	968-2600
MD	Galesville	Woodfield Fish & Oyster Co., Inc	301	867-3421
MD	Piney Point	Steuart Petroleum Company	301	994-1200 ext. 216
MD	Sparrows Point	Bethlehem Steel Balto Marine Div	301	388-7907
MD	Sparrows Point	Pennwood Wharf	301	388-7497

TABLE III.—TERMINALS/PORTS ISSUED ANNEX V CERTIFICATES OF ADEQUACY—Continued

State	Number city	Name of terminal	Area code	Phone number
MD	Sparrows Point	High Pier	301	388-4969
MD	Sparrows Point	ORE Pier	301	388-6407
MD	Sparrows Point	Chesapeake Bulk Stevedores, Inc	301	388-1440
ME	Bangor	Webber Oil Company	207	942-5501
ME	Bangor	Barrett Paving Materials Inc	207	942-4681
ME	Bucksport	C.H. Sprague & Son Co.	207	469-7946
ME	Bucksport	C.H. Sprague & Son Co. (North Terminal)	207	469-7946
ME	Hampden	Cold Brook Energy Inc	207	945-9465
ME	Lubec	R.J. Peacock	207	733-5556
ME	Lubec	Lubec Packing	207	733-5572
ME	Portland	Portland Marine Terminal	207	775-5611 or 773-1613
ME	Portland	Seatrade International Inc	207	772-8220
ME	So. Portland	Star Enterprise	207	799-3394
ME	So. Portland	B.P. Oil Co	207	799-8586
ME	So. Portland	Koch Materials Co	207	767-2161
ME	So. Portland	Getty Petroleum Corp.	207	799-8518
ME	So. Portland	Gulf Oil	207	799-5561
ME	So. Portland	Portland Pipe Line Corporation	207	767-0440
ME	So. Portland	Northeast Petroleum, Fore River	207	799-2294
ME	South Portland	Mobil Oil Corporation	207	767-3251
ME	St George	Great Eastern Mussel Farms	207	372-6317
ME	Stonington	Lobster Transport Inc.	207	367-2215
ME	Wiscasset	Mason Station	207	623-3521
ME	Yarmouth	William F. Wyman	207	623-3521 ext. 2443
MI	Ferrysburg	Koch Refining Company	616	842-2450 ext.
MI	Muskegon	Amoco Oil	616	759-0907
MN	Duluth	Azcon Corporation	218	722-7703
MN	Duluth	C. Reiss Coal Co	218	628-2371
MN	Duluth	Cargill Inc	218	727-7219
MN	Duluth	Cutler Magner Co	218	722-3981
MN	Duluth	General Mills Elev	218	722-7759
MN	Duluth	Hallett Dock ;5	218	624-2281
MN	Duluth	Hallett Dock ;6	218	624-2281
MN	Duluth	Hallett Dock ;7	218	624-2281
MN	Duluth	International Multifoods	218	722-0538 or 722-6506
MN	Duluth	Lafarge Corporation, Great Lakes Region	218	727-2493
MN	Duluth	Meehan Seaway Service, LTD	218	727-6646
MN	Duluth	St Lawrence Cement Co	218	726-1371
MS	Biloxi	Gollott Brothers Seafood Co., Inc	601	432-7865
MS	Gulfport	MS. State Port Authority at Gulfport	601	865-4315
MS	Moss Point	Zapata Haynie Corporation	601	475-1252
MS	Moss Point	Ampro Fisheries, Inc	601	475-2003
MS	Moss Point	Ampro Fisheries, Inc	601	475-2003
MS	Pascagoula	Heinz Pet Products	601	762-7896
MS	Pascagoula	Clark Seafood Co., Inc	601	762-4511
MS	Pascagoula	Chevron U.S.A. Inc	601	938-4214
MS	Pascagoula	Ingalls Shipbuilding, Inc	601	935-4676
MS	Pascagoula	Port of Pascagoula	601	762-4041
MS	Pearlington	Star Export Services	601	533-5541
NC	Beaufort	Aviation Fuel Terminals, Inc	919	726-3145
NC	Engelhard	Engelhard Shrimp Fish & Oyster Co., Inc	919	925-3471
NC	Lowland	Lowland Seafood Co	919	745-3751
NC	Morehead City	J.M. Davis Industries	919	247-6902
NC	Morehead City	Gillikin Seafood, Inc	919	726-7284
NC	Morehead City	North Carolina State Ports Authority	919	726-3158
NC	Morehead City	Trumbull Asphalt Company	919	726-4101
NC	Morehead City	Morehead City Export Terminals	919	247-3403
NC	Morehead City	Morehead City Ship & Cargo Agency, Inc	919	726-2500
NC	Morehead City	Colonial Oil Industries, Inc	919	726-0558
NC	Newport	R.W. Jones Fish Co., Inc	919	726-8158
NC	Oriental	C.M. Muse Seafood Co., Inc	919	249-0676
NC	Southport	Military Ocean Terminal, Sunny Point	919	341-8286
NC	Southport	Pfizer Marine Terminal	919	457-5001
NC	Wanchese	Fisherman's Seafood, Inc	919	473-5026
NC	Wilmington	Chevron USA, Inc	919	763-8423
NC	Wilmington	Nitrex	919	763-0171
NC	Wilmington	Eagle Island Marine, Inc	919	762-2630
NC	Wilmington	North Carolina State Port Authority	919	763-1621
NC	Wilmington	Almont Shipping Co	919	791-9031
NC	Wilmington	Amoco Oil Company	919	799-0483
NC	Wilmington	Chemserve Terminal, Inc	919	762-8588
NC	Wilmington	Chevron USA, Inc	919	763-8423
NC	Wilmington	Exxon Company USA	919	799-0144
NC	Wilmington	Koch Refining Company	919	799-0180
NC	Wilmington	Paktank Corporation	919	763-0140

TABLE III.—TERMINALS/PORTS ISSUED ANNEX V CERTIFICATES OF ADEQUACY—Continued

State	Number city	Name of terminal	Area code	Phone number
NC	Wilmington	Petroleum & Fuel Terminal, Co	919	799-0030
NC	Wilmington	Unocal Chemicals Division Cape Fear Terminal	919	762-6615
NH	Newington	Fuel Storage Corporation	603	431-6000
NH	Newington	Sea-3, Inc	603	431-5990
NH	Newington	C.H. Sprague & Son Co	603	431-5131
NH	Portsmouth	Mobil Portsmouth	603	436-7887
NH	Portsmouth	State Fish Pier—Portsmouth Fish Co-Op	603	431-7078
NH	Portsmouth	Northeast Petroleum Div. of Cargill	603	436-5147
NH	Portsmouth	C. H. Sprague & Son Co	603	436-4120
NJ	Atlantic City	Barney's Dock	609	344-2628
NJ	Barnegat Light	Viking Village	609	494-0113
NJ	Barnegat Light	Lighthouse Marina	609	494-2305
NJ	Bayonne	Belcher Co. of New York—Bayonne	201	437-2104
NJ	Bayonne	Texaco Refining & Marketing Inc	201	436-2200
NJ	Bayonne	Exxon Company, USA	201	858-5503
NJ	Bayonne	Constable Terminal Corporation		
NJ	Bayonne	Gordon Terminal		
NJ	Bridgeport	Monsanto Chemical Company	609	467-8226
NJ	Burlington	Gold Bond Building Products	609	499-3300
NJ	Camden	Del Monte Tropical Fruit	609	365-0577
NJ	Camden	Beckett Street Terminal	609	757-4969
NJ	Camden	Broadway Terminal	609	757-4969
NJ	Camden	Domtar Gypsum, Inc	609	966-7605
NJ	Camden	MacAndrews & Forbes Group		
NJ	Cape May	Lund's Fisheries, Inc	609	729-9050
NJ	Cape May	Axelsson & Johnson Fish Co	609	884-8426
NJ	Cape May	Atlantic Capes Fisheries, Inc	609	884-3000
NJ	Cape May	Cold Spring Fish & Supply Co	609	884-3405
NJ	Carteret	Gatx Terminals Group		
NJ	Carteret	Amoco Oil Company—Carteret Terminal	201	541-5131
NJ	Elizabeth	Atlantic Container Line	201	289-3000
NJ	Elizabeth	Sea-Land Service, Inc	201	558-6001
NJ	Elizabeth	Croda Storage, Inc	201	353-8933
NJ	Elizabeth	Sea-Land Service, Inc		
NJ	Gibbstown	E.I. DuPont Co. Repauno Plant	609	423-0105 ext 428
NJ	Gloucester City	Koch Fuels, Inc	609	456-6673
NJ	Jersey City	Atlantic Liner Agencies (ACL) for Northeast Auto	201	289-3000
NJ	Jersey City	Global Terminal & Container Services, Inc	201	451-5200
NJ	Linden	Northville Linden Terminal Division of	201	862-5740
NJ	Linden	E.I. DuPont de Nemours & Co	201	474-1801
NJ	Linden	E.I. DuPont de Nemours & Co		
NJ	Lower Township	Eirik's Two Mile Dock	609	729-5548
NJ	Newark	Star Enterprise	201	344-6815
NJ	Newark	Elizabeth Port Authority Marine Terminal (Berths)	201	578-2128
NJ	Newark	Port Newark	201	578-2128
NJ	Newark	Stratus Petroleum Corp		
NJ	Newark	National Fuel Oil, Inc	201	621-8866
NJ	Newark	Sun Refining and Marketing Company		
NJ	Newark	Amerada Hess Corporation	201	750-6000
NJ	Paulsboro	Mantua Oil Company L.P	609	423-5400
NJ	Paulsboro	Mobil Oil Corporation	609	224-0100
NJ	Paulsboro	British Petroleum Oil Co	609	423-4003
NJ	Paulsboro	Gatx Terminal	609	423-3432
NJ	Pennsauken	Star Enterprise Pennsauken Sales	609	662-5600
NJ	Pennsauken	Citgo Petroleum Corp (Petty's Island)	609	963-8470
NJ	Pennsauken	Petty Island Terminal	609	486-4626
NJ	Pennsauken	Amerada Hess Corporation	609	750-6000
NJ	Perth Amboy	Chevron U.S.A., Inc	201	738-2000
NJ	Perth Amboy	Stolt Terminal (Perth Amboy)	201	826-1144
NJ	Perth Amboy	Stolt Terminal (Perth Amboy)		
NJ	Port Elizabeth	Maher Terminals, Inc	201	527-8200
NJ	Port Elizabeth	Maher Terminals, Inc	201	527-8400
NJ	Port Newark	Maersk Container Service	201	465-1000
NJ	Port Newark	Educadorian Line, Inc	201	589-8894 or 589-9022
NJ	Port Newark	Distribution & Auto Service	201	465-0424
NJ	Port Newark	Maher Terminals, Inc	201	589-4902
NJ	Port Newark	Hudson Tank Terminals Corp	201	465-1115
NJ	Port Newark	BP Marine	201	643-2426
NJ	Pt. Pleasant	Phillips Seafood Inc./Bradford Fisheries	201	295-9608
NJ	Pt. Pleasant Beach	Atlantic Capes Fisheries, Inc	201	892-3522
NJ	Pt. Pleasant Beach	Fishermen's Dock Cooperative, Inc	201	899-1872
NJ	Sayreville	Jersey Central Power & Light Company Sayreville		
NJ	Sewaren	Shell Oil Company	201	855-3314
NJ	South Amboy	Jersey Central Power & Light Company		
NJ	Westville	Coastal Eagle Point Oil Company	609	853-3100
NJ	Wildwood	Sig's Dock	609	522-0885
NY	Albany	Albany Port District Commission		Albany

TABLE III.—TERMINALS/PORTS ISSUED ANNEX V CERTIFICATES OF ADEQUACY—Continued

State	Number city	Name of terminal	Area code	Phone number
NY	Albany	Mobil Oil/Albany Terminal		
NY	Astoria	Con Ed-Astoria Generation Station		
NY	Atoria	Castle Astoria Terminals, Inc		
NY	Athens	Peckham Materials Corp		
NY	Bronx	Fred M. Schildwachter & Sons, Inc	212	828-2500
NY	Bronx	Castle Port Morris Terminals, Inc		
NY	Bronx	Castle Bronx Terminals, Inc		
NY	Brooklyn	Shell Oil Co	718	383-4066
NY	Brooklyn	A.R. Fuels, Inc	718	444-3400
NY	Brooklyn	Terminal Corp	718	388-7011 or 388-6963
NY	Brooklyn	Exxon Brooklyn Terminal	718	706-4164 or 4171
NY	Brooklyn	Columbia Street Marine Terminal	718	330-2972
NY	Brooklyn	Brooklyn Port Authority Marine Terminal (Piers 1-3,	718	330-2972
NY	Brooklyn	Erie Basin-Port Authority Marine Terminal	718	330-2972
NY	Brooklyn	Bayside Fuel Oil Depot Corp	718	372-9800
NY	Brooklyn	Bayside Fuel Oil Depot Corp	718	625-5932
NY	Brooklyn	Con Ed Hudson Avenue Generating Station		
NY	Brooklyn	Con Ed North Street Terminal		
NY	Brooklyn	Metro Terminal Corp		
NY	Buffalo	Gateway Trade Center, Inc	716	826-2890
NY	College Point	Skaggs-Walsh, Inc	718	353-7000
NY	East Setauket	Consolidated Petroleum Terminal, Inc	516	941-4040
NY	Glen Cove	Glenwood Terminal Corporation	516	676-2500
NY	Glenmont	Niagara Mohawk Power Corporation		
NY	Highland	Star Terminal	914	691-8171
NY	Highland Falls	C.D. Parry Co., Inc	914	446-4539
NY	Hudson	Hudson Petroleum	518	828-9406
NY	Inwood	Amoco Oil Co	516	239-8412
NY	Inwood	Shell Oil Company	516	239-4437
NY	Kingston	Kosco Exxon Terminals		
NY	Kingston	Kosco Phelan Cahill		
NY	Kingston	Kosco Ballard Terminal		
NY	Lackawanna	Bethenergy—Lackawanna Coke Div	716	821-3960
NY	Long Island City	Getty Terminals Corp	718	729-6500 Ext. 27
NY	Montauk	Deep Water Seafoods, Inc	516	668-2111
NY	Montauk	Montauk Fish Dock, Inc	516	668-2201
NY	Mt. Vernon	Amoco Oil Co	914	667-8385
NY	Mt. Vernon	West Vernon Pet. Corp	914	668-8787
NY	New Windsor	Big S Oil Co., Inc	914	561-4300
NY	New York	New York Consolidated Passenger Ship Terminal	212	246-5450
NY	New York	Continental Grain, Co	504	436-5800
NY	Newburgh	Mobil Oil Corporation-Newburgh		
NY	North Tarrytown	General Motors Corporation	914	524-1460
NY	Oswego	Niagara Mohawk Power Corporation	315	349-2220
NY	Oswego	C. H. Sprague and Son Co	315	343-6070
NY	Oswego	Port of Oswego Authority	315	343-4503
NY	Peekskill	Meenan Oil		
NY	Point Lookout	Doxsee Sea Clam Co., Inc	516	432-0529
NY	Port Ewen	Kings Oil Supply Corporation		
NY	Port Washington	Lewis Oil Co. Inc	518	883-1000
NY	Rensselaer	Bray Terminals Inc	518	462-5052
NY	Rensselaer	Getty Petroleum Corp	518	465-4520
NY	Rensselaer	Petroleum Fuel & Terminal	518	465-1557
NY	Rensselaer	Atlantic Refining Company		
NY	Riverhead	Northville Industries Corp	516	727-5600
NY	Staten Island	Howland Hook Marine Terminal (Public Berth)	718	330-2972
NY	Staten Island	Eklof Marine Corp	718	720-7207
NY	Staten Island	Petroport Terminal Corporation		
NY	Staten Island	Consolidated Edison Company, Staten Island		
NY	Staten Island	Port Mobil Terminal		
NY	Stony Point	Panco Petroleum Co	914	429-9120
NY	Tonawanda	Ashland Petroleum Co—Buffalo Terminal	716	879-8600
OH	Ashtabula	Pinney Dock & Transport Company	216	964-7186
OH	Cleveland	Fleet Supplies, Inc	216	621-5250
OH	Cleveland	Akzo Salt Inc	216	651-7200
OH	Cleveland	Marsulex Inc	216	566-8070
OH	Cleveland	Marathon Petroleum Company	216	861-6100
OH	Cleveland	G & W Industries	216	621-7246
OH	Cleveland	The Cleveland Builders Supply Co	216	621-4300
OH	Cleveland	Cleveland-Cuyahoga County Port Authority	216	241-8004
OH	Cleveland	Reilly Industries, Inc	216	883-2222
OH	Conneaut	The Pittsburgh & Conneaut Dock Co	216	593-1102
OH	Lorain	Jonick Dock & Terminal Co	216	277-8735
OH	Maumee	The Andersons Marine Elevator	419	241-8943
OH	Oregon	CSX Toledo Dock	419	697-2352
OH	Toledo	Mid States Terminal	419	691-7480

TABLE III.—TERMINALS/PORTS ISSUED ANNEX V CERTIFICATES OF ADEQUACY—Continued

State	Number city	Name of terminal	Area code	Phone number
OH	Toledo	Toledo World Terminal Consolidated Dock Div	419	729-9711
OH	Toledo	Cargill, Inc.	419	241-2141
OH	Toledo	Clark Oil & Refining Corp	419	726-9741
OH	Toledo	Kuhlman Bulk Material Facility	419	243-2121
OH	Toledo	Toledo World Terminal	419	698-8171
OR	Astoria	Astoria Seafood Company	503	325-2831
OR	Astoria	Carmichael-Columbia Oil, Inc	503	325-3122
OR	Astoria	McCall Oil Co	503	325-2294
OR	Astoria	Youngs Bay Fish Co	503	325-5803
OR	Astoria	Ocean Foods of Astoria, Inc	503	325-2421
OR	Astoria	Port of Astoria	503	325-4521
OR	Astoria	Port of Astoria Mooring Basins	503	325-4521
OR	Astoria	Bornstein Seafoods, Inc	503	325-6164
OR	Bandon	Bandon Fisheries	503	347-4454
OR	Boardman	Terminal #3	503	481-3625
OR	Brookings	California Shellfish Co. Inc. DBA Hallmark	503	469-4616
OR	Brookings	Eureka Fisheries	503	469-5315
OR	Brookings	Meredith Fish Company	503	469-2486
OR	Brookings	Port of Brookings Harbor	503	469-2218
OR	Charleston	South Coast Seafoods, Inc	503	888-3288
OR	Charleston	Ft. Adams Packing Co	503	888-9404
OR	Charleston	Hallmark Fisheries	503	888-3253
OR	Coos Bay	Union Oil Company of California	503	269-7600
OR	Coos Bay	Eureka Fisheries, Inc	503	888-3248
OR	Garibaldi	Smith's Pacific Shrimp Co	503	322-2217
OR	Garibaldi	Smith's Pacific Shrimp Co	503	322-3316
OR	Garibaldi	Hoy Bros. Fish & Crab Co., Inc	503	322-3500
OR	Garibaldi	Jakes Famous Crawfish & Seafood	503	322-3422
OR	Gold Beach	Rogue River Seafood Co	503	247-6269
OR	Gold Beach	Port of Gold Beach	503	247-6269
OR	Hammond	Point Adams Packing Co	503	861-2226
OR	Harbor	Hallmark Fisheries	503	469-4616
OR	Harbor	Eureka Fisheries Inc	503	469-5315
OR	Newport	Depoe Bay Fish Co., Inc	503	265-8833
OR	Newport	Point Adams Packing Co	503	265-5365
OR	Newport	Point Adams Packing Co	503	265-5365
OR	Newport	Yaquina Bay Fish Co	503	265-2228
OR	Newport	Newport Shrimp Co	503	265-4215
OR	Newport	Oregon Coast Seafood Inc	503	265-7072
OR	North Bend	Western Fuel Oil Co	503	756-0481
OR	Port Orford	Port of Orford	503	332-7121
OR	Portland	Unocal Corp	503	248-1530
OR	Portland	Shell Oil Company	503	220-1232
OR	Portland	Chevron U.S.A. Inc	503	221-7714
OR	Portland	GATX Tank Storage Terminals Corporation	503	286-1691
OR	Portland	Scunitzer International Terminals	503	286-5771
OR	Portland	Terminal 4	503	231-5000
OR	Portland	Terminal 6	503	231-5000
OR	Portland	T-2	503	243-3201
OR	Portland	Portland Ship Repair Yard	503	231-5572
OR	Portland	Linnton Terminal	503	286-1611
OR	Portland	St. Johns Terminal	503	286-1611
OR	Winchester Bay	Eureka Fisheries, Inc	503	271-3628
OR	Winchester Bay	Winchester Bay	503	271-5733
PA	Eddystone	Penn Terminals	213	499-3000
PA	Erie	Codan Corp. Erie Intl. Marine Term	814	453-6651
PA	Marcus Hook	Sun Refining & Marketing Co	215	447-5998
PA	Marcus Hook	BP Oil-Marcus Hook Refinery	215	499-7071
PA	Philadelphia	C. Brewer Terminal, Inc	215	425-3707
PA	Philadelphia	Independent Pier Co	215	271-3221
PA	Philadelphia	Independent Pier Co	215	427-6895
PA	Philadelphia	Pasha Auto Warehousing	215	339-1400
PA	Philadelphia	Swann Oil, Inc	215	492-8000
PA	Philadelphia	Unitank Terminal Service	215	634-3031
PA	Philadelphia	Atlantic Pipeline Corp., Fort Mifflin	215	365-9110
PA	Philadelphia	Conrail Ore Pier	215	755-3056
PA	Philadelphia	Conrail Coal Pier	215	755-3056
PA	Philadelphia	Girard Point Wharf	215	399-7351
PA	Philadelphia	Norval Cement, Inc	215	463-5400
PA	Philadelphia	Cimco Terminal, Pier 14—Richmond	215	627-7050
PA	Philadelphia	Tioga Container Terminal	215	739-2009
PA	Philadelphia	Northern Shipping Company	215	331-7000
PA	Tinicum	Hog Island Wharf	215	339-7351
PR	Catano	Army Terminal	809	723-4030
PR	Catano	Carribean Gulf Refinery	809	785-0520
PR	Catano	Catano Ferry Catano	809	724-9177
PR	Catano	Catano Ferry San Juan	809	724-9177
PR	Catano	Catano Oil Dock	809	724-9177
PR	Fajardo	Marina Puerto Del Rey	809	763-7980

TABLE III.—TERMINALS/PORTS ISSUED ANNEX V CERTIFICATES OF ADEQUACY—Continued

State	Number city	Name of terminal	Area code	Phone number
PR	Fajardo	Marina Puerto Chico	809	863-0834/ 1915
PR	Fajardo	Marine Puerto Real	809	863-2188
PR	Guanica	Ochoa Pier	809	821-2200
PR	Guavanilla	Corco (Piers 1-3)	809	835-2647
PR	Guayanilla	Tallaboa	809	835-2647
PR	Mayaguez	Port of Mayaguez	809	832-3590
PR	Mayaguez	Mayaguez	809	892-3308
PR	Miramar	P.R. Dry Dock	809	721-6010
PR	Ponce	Ponce Shed 2	809	848-4992
PR	Ponce	Ponce Shed 3	809	848-4992
PR	Ponce	Ponce Shed 4	809	848-4992
PR	Ponce	Ponce Shed 5	809	848-4992
PR	Ponce	Ponce Shed 6	809	848-4922
PR	Ponce	Ponce Shed 7	809	848-4922
PR	San Juan	Crowley Towing	809	729-1200
PR	San Juan	Frontier Pier	809	724-9177
PR	San Juan	Navieras Sheds G-L	809	724-9177
PR	San Juan	Pan Amm Dock	809	724-9177
PR	San Juan	Pier 1	809	724-9177
PR	San Juan	Pier 12	809	724-9177
PR	San Juan	Pier 13	809	724-9177
PR	San Juan	Pier 14	809	724-9177
PR	San Juan	Pier 3	809	724-9177
PR	San Juan	Pier 5	809	724-9177
PR	San Juan	Pier 6	809	724-9177
PR	San Juan	Pier 7	809	724-9177
PR	San Juan	Pier 8	809	724-9177
PR	San Juan	Pier 9	809	724-9177
PR	San Juan	Sea Land Sheds E and F	809	724-9177
PR	San Juan	Shed A	809	724-9177
PR	San Juan	Shed B	809	724-9177
PR	San Juan	Shed C	809	724-9177
PR	San Juan	Shed D	809	724-9177
PR	San Juan	Shed M	809	724-9177
PR	San Juan	Trailer Marine Transport	809	721-1456
PR	San Juan	Inversiones Isleta Marina	809	745-8696
PR	Yabucoa	P.R. Sun Oil Co	809	893-2424
RI	Cranston	Distribution & Auto Service	401	785-2850
RI	Narragansett	The Town Dock, Inc	401	789-2200
RI	Narragansett	Point Judith Lobster	401	783-9200
RI	Tiverton	Boremco Bulk Storage	401	625-1183
RI	Warren	Blount Seafood Corp	401	245-8800
SC	Charleston	Exxon Company USA	803	723-4220
SC	Charleston	Columbus St. Terminal	803	577-8673
SC	Charleston	Union Pier Terminal	803	577-8771
SC	Charleston	BP OiL Co	803	722-3858
SC	Georgetown	Port of Georgetown	803	527-4476
SC	Mt Pleasant	Wando Terminal	803	577-8731
SC	North Charleston	North Charleston Terminal	803	745-6529
SC	North Charleston	Koch Refining Co	803	747-3711
SC	North Charleston	Chem-Marine of South Carolina	803	554-5275
SC	Port Royal	Battery Creek-Seafood	803	524-4733
SC	Port Royal	Port of Port Royal, Inc	803	525-6001
TX	Aransas Pass	Harbor Island Terminal	512	758-3571
TX	Aransas Pass	Exxon Pipeline Co.'s Harbor Island Terminal	512	289-4172
TX	Aransas Pass	Padre Island Shrimp, Inc	512	758-3232
TX	Aransas Pass	King Ice & Fuel Co		
TX	Baytown	Exxon Company USA	713	425-3996
TX	Beaumont	Port of Beaumont	409	835-5367
TX	Beaumont	E.I. Du Pont De Nemours Beaumont Works	409	727-9165
TX	Brownsville	Gulf Shrimp Processors, Inc	512	831-4059
TX	Brownsville	Itapco-Border Terminal, Inc	512	831-9641
TX	Brownsville	Brownville Navigational District	512	831-4592
TX	Brownsville	Amfels, Inc	512	831-8220
TX	Brownsville	Border Shipyards, Inc	512	831-4300
TX	Brownsville	Brownsville Refinery Corporation	512	831-4521
TX	Channelview	Koch Refining, Inc	713	457-5530
TX	Corpus Christi	Bay, Inc, Dock	512	289-6600
TX	Corpus Christi	Champlin Refining & Chemicals, Inc	512	887-3227
TX	Corpus Christi	Champlin Refining & Chemicals, Inc	512	887-3227
TX	Corpus Christi	Mobil Corpus Christi Terminal	512	882-8239
TX	Corpus Christi	Port of Corpus Christi Authority	512	882-5633
TX	Corpus Christi	Southwestern Refining Company, Inc	512	884-8863
TX	Corpus Christi	Texas Sunbelt Cement Company	512	863-6381
TX	Corpus Christi	Valero Refining Company	512	289-6000
TX	Deer Park	Incontinental Terminals Co	713	479-6024
TX	Deer Park	Shell Oil Company	713	476-6332 or 476-6251

TABLE III.—TERMINALS/PORTS ISSUED ANNEX V CERTIFICATES OF ADEQUACY—Continued

State	Number city	Name of terminal	Area code	Phone number
TX	Deer Park	Paktank Corporation—Deer Park	713	479-6051
TX	Engleside	Occidental Chemical Corporation	512	776-6015
TX	Freeport	Western Seafood Co	409	233-2624
TX	Freeport	Singleton Seafood Co	409	239-1103
TX	Freeport	Singleton Seafood Co	409	239-1103
TX	Freeport	S & H Shrimp Co	409	233-5285
TX	Freeport	Dow Chemical Company, Texas Ops	409	238-4111
TX	Fulton	Casterline Fish, Co. Inc	512	729-6124
TX	Galena Park	Amerada Hess Corp	713	453-6301
TX	Galena Park	Warrengas Terminal	713	453-7173
TX	Galena Park	Gatx Terminals	713	455-1231
TX	Galena Park	Paktank Corp—Galena Park	713	675-9171
TX	Galveston	Liberty Marine Products	409	762-8661
TX	Galveston	Galveston Wharves Piers 10/12, 14, 15, 16/18, 19/21	409	766-6172
TX	Galveston	Imperial Sugar Company Pier 35	409	763-8513
TX	Galveston	Elders Grain, Inc Elevator Pier 28/29	409	763-1281
TX	Galveston	Union Equity Elevator Pier 30/32	409	763-6443
TX	Gregory	Reynolds Metals Company, Sherwin Plt	512	777-2389
TX	Houston	Houston Fuel Oil Terminal Co	713	452-3390
TX	Houston	Turning Basin Terminal (Inclu. Pha Wharves 1-48 &	713	670-2674
TX	Houston	Bulk Materials Handling Plant	713	670-2563
TX	Houston	Bulk Materials Handling Plant (Inclu. Sea-Land)	713	470-1800
TX	Houston	Manchester Terminal	713	926-9631
TX	Houston	Pacific Molasses Company	713	923-2736
TX	Houston	Crown Central Petroleum Corporation	713	920-3920
TX	Houston	Distribution & Auto Service	713	675-3147
TX	Houston	Oiltanking Houston, Inc	713	457-7900
TX	Houston	Cargill Molasses	713	928-3348
TX	Houston	Merichem Company, Inc	713	455-1311
TX	Houston	Interstate Grain Corporation	512	289-5651
TX	Ingleside	Sun Marine Terminals	512	776-7535
TX	Ingleside	Naval Station Ingleside	512	776-4200
TX	Nederland	Sun Marine Terminal	409	727-2301
TX	Nederland	Unocal Beaumont Refinery	409	724-3204
TX	Orange	Port of Orange—This Record Now No. 649-650	409	883-4363
TX	Orange	Alabama St Terminal	409	883-5459
TX	Orange	Pier Road Terminal	409	883-5459
TX	Palacios	W&W Dock	512	972-5012
TX	Palacios	M&M Seafood	512	972-3477
TX	Palacios	Goldcoast Seafood	512	972-3713
TX	Pasadena	Georgia Gulf Corporation	713	920-4301
TX	Pasadena	Kerley Ag. Products	713	477-4400
TX	Pasadena	Gatx Terminals Corporation	713	475-9235
TX	Point Comfort	Port of Lavaca	512	987-2813
TX	Port Arthur	Chevron USA Inc. Refinery Dock	409	985-1306
TX	Port Arthur	Sabine Towing & Transportation Co., Inc	409	962-0201
TX	Port Arthur	Gulf Copper Docks	409	983-1691
TX	Port Arthur	Fina Oil and Chemical Company	409	962-4421
TX	Port Arthur	Port of Port Arthur	409	983-2029
TX	Port Bolivar	Port Bolivar Fisheries, Inc	409	684-1241
TX	Port Bolivar	Milts Seafood Plant, Inc	409	684-8581
TX	Port Bolivar	Blume's Seafood, Inc	409	684-1060
TX	Port Isabel	Zimmerman Brothers, Inc	512	943-5481
TX	Port Isabel	Texas Gulf Trawling Co., Inc	512	943-2672
TX	Port Isabel	Marine Service	512	943-2648
TX	Port Isabel	Port Isabel/San Benito Navigation District	512	943-7826
TX	Port O'Connor	Clarks' Seafood	512	983-2233
TX	Rockport	Jackson Seafood Co., Inc	512	729-2201
TX	Sabine Pass	Marine Gold Seafood, Inc	409	971-2736
TX	Sabine Pass	Paul Piazza & Son of Texas	409	971-2797
TX	Seabrook	Petrounited Terminals, Inc	713	474-4433
TX	Seabrook	Baytank (Houston), Inc	713	474-4181
VA	Alexandria	Robinson Terminal Warehouse Corp.	703	836-8300
VA	Cape Charles	Myers Clam Dock	804	331-1644
VA	Chesapeake	Mobil Oil Norfolk Terminal	804	545-4681
VA	Chesapeake	Star Enterprise	804	543-4542
VA	Chesapeake	BP North America Petroleum	804	543-4444
VA	Chesapeake	Bernuth Lembcke Co., Inc	804	543-6220
VA	Chesapeake	Cargill, Inc	804	545-8461
VA	Chesapeake	Huntsman Chemical Corp	804	494-2602
VA	Chesapeake	Amoco Oil	804	4545-4641
VA	Chesapeake	Atlantic Energy	804	485-1018
VA	Chesapeake	Texaco	804	542-6811
VA	Chesapeake	IMTT—Chesapeake	804	485-3000
VA	Chesapeake	Elizabeth River Terminals	804	543-0335
VA	Chesapeake	Jacobson Metal Co	804	543-2066
VA	Chesapeake	Louis Dreyfus Entergy	804	518-3509
VA	Chesapeake	Tri-Port Terminals	804	545-4548
VA	Chesapeake	Unocal Norfolk Terminal	804	545-8455

TABLE III.—TERMINALS/PORTS ISSUED ANNEX V CERTIFICATES OF ADEQUACY—Continued

State	Number city	Name of terminal	Area code	Phone number
VA	Grafton	Amoco Oil Yorktown Refinery	804	898-9740
VA	Hampton	Wanchese Fish Co	804	722-1443
VA	Hampton	L.D. Amory & Co., Inc	804	722-1915
VA	Hayes	York River Seafood Co., Inc	804	642-2151
VA	Hopewell	Allied Signal-Hopewell Plant	804	541-5000
VA	Lancaster	Barrack & Wilmer Seafood	804	462-5246
VA	Newport News	Koch Fuels, Inc	804	244-6545
VA	Newport News	Newport News Shipbuilding	804	380-2581
VA	Newport News	Dominion Terminal Associates	804	245-2275
VA	Norfolk	Norfolk Shipbuilding & Drydacking Corp	804	494-4551
VA	Norfolk	Marine Hydraulics International, Inc	804	545-6400
VA	Norfolk	Distribution & Auto Service	804	440-2828
VA	Norfolk	Colonna's Shipyard	804	545-2414
VA	Norfolk	Lamberts Point Docks	804	446-1222
VA	Norfolk	Virginia International Terminals	804	440-7162
VA	Norfolk	Norfolk Oil Transit	804	622-2687
VA	Norfolk	Allied Terminals	804	545-7301
VA	Norfolk	Virginia Drydock Corp	804	494-7387
VA	Portsmouth	Sea-Land Service, Inc	804	393-4071
VA	Reedville	Zapata Haynie Corporation	804	453-4211
VA	Richmond	Woodfin Oil Company	804	355-8099
VA	Richmond	Port of Richmond, Virginia	804	275-9248
VA	Richmond	Koch Fuels Inc	804	230-9366
VA	Seaford	Seaford Scallop Co	804	8988-8512
VA	Virginia Beach	Standard Transpipe (Virginia) Inc	804	427-1066
VI	St Croix	Hess Oil Virgin Islands Terminal	809	778-4000
VI	St Croix	F Sted Pier	809	772-3131
VI	St Croix	Gallows Bay Dock	809	773-3832
VI	St Croix	Kings Wharf	809	773-3832
VI	St Croix	St Croix Container Port	809	778-3131
VI	St Croix	Krause Lagoon Dock	809	778-3131
VI	St Croix	Hess Oil	809	778-4100
VI	St Croix	Vialco	809	778-2323
VI	St. Thomas	V.I. Ports Authority	809	774-5629
VI	St. Thomas	Wico Pier	809	774-1780
VT	Burlington	Astroline Corporation	802	862-3338
WA	Aberdeen	Port of Grays Harbor	206	533-9519
WA	Aberdeen	Westport Marina—Port of Grays Harbor	206	533-9519
WA	Anacortes	Shell Oil Company	206	293-9122
WA	Anacortes	Port of Anacortes—Pier I	206	293-3134
WA	Anacortes	Port of Anacortes—Pier II	206	293-3134
WA	Bellingham	Maritime Contractors, Inc	206	647-0080
WA	Bellingham	Bornstein Seafoods, Inc	206	734-7990
WA	Bellingham	Whatcom International Shipping Terminal	206	676-2500
WA	Blaine	Dakota Fisheries, Inc	206	332-4131
WA	Chinook	Chinook Packing Co	206	777-8272
WA	Edmonds	Unocal Corporation	206	774-2240
WA	Ferndale	Intalco Aluminum Corporation	206	384-7251
WA	Ferndale	Arco Products Company Cherry Point Refinery	206	371-1200
WA	Ferndale	BP Oil Company	206	384-1011
WA	Gig Harbor	Puget Sound Herring Sales, Inc	206	858-2201
WA	Ilwaco	Point Adams Packing Co	206	642-8300
WA	Ilwaco	Ilwaco Fish Co	206	642-3773
WA	Kalama	Kalama Chemical, Inc	206	673-2550
WA	Kalama	Harvest States Cooperatives	206	673-2011
WA	Kalama	Peavey Company	206	573-9171
WA	Longview	Port of Longview	206	425-3305
WA	Longview	Weyerhaeuser Export Log Dock	206	425-2150
WA	Nahcotta	Nahcotta Mooring Basin	206	665-4547
WA	Olympia	Port of Olympia	206	586-6160
WA	Pasco	Chevron USA, Pasco Terminal	509	547-1752
WA	Port Angeles	Port of Port Angeles Marine Terminal	206	457-1909
WA	Port Angeles	Port of Port Angeles	206	457-1909
WA	Port Angeles	BP North America Petroleum, Inc	206	452-1433 or 452-1501
WA	Port Townsend	Port Townsend Paper Mill Dock	206	385-3170
WA	Seattle	Gatx Tank Storage Terminals Corp	206	622-0920
WA	Seattle	Alaska Outport Transportation Assn	206	632-7744 or 1-800-682-26
WA	Seattle	Wards Cove Packing 88	206	323-3200
WA	Seattle	303 Wards Cove Packing	206	323-3200
WA	Seattle	Chevron U.S.A. Inc	206	542-9722
WA	Seattle	Terminal 18	206	382-3810
WA	Seattle	Terminal 37	206	382-8488
WA	Seattle	Terminal 42	206	382-4556
WA	Seattle	Western Pioneer, Inc	206	789-1930
WA	Seattle	Shilshole Bay Marina	206	728-3385
WA	Seattle	Fisherman's Terminal	206	728-3395
WA	Seattle	Terminal 28	206	728-3380

TABLE III.—TERMINALS/PORTS ISSUED ANNEX V CERTIFICATES OF ADEQUACY—Continued

State	Number city	Name of terminal	Area code	Phone number
WA	Seattle	Pier 68	206	728-3380
WA	Seattle	Terminal 91	206	728-3380
WA	Seattle	Atlantic Richfield Co	206	623-4637
WA	Seattle	Covich-Williams Co., Inc	206	784-0171
WA	Seattle	Matson Terminals, Inc	206	461-9205
WA	Seattle	Ash Grove Cement West Terminal	206	764-3075
WA	Seattle	Terminal 30	206	340-0100
WA	Seattle	Lake Union Drydock C	206	323-6400
WA	Seattle	Distribution & Auto Service	206	283-6300
WA	Seattle	Shell Oil Company	206	682-4706
WA	Seattle	Time Oil Company	206	285-2400
WA	Seattle	Pacific Molasses Co	206	622-4064
WA	Tacoma	Unocal Corporation	206	272-3215
WA	Tacoma	Pennwalt Corporation	206	627-9101
WA	Tacoma	Pennwalt Corporation	206	627-9101
WA	Tacoma	Superior Oil Company	206	383-3204
WA	Tacoma	Weyerhaeuser Company—Tacoma Export Facility	206	924-7921
WA	Tacoma	Domtar Gypsum	206	627-2100
WA	Tacoma	Terminal Seven	206	383-5841
WA	Tacoma	Pierce County Terminal	206	383-5841
WA	Tacoma	Terminal Four	206	383-5841
WA	Tacoma	Blair Waterway Terminal	206	383-5841
WA	Tacoma	Totem Ocean Trailer Express	206	756-9208
WA	Tacoma	Tacoma Terminals, Inc	206	593-1402
WA	Tacoma	Husky Terminal	206	627-6963
WA	Tacoma	Weyerhaeuser Company	206	924-7199
WA	Tacoma	Continental Grain Company	206	572-3511
WA	Tacoma	Terminal Four-B	206	563-8750
WA	Tacoma	Pier 25 Industrial Yard	206	383-5841
WA	Tacoma	Pacific Northwest Terminals	206	272-1187
WA	Vancouver	Cenex Petroleum Terminal	206	696-0001
WA	Vancouver	Port of Vancouver, USA	206	693-3611
WA	Vancouver	Gatx Corporation	206	694-8591
WA	Vancouver	Tesoro Refining & Marketing & Supply Co	206	696-2390
WA	Vancouver	Marine Terminals Corporation	206	694-9544
WA	Vancouver	United Grain Corporation	206	693-1521
WA	Westport	Point Adams Packing Company	206	268-9191
WA	Westport	Washington Crab Producers, Inc	206	268-9161
WI	Milwaukee	Bulk Terminal No. 1	414	278-3511
WI	Milwaukee	South Pier No. 1—Meehaw Seaway	414	481-7000
WI	Milwaukee	South Pier No. 1 P.T.W. Inc	414	744-2320
WI	Milwaukee	Gen. Cargo Terminal 2—Meehan Seaway	414	481-7000
WI	Milwaukee	General Cargo Terminal No. 3 & Reefer Bldg	414	481-7000
WI	Milwaukee	General Cargo Terminal No. 4 & Annex Bldg	414	481-7000
WI	Milwaukee	Liquid Cargo Pier (S. Side)	219	937-4300
WI	Milwaukee	Liquid Cargo Pier (North & South Sides)	414	744-4976
WI	Milwaukee	City Heavy Lift Dock—Meehan Seaway Service	414	481-7000
WI	Milwaukee	City Bulk Cargo Dock	414	278-3511
WI	Milwaukee	Continental Grain Co.—Grain Elevator	414	482-1900
WI	Milwaukee	Grand Trunk Site	414	278-3511
WI	Milwaukee	Municipal Mooring Basin (Lay-Up Berths)	414	278-3511
WI	Milwaukee	Miller Compressing Co.—Mooring Basin Dock	414	671-5980
WI	Milwaukee	Milwaukee Bulk Terminal, Inc.—greenfield Ave. Dock	414	769-1901
WI	Milwaukee	Construction Resources Mgmt: Inc	414	548-3246
WI	Milwaukee	Miller Compressing—Water St. Dock	414	671-5980
WI	Milwaukee	Hansen Water St. Terminal	414	271-2913
WI	Milwaukee	Hansen Erie St. Terminal	414	476-9221
WI	Milwaukee	Erie Street Dock	414	476-9221
WI	Milwaukee	Milwaukee Solvents & Chemical Co	414	252-3550
WI	Superior	Amoco Oil Co	715	392-5294
WI	Superior	Burlington Northern Dock ;5	715	398-6677
WI	Superior	Burlington Northern Dock ;1	715	398-6677
WI	Superior	C. Reiss Coal Co	218	628-2371
WI	Superior	Clm Corp.	218	722-3961
WI	Superior	Fraser Shipyards, Inc	715	394-7787
WI	Superior	Lafarge Corporation, Great Lakes Region	715	392-6284
WI	Superior	Meehan Seaway Service, LTD.	715	394-4468
WI	Superior	Incan Superior Terminal	218	722-5853 or (715)
WI	Superior	Marine Fueling c/o Koch Fuels, Inc	715	392-6175
WI	Superior	Peavey Grain Co.—Connors Point	715	392-4853
WI	Superior	Peavey Grain Co.—Globe Elevator	715	392-4853
WI	Superior	Superior Midwest Energy Terminal	715	392-9807

[FR Doc. 92-22774 Filed 9-22-92; 8:45 am]

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federal register

Wednesday
September 23, 1992

Part III

Department of Education

34 CFR Parts 231 and 238

Drug-Free Schools and Communities General Provisions; Drug-Free Schools and Communities Counselor Training Grants Program; Proposed Rule

DEPARTMENT OF EDUCATION

34 CFR Parts 231 and 238

RIN 1810-AA66

Drug-Free Schools and Communities General Provisions; Drug-Free Schools and Communities Counselor Training Grants Program

AGENCY: Department of Education.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Secretary proposes regulations to implement the Counselor Training Grants Program, which is authorized by the Drug-Free Schools and Communities Act of 1986 (Act) as amended by the Crime Control Act of 1990 (1990 Amendments) (Pub. L. 101-647).

DATES: Comments must be received on or before November 23, 1992.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Bill Mattocks, U.S. Department of Education, Office of Elementary and Secondary Education, 400 Maryland Avenue S.W., room 2123, Washington, D.C. 20202-6439.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of the Supplementary Information.

FOR FURTHER INFORMATION CONTACT: Bill Mattocks, U.S. Department of Education, 400 Maryland Avenue SW, Washington, D.C. 20202-6439. Telephone (202) 401-1258. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington, D.C. 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION:

Background

The 1990 Amendments to Part C of the Drug-Free Schools and Communities Act—Training of Teachers, Counselors, and School Personnel—established the Counselor Training Grants Program (Section 5129 of the Act) and amended the School Personnel Training Grants Program (Section 5128) that has been authorized since 1989. Regulations for the School Personnel Training Grants Program (published on December 19, 1990) are in 34 CFR Part 233. Since 1990, the Department has administered the Counselor Training Grants program under the Education Department General Administrative Regulations and the authorizing statute. The Secretary proposes regulations for the Counselor Training Grants program to adopt the selection criteria in 34 CFR Part 231 for the award of grants and to provide more specific guidance in the administration of the program.

Grants under the Counselor Training Grants Program are awarded to provide additional financial assistance to State educational agencies (SEAs), local educational agencies (LEAs), institutions of higher education (IHEs), and consortia of these institutions to establish, expand, and enhance programs and activities for the training of counselors, social workers, psychologists, or nurses who are providing, or will provide, drug abuse prevention, counseling, or referral services in elementary and secondary schools. Grants also may be awarded to private nonprofit agencies that have an agreement with an LEA to provide training in drug abuse counseling for individuals who will provide the counseling in the schools of that LEA.

The Counselor Training Grants Program supports AMERICA 2000 by providing resources directly applicable to the accomplishment of National Education Goal six: safe and drug-free schools.

Summary of Proposed Regulations

The proposed regulations would describe the personnel eligible to receive training under the program in terms of professional training and certification, as well as employment status. In addition to counselors, social workers, nurses, and psychologists, who are currently serving students in elementary and secondary schools, eligible personnel would also include those with evidence that they will be employed to serve students in elementary and secondary schools. The key factor in designating personnel eligible to receive training is the assurance that the results of the training will be of immediate benefit to students in elementary and secondary schools.

The proposed regulations would also identify the organizations eligible as grantees; clarify application requirements and allowable activities; authorize funding priorities; and establish the selection criteria to be used in the review of grant applications by adopting the criteria currently used in 34 CFR 231.22.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. The proposed regulations do not impose burdensome requirements on applicants or grantees. They establish requirements for participation in the program and would not have a significant economic impact on entities participating in the program.

Paperwork Reduction Act of 1980

Section 238.4 contains information collection requirements. As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of this section to the Office of Management and Budget (OMB) for its review. (44 U.S.C. 3504(h))

SEAs, LEAs, IHEs, and private nonprofit agencies having an agreement with an LEA to provide training in drug abuse counseling are eligible for grants under these regulations. The Department needs and uses the information to make grants. The annual public reporting and recordkeeping burden for this collection of information is estimated to average 30 hours per response for 300 respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, room 3002, New Executive Office Building, Washington, D.C. 20503. Attention: Daniel J. Chenok.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be

available for public inspection during and after the comment period in room 2123, FOB–6, 400 Maryland Avenue, SW, Washington, D.C., between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirements of reducing the regulatory burden, the Secretary invites comments on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Parts 231 and 238

Drug abuse, Drug-Free Schools and Communities, Education, Elementary and secondary education, Grant programs-Education, Local educational agencies, Reporting and recordkeeping, State educational agencies.

Dated: September 16, 1992.

Lamar Alexander,

Secretary of Education.

(Catalog of Federal Domestic Assistance number has not been assigned.)

The Secretary proposes to amend title 34 of the Code of Federal Regulations by amending part 231 and adding a new part 238 as follows:

PART 231—DRUG-FREE SCHOOLS AND COMMUNITIES—GENERAL PROVISIONS

1. The authority citation for part 231 is revised to read as follows:

(Authority: 20 U.S.C. 3216, 3201, 3211, 3212, 3202, and 3203, unless otherwise noted.)

2. Section 231.1 is revised to read as follows:

§ 231.1 What are the Drug-Free Schools and Communities Programs?

The programs described in 34 CFR parts 232, 233, 234, 235, and 238 provide assistance for drug and alcohol abuse education and prevention projects.

(Authority: 20 U.S.C. 3216, 3201, 3202, 3203, 3211, 3212)

3. Section 231.3 is amended by revising paragraph (d) to read as follows:

§ 231.3 What regulations apply to these programs?

* * * * *

(d) The regulations in 34 CFR parts 231, 232, 233, 234, 235, and 238.

4. In § 231.4, paragraphs (a), (b), and (c) are amended by removing "235" and adding, in its place, "238".

5. A new part 238 is added to read as follows:

PART 238—DRUG-FREE SCHOOLS AND COMMUNITIES COUNSELOR TRAINING GRANTS PROGRAM

Sec.

238.1 What is the Drug-Free Schools and Communities Counselor Training Grants Program?
238.2 What parties are eligible for a grant under this program?
238.3 What parties may grantees train under this program?
238.4 What must an application include?
238.5 What types of projects may the Secretary assist under this program?
238.6 How does the Secretary establish priorities for this program?
238.7 What regulations apply to this program?

(Authority: 20 U.S.C. 3202, 3203, unless otherwise noted.

§ 238.1 What is the Drug-Free Schools and Communities Counselor Training Grants Program?

The Drug-Free Schools and Communities Counselor Training Grants Program provides assistance to establish, expand, or enhance programs and activities for the training of counselors, social workers, psychologists, or nurses, who are providing, or will provide, drug abuse prevention, counseling, or referral services in elementary and secondary schools.

(Authority: 20 U.S.C. 3202)

§ 238.2 What parties are eligible for a grant under this program?

The Secretary may award grants under this program to SEAs, LEAs, IHEs, consortia of these organizations, and any private nonprofit agency that has entered into a written agreement with an LEA to provide training in drug abuse counseling to individuals who will provide counseling in the schools of that LEA.

(Authority: 20 U.S.C. 3202, 3203)

§ 238.3 What parties may grantees train under this program?

Under this program, grantees may train counselors, social workers, psychologists, or nurses who—

(a) Possess a currently valid State license, credential, or certificate entitling them to practice as a counselor, social worker, psychologist, or nurse; and

(b) Are currently employed by, or under contract with, or can provide evidence that they will be employed by, one of the eligible parties listed in § 238.2 to provide drug abuse prevention, counseling, or referral services in an elementary or secondary school.

(Authority: 20 U.S.C. 3202)

§ 238.4 What must an application include?

Each application must—

(a) Describe the activities and programs to be carried out with the funds made available;

(b) Contain an estimate of the cost for the establishment and operation of the activities and programs;

(c) Provide assurances that the Federal funds made available will be used to supplement and, to the extent practical, increase the level of funds that would, in the absence of those Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant these funds;

(d) Provide assurances of compliance with the provisions of this part, including—

(1) Assurances that all persons trained under this grant possess a currently valid State license, credential, or certificate entitling them to practice as a counselor, social worker, psychologist, or nurse; and

(2) Assurances that all persons trained under the grant are currently employed, or under contract, or can provide evidence that they will be employed to provide drug abuse prevention, counseling, or referral services in an elementary or secondary school;

(e) Discuss how the training to be provided under the grant will assist the applicant to—

(1) Increase the number of school personnel who are trained to provide drug abuse counseling services; and

(2) Improve the quality of drug abuse counseling services offered by the applicant or the LEA concerned; and

(f) Provide, in the case of an application from a private nonprofit agency, a copy of the written agreement between the agency and an LEA, under which the agency will provide training in drug abuse counseling to individuals who will provide counseling in the schools of the LEA.

(Authority: 20 U.S.C. 3202, 3203)

§ 238.5 What types of projects may the Secretary assist under this program?

The Secretary may fund projects that—

(a) Establish, expand, or enhance programs and activities for the training of school counselors, social workers, psychologists, or nurses in the recognition of signs and symptoms of the use of alcohol, steroids, and other illegal drugs, and in the pharmacology of drugs;

(b) Train school counselors, social workers, psychologists, or nurses, who work with high-risk youth, in the area of drug and alcohol abuse education and prevention;

(c) Train school counselors, social workers, psychologists, or nurses in the implementation of drug prevention and education programs, including programs that involve family members and focus on children of alcoholics, children from families that are dysfunctional because of problems related to alcohol and drugs, and children with social problems that stem from addiction; or

(d) Train school counselors, social workers, psychologists, or nurses on how to prevent and eliminate the use of alcohol and other drugs among our Nation's youth by expanding and improving drug abuse education and prevention through intervention, counseling, and referral services, and on methods of providing positive alternative activities to alcohol and other drug use.

(Authority: 20 U.S.C. 3202, 3203)

§ 238.6 How does the Secretary establish priorities for this program?

(a) The Secretary selects priorities by taking into consideration unmet national needs for drug and alcohol abuse education and prevention.

(b) The Secretary may select as a priority one or more, or a combination, of the types of projects listed in § 238.5. The Secretary may limit any priority to a particular educational level, type of substance abuse, or type of personnel to be trained, including counselors, social workers, psychologists, or nurses.

(Authority: 20 U.S.C. 3202, 3203)

§ 238.7 What regulations apply to this program?

The following regulations apply to the Drug-Free Schools and Communities Counselor Training Grants Program:

(a) The regulations in 34 CFR part 231.

(b) The regulations in this part 238.

(Authority: 20 U.S.C. 3202, 3203)

[FR Doc. 92–23000 Filed 9–22–92; 8:45 am]
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federal register

Wednesday
September 23, 1992

Part IV

Environmental Protection Agency

40 CFR Part 721

Significant New Uses of Certain Chemical Substances; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPPTS-50601; FRL-4001-2]

RIN 2070-AB27

Significant New Uses of Certain Chemical Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is promulgating significant new use rules (SNURs) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for 63 chemical substances which were the subject of premanufacture notices (PMNs) and were subject to TSCA section 5(e) consent orders issued by EPA. Today's action requires certain persons who intend to manufacture, import, or process any of these substances for a significant new use to notify EPA at least 90 days before commencing the manufacturing or processing of the substance for a use designated by the SNUR as a significant new use. The required notice will provide EPA with the opportunity to evaluate the intended use, and if necessary, to prohibit or limit that activity before it occurs. EPA is promulgating these SNURs using direct final procedures.

EFFECTIVE DATES: This rule shall be promulgated for purposes of judicial review at 1 p.m. Eastern Standard Time on October 7, 1992. The effective date of this rule is November 23, 1992.

If EPA receives notice before October 23, 1992 that someone wishes to submit adverse or critical comments on EPA's action in establishing a SNUR for one or more of the chemical substances subject to this rule, EPA will withdraw the SNUR for the substance for which the notice of intent to comment is received and will issue a proposed SNUR providing a 30-day period for public comment.

ADDRESSES: Each comment or notice of intent to submit adverse or critical comment must bear the docket control number OPPTS-50601 and the name(s) of the chemical substance(s) subject to the comment. Since some comments may contain confidential business information (CBI), all comments should be sent in triplicate (with additional sanitized copies if confidential business information is involved) to: TSCA Document Receipt Office (TS-790), Office of Pollution Prevention and Toxics Environmental Protection Agency, rm. E-201, 401 M St., SW., Washington, DC 20460. Nonconfidential versions of comments on this rule will be placed in the rulemaking record and will be available for public inspection. Unit X. of this preamble contains additional information on submitting comments containing CBI.

FOR FURTHER INFORMATION CONTACT: Susan Hazen, Director, Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics Environmental Protection Agency, rm. E-543-B, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: These SNURs will require persons to notify EPA at least 90 days before commencing manufacturing or processing of a substance for any activity designated by these SNURs as a significant new use. The supporting rationale and background to this rule are more fully set out in the preamble to EPA's first direct final SNURs at 55 FR 17376 on April 24, 1990. Consult that preamble for further information on the objectives, rationale, and procedures for the rules and on the basis for significant new use designations including provisions for developing test data.

I. Authority

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule after considering all relevant factors, including those listed in section 5(a)(2). Once EPA determines that a use of a chemical substance is a significant new use, section 5(a)(1)(B) of TSCA requires persons to submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use. The mechanism for reporting under this requirement is established under 40 CFR 721.25.

II. Applicability of General Provisions

General provisions for SNURs appear under subpart A of 40 CFR part 721. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the final rule. Rules on user fees appear at 40 CFR part 700. Persons subject to this SNUR must comply with the same notice requirements and EPA regulatory procedures as submitters of PMNs under section 5(a)(1)(A) of TSCA. In particular, these requirements include the information submission requirements of section 5(b) and 5(d)(1), the exemptions authorized by section 5(h)(1), (2), (3), and (5), and the regulations at 40 CFR part 720. Once EPA receives a SNUR notice, EPA may take regulatory action under section 5(e), 5(f), 6, or 7 to control the activities for which it has received the SNUR notice. If EPA does not take action, EPA is required under section 5(g) to explain in the **Federal Register** its reasons for not taking action.

Persons who intend to export a substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b). The regulations that interpret section 12(b) appear at 40 CFR part 707. Persons who intend to import a chemical substance identified in a final SNUR are subject to the TSCA section 13 import certification requirements, which are codified at 19 CFR 12.118 through 12.127 and 127.28. Such persons must certify that they are in compliance with the SNUR requirements. The EPA policy in support of the import certification appears at 40 CFR part 707.

III. Substances Subject to This Rule

EPA is establishing significant new use and recordkeeping requirements for the following chemical substances under 40 CFR part 721 subpart E. In this unit, EPA provides a brief description for each substance, including its PMN number, chemical name (generic name if the specific name is claimed as CBI), CAS number (if assigned), basis for the action taken by EPA in the section 5(e) consent order for the substance (including the statutory citation and specific finding), toxicity concern, and the CFR citation assigned in the regulatory text section of this rule. The specific uses which are designated as significant new uses are cited in the regulatory text section of the rule by reference to 40 CFR part 721 subpart B where the significant new uses are described in detail. Certain new uses, including production limits and other uses designated in the rule are claimed as CBI. The procedure for obtaining confidential information is set out in Unit VII.

Where the underlying section 5(e) order prohibits the PMN submitter from exceeding a specified production limit without performing specific tests to determine the health or environmental effects of a substance, the tests are described in this unit. As explained further in Unit VI., the SNUR for such substances contains the same production limit as in the section 5(e) order, and exceeding the production limit is defined as a significant new use. Persons who intend to exceed the production limit must notify the Agency by submitting a significant new use notice at least 90 days in advance. Data

on potential exposures or releases of the substances, testing other than that specified in the section 5(e) order for the substances, or studies on analogous substances, which may demonstrate that the significant new uses being reported do not present an unreasonable risk, may be included with significant new use notification. In addition, this unit describes tests that are recommended by EPA to provide sufficient information to evaluate the substance, but for which no production limit has been established in the section 5(e) order. Descriptions of recommended tests are provided for informational purposes.

Some of the earlier section 5(e) orders contain provisions that required wording changes to be converted into a SNUR to be issued under the expedited process. In some instances, the SNUR text is merely more detailed (e.g., the provision for a written hazard communication program in § 721.72(a) is more detailed than the hazard communication provisions in some earlier orders) or the SNUR text is worded slightly differently (e.g., the provision for dermal protection in § 721.63(a)(1) and (a)(3) is worded differently from dermal protection provisions in some earlier orders). In such cases, EPA considers the SNUR and section 5(e) provisions to be generally equivalent. Moreover, the companies which entered into the more limited hazard communication provisions of the earlier section 5(e) orders, as well as those companies covered by the SNUR, are generally subject to the requirements of the Occupational Safety and Health Administration's hazard communication standard at 29 CFR 1910.2100. Therefore, EPA believes it equitable and minimally burdensome to include in the SNUR those requirements of the hazard communication standard that are generally considered to be acceptable in informing workers of potential chemical hazards.

In some instances, however, a particular requirement may be so differently worded from the corresponding SNUR provision that the basis of the SNUR provision is not evident. Where this occurs, the preamble below explains why the SNUR provision was chosen.

Some of the SNURs that contain worker protection or hazard communication provisions—the substances designated P–85–543, P–85–648, P–86–1648, P–87–1273, P–87–1471, and P–88–1682, which are the subject of earlier section 5(e) orders—provide an exemption from such provisions if the substances are present at low levels and are not expected to reconcentrate in mixtures. The exemptions are provided in § 732.63(b) and § 721.72(e) and their application will make the requirements for the substances consistent with SNURs based on more recent section 5(e) consent orders. If a substance was determined to pose a cancer concern by structural-activity analysis or actual data (as described in this unit), it is exempt only if the level is 0.1 percent or less. All other substances must not exceed a 1.0 percent level in a mixture to qualify for the exemption. EPA's decision to allow exemptions at these levels was based on the Occupational Safety and Health Administration's hazard communication standard exemption of MSDS requirements in § 1910.1200(g)(2)(i)(C)(1) and (2) when substances are present at such low levels in mixtures.

The SNURs for the PMN substances P–88–1783, P–88–2210, P–88–2231, P–88–2237, P–88–2530, P–90–1839, P–91–75, P–91–809, P–91–1086, P–91–1231, P–91–1232, P–91–1233, P–91–1234, P–91–1235, P–91–1250, P–91–1269, P–91–1392, P–91–1418, and P–92–63 regulate chemical substances subject to section 5(e) orders where the finding under TSCA is based solely on substantial production volume and significant or substantial human exposure or release to the environment in substantial quantities under section 5(e)(1)(A)(ii)(II). In each of these cases there was limited or no toxicity data available for the PMN substance. In these cases EPA has regulated these new chemical substances under section 5(e) by issuing an order that prohibits the submitter from exceeding a specified production limit without performing certain toxicity or environmental fate tests and establishes a risk notification procedure. For instance, chemical substances with potentially substantial releases to surface waters would be subject to toxicity testing of aquatic organisms and chemicals with potentially substantial human exposures would be subject to health effects testing for mutagenicity, acute effects, and subchronic effects.

PMN Number P–85–543

Chemical name: 2-Butenedioic acid (*Z*), mono(2-((1-oxo-propenyloxy)ethyl) ester.
CAS number: Not available
Effective date of section 5(e) consent order: May 28, 1987.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Similar substances have been shown to cause cancer in test animals.
Recommended testing: A 2–year two-species rodent bioassay (40 CFR 798.3300) would help characterize potential cancer effects.
CFR citation: 40 CFR 721.1950.

PMN Number P–85–648

Chemical name: Isopropylidene, bis(1,1-dimethylpropyl) derivative.
CAS number: Not available.
Effective date of section 5(e) consent order: December 24, 1985.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Similar substances have been shown to cause cancer laboratory animals.
Recommended testing: EPA has determined that a 2–year two-species bioassay in rodents (CFR 798.3300) would help characterize potential cancer effects.
CFR citation: 40 CFR 721.5475.

PMN Number P–86–1648

Chemical name: 1-Oxa-4-azaspiro[4.5]decane, 4-dichloroacetyl-.
CAS number: 71526–07–3.
Effective date of section 5(e) consent order: February 24, 1988.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i), (ii)(I), and (ii)(II) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health, will be produced in substantial quantities and that there may be significant human exposure to the substance.
Toxicity concern: Based on test data submitted with the PMN, EPA has determined that the substance may be developmentally toxic to humans. EPA has also determined that similar substances have been shown to cause toxicity to aquatic organisms.
Recommended testing: EPA has determined that a developmental toxicity study (CFR 798.4900) and a workplace airborne concentration monitoring study, as described in the PMN, would help characterize potential developmental effects. The results of an algal study (40 CFR 797.1050), a daphnid acute toxicity study (40 CFR 797.1300), and a fish acute toxicity study (40 CFR 797.1400) would help characterize possible aquatic toxicity effects of the substance.
CFR citation: 40 CFR 721.5475.

PMN Number P–87–252

Chemical name: (generic) Alkanaminium, polyalkyl-[(2-methyl-1-oxo-2-propenyl)oxy]salt, polymer with acrylamide and substituted alkyl methacrylate.
CAS number: Not available.
Effective date of section 5(e) consent order: August 14, 1987.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to the environment. Toxicity concern: Test data on chemicals similar in structure indicate that the PMN substance may cause toxicity to aquatic organisms at concentrations as low as 40 ppb.
Recommended testing: EPA has determined that the results of an algal study (40 CFR 797.1050), a daphnid acute toxicity study (40 CFR 797.1300), and a fish acute toxicity study (40 CFR 797.1400) would help characterize possible effects of the substance. The PMN submitter has agreed not to exceed the production limit without performing these studies.
CFR citation: 40 CFR 721.6620.

PMN Number P–87–1273

Chemical name: 1-Propanol, 3,3'-oxybis[2,2-bis(bromomethyl)]-.
CAS number: Not available.
Effective date of section 5(e) consent order: September 13, 1988.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Similar substances have been shown to cause acute and chronic toxicity, developmental and reproductive effects, and mutagenicity and carcinogenicity.
Recommended testing: EPA has determined that a 90–day subchronic study in rats with emphasis on the liver, kidneys, and eyes (40 CFR 798.2650) would help characterize acute and chronic toxicity and a two-generation reproductive study in rodents (40 CFR 798.4700) would help characterize developmental and reproductive effects. The consent order contains two production limits. The PMN submitter has agreed not to exceed the first production limit without performing the 90–day subchronic study. The submitter has also agreed not to exceed the second higher production limit without performing the reproductive study. In addition, EPA is interested in receiving a 2–year two-species bioassay in rodents (CFR 798.3300) help characterize potential mutagenicity and carcinogenicity effects.
CFR citation: 40 CFR 721.8200.

PMN Number P–87–1471

Chemical name: Benzene, (2-chloroethoxy)-.
CAS number: 622–86–6.
Effective date of section 5(e) consent order: September 13, 1988.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health and the environment.
Toxicity concern: Similar substances have been shown to cause toxicity in aquatic organisms and cancer in test animals.
Recommended testing: EPA has determined that a 2–year two-species bioassay (CFR 798.3300) would help characterize potential cancer effects and that aquatic toxicity testing in algae (40 CFR 797.1050), daphnia (40 CFR 797.1300), and fish (40 CFR 797.1400) would help characterize potential effects on aquatic organisms.
CFR citation: 40 CFR 721.1210.

PMN Number P–87–1555

Chemical name: (generic) Perfluoroalkyl aromatic carbamate modified alkyl methacrylate copolymer.
CAS number: Not available.
Effective date of section 5(e) consent order: September 20, 1991.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Analogous substances and the PMN substance have been shown to cause lung toxicity in test animals.
Recommended testing: A 90–day subchronic multiple dose inhalation study in rats on the PMN substance in 1,1,1-trichloroethane (TCE) or isopropanol (IPA) to help further characterize chronic lung effects. The PMN submitter has agreed not to exceed the production volume limit without performing this test.
CFR citation: 40 CFR 721.7200.

PMN Numbers P–87–1881 and P–87–1882

Chemical name: cis- and *trans-*1,4-Cyclohexanediamine.
CAS number: (*cis-*) 15827–56–2, (*trans-*) 2615–25–0.
Effective date of section 5(e) consent order: May 23, 1991.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that these substances may present an unreasonable risk of injury to the environment.
Toxicity concern: Similar substances have been shown to cause toxicity in aquatic organisms.
Recommended testing: EPA has determined that an acute algal assay (40 CFR 797.1050), an acute daphnid assay (40 CFR 797.1300), an acute fish assay (40 CFR 797.1400), and an acute fish assay modified with humic acid (40 CFR 795.115) will characterize environmental effects.
CFR citation: 40 CFR 721.2250.

PMN Number P–88–1682

Chemical name: (generic) Carbopolycyclicol azoalkylaminoalkylcarbomonocyclic ester, halogen acid salt.
CAS number: Not available.
Effective date of section 5(e) consent order: September 23, 1989.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to human health and the environment.
Toxicity concern: Similar substances have been shown to cause cancer in test animals and toxicity in aquatic organisms.
Recommended testing: EPA has determined that a 2–year two-species bioassay in rodents (CFR 798.3300) would help characterize potential cancer effects. The results of an algal study (40 CFR 797.1050), a daphnid acute toxicity study (40 CFR 797.1300), and a fish acute toxicity study (40 CFR 797.1400) would help characterize possible effects of the substance.
CFR citation: 40 CFR 721.2140.

PMN Numbers P–88–1783, P–88–2231, P–88–2237, and P–88–2530

Chemical name: (generic) Alkylbenzenesulfonic acids and sodium salts.
CAS number: Not available.
Effective date of section 5(e) consent orders: P–88–1783 and P–88–2530—June 26, 1991, P–88–2231 and P–88–2237—July 2, 1991.
Basis for section 5(e) consent orders: The orders were issued under section 5(e)(1)(A)(i) and (ii)(II) of TSCA based on a finding that these substances are expected to be produced in substantial quantities and there may be significant or substantial human exposure. For P–88–1783 the substance may be anticipated to enter the environment in substantial quantities.

Recommended testing: EPA has determined that the results of an acute oral toxicity test (40 CFR 798.1175), an Ames assay (40 CFR 798.5265), a mouse micronucleus assay by the intraperitoneal route (40 CFR 798.5395), and a 28–day repeated dose oral study in rats (OECD Guideline No. 407) would help characterize possible health effects of each substance. EPA has also determined that the results of an acute algal study (40 CFR 797.1050), an acute daphnid study (40 CFR 797.1300), and an acute fish study (40 CFR 797.1400) would help characterize possible environmental effects of P–88–1783. The consent order for P–88–1783 contains two production limits. The PMN submitter has agreed not to exceed the first production limit without performing the ecotoxicity studies. The PMN submitter has also agreed not to exceed the second higher production limit without performing the health studies. The PMN submitter of P–88–2231 and P–88–2237 has agreed not to exceed the production limit without performing the health studies on P–88–2237. The PMN submitter of P–88–2530 has agreed not to exceed the production limit without performing the health studies.
CFR citation: 40 CFR 721.1650.

PMN Number P–88–2210

Chemical name: (generic) α-Olefin sulfonate, sodium salts.
CAS number: Not available.
Effective date of section 5(e) consent order: June 26, 1991.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(II) of TSCA based on a finding that this substance is expected to be produced in substantial quantities and there may be significant or substantial human exposure.
Recommended testing: EPA has determined that the results of an acute oral toxicity test (40 CFR 798.1175), an Ames assay (40 CFR 798.5265), a mouse micronucleus assay by the intraperitoneal route (40 CFR 798.5395), and a 28–day repeated dose oral study in rats (OECD Guideline No. 407) would help characterize possible effects of the substance. The PMN submitter has agreed not to exceed the production limit without performing these tests.
CFR citation: 40 CFR 721.5450.

PMN Number P–89–589

Chemical name: Piperazinone, 1,1',1"-[1,3,5-triazine-2,4,6-triyltris[(cyclohexylimino)-2,1-ethanediyl]]tris-[3,3,4,5,5-pentamethyl]-.
CAS number: 130277–45–1.
Effective date of section 5(e) consent order: September 26, 1991.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to human health.
Toxicity concern: Immunotoxicity; toxicity to the liver, gastrointestinal tract, and blood; and reproductive system toxicity, based upon test data on the PMN substance, and on hindered amine compounds structurally analogous to the PMN substance.
Recommended testing: Combined one-generation reproduction study and in utero derived 13–week toxicity study in rats with 4–week recovery period to help characterize toxicity to the immune system, liver, gastrointestinal tract, blood, and reproductive system. The PMN submitter has agreed not to exceed the production volume limit without performing these tests.
CFR citation: 40 CFR 721.6160.

PMN Number P–89–764

Chemical name: Neodecaneperoxoic acid, 1,1,3,3-tetramethylbutyl ester.
CAS number: 51240–95–0.
Effective date of section 5(e) consent order: June 19, 1991.
Basis for section 5(e) order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Similar substances have been shown to be carcinogenic in test animals.
Recommended testing: A 2–year, two-species, rodent bioassay for carcinogenicity (40 CFR 798.3300).
CFR citation: 40 CFR 721.5300.

PMN Number P–90–360

Chemical name: (generic) Formaldehyde, condensated polyoxyethylene fatty acid, ester with styrenated phenol, ethylene oxide adduct.
CAS number: Not available.
Effective date of section 5(e) consent order: March 27, 1991.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i), (ii)(I) and (ii)(II) of TSCA based on a finding that this substance may present an unreasonable risk of injury to the environment and is expected to be produced in substantial quantities and there may be substantial human exposures.
Toxicity concern: Test data on chemicals similar in structure to the PMN substance indicate that the PMN substance have been shown to cause toxicity in aquatic organisms. Specifically, based on submitted test data on P–90–364, EPA predicts toxicity to aquatic organisms in surface waters to occur at a concentration of 400 ppb.
Recommended testing: EPA has determined that a water solubility study (40 CFR 796.1860), an aerobic aquatic biodegradation study (40 CFR 796.3100), and a modified semicontinuous activated sludge test for water insoluble chemicals (40 CFR 796.3341) will help characterize the environmental fate of the PMN substance.
CFR citation: 40 CFR 721.3800.

PMN Number P–90–364

Chemical name: (generic) Fatty acid, ester with styrenated phenol, ethylene oxide adduct.
CAS number: Not available.
Effective date of section 5(e) consent order: March 27, 1991.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i), (ii)(I) and (ii)(II) of TSCA based on a finding that this substance may present an unreasonable risk of injury to the environment and is expected to be produced in substantial quantities and there may be substantial human exposures.
Toxicity concern: Test data on the PMN substance indicate that the substance may cause toxicity to aquatic organisms in surface waters at a concentration 400 ppb.
Recommended testing: EPA has determined that a water solubility study (40 CFR 796.1860), an aerobic aquatic biodegradation study (40 CFR 796.3100), and a modified semicontinuous activated sludge test for water insoluble chemicals (40 CFR 796.3341) will help characterize the environmental fate of the PMN substance.
CFR citation: 40 CFR 721.3700.

PMN Number P–90–558

Chemical name: Hydrazine, [4-(1-methylbutoxy)phenyl], monohydrochloride.
CAS number: 124993–63–1.
Effective date of section 5(e) consent order: April 18, 1991.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to human health and the environment.
Toxicity concern: The PMN substance has been shown to cause chronic effects to the liver, kidney, blood, and spleen. Substances similar to the PMN substance have been shown to cause cancer in test animals and analogous substances have been shown to cause toxicity to aquatic organisms.
Recommended testing: A 90–day subchronic (oral) in rats with special

attention given to the liver and blood (40 CFR 798.2650) is required to help characterize the chronic health effects. The PMN submitter has agreed not to exceed the production limit without performing the test. In addition, a 2-year, two-species oral bioassay (40 CFR 798.3300), an acute algal study (40 CFR 797.1050; static/nominal conditions), an acute daphnia study (40 CFR 797.1300; flow-through/measured conditions), and an acute fish study (40 CFR 797.1400; flow-through/measured conditions) would allow EPA to better characterize the health and environmental effects of the test substance. However, the PMN submitter is not required to submit the above cancer and aquatic toxicity information at any specified time or production volume as long as the terms of the order are followed.
CFR citation: 40 CFR 721.4260.

PMN Number P-90-559

Chemical name: Benzenamine, 4-(1-methylbutoxy)-, hydrochloride.
CAS number: Not available.
Effective date of section 5(e) consent order: April 18, 1991.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to human health and the environment.
Toxicity concern: Substances similar to the PMN substance have been shown to cause cancer and skin irritation in test animals. In addition, analogous substances have been shown to cause toxicity to aquatic organisms.
Recommended testing: A 2-year, two-species oral bioassay (40 CFR 798.3300), an acute algal study (40 CFR 797.1050; static/nominal conditions), an acute daphnia study (40 CFR 797.1300; flow-through/measured conditions), and an acute fish study (40 CFR 797.1400; flow-through/measured conditions) would allow EPA to better characterize the health and environmental effects of the test substance. However, the PMN submitter is not required to submit the above cancer and aquatic toxicity information at any specified time or production volume as long as the terms of the order are followed.
CFR citation: 40 CFR 721.1075.

PMN Number P-90-560

Chemical name: Benzene, 1-(1-methylbutoxy)-4-nitro-.
CAS number: Not available.
Effective date of section 5(e) consent order: April 18, 1991.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to human health.
Toxicity concern: Substances similar to the PMN substance have been shown to cause reproductive and developmental effects in test animals.
Recommended testing: A two-generation reproductive effects study (oral) in rats 40 CFR 798.4700 is required to help characterize the health effects of the PMN substance. The PMN submitter has agreed not to exceed a production limit without performing the test.
CFR citation: 40 CFR 721.1325

PMN Number P-90-1308

Chemical name: Dimetridazole.
CAS number: Not available.
Effective date of section 5(e) consent order: April 19, 1991.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Test data on the PMN substance and on similar substances indicate that the PMN substance may cause neurotox-icity, developmental toxicity, reproductive toxicity, and carcinogenic and mutagenic effects.
Recommended testing: EPA has determined that a developmental toxicity study (40 CFR 798.4900) and a 90-day oral subchronic study with emphasis placed on the reproductive system, including a detailed histopathology of the reproductive system, sperm staging and sperm count (40 CFR 798.2650) will help characterize the potential developmental and reproductive effects of the PMN substance. The consent order contains two production limits. The PMN submitter has agreed not to exceed the first production volume limit without performing the developmental toxicity test. The PMN submitter has also agreed not to exceed the second higher production volume limit without performing the 90-day oral subchronic study. EPA has determined that a 2-year, two-species bioassay will help characterize possible carcinogenic effects of the substance. However, the PMN submitter is not required to submit the above cancer toxicity study at any specified time or production volume as long as the terms of the order are followed.
CFR citation: 40 CFR 721.2475

PMN Number P-90-1338

Chemical name: (generic) Polymethylcarbomonocycle, reaction product with 2-hydroxyethyl acrylate.
CAS number: Not available.
Effective date of section 5(e) consent order: March 27, 1991.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Similar substances have been shown to cause cancer in test animals.
Recommended testing: A 2-year two-species rodent bioassay (40 CFR 798.3300) could be performed to help characterize cancer effects of the PMN substance. Toxicity data on representative members of the acrylate/methacrylate class of chemical substances being developed by certain acrylate and methacrylate manufacturers may also be useful in evaluating the risk posed by the PMN substance.
CFR citation: 40 CFR 721.9420.

PMN Number P-90-1358

Chemical name: Cyclohexanecarbonitrile, 1,3,3-trimethyl-5-oxo-.
CAS number: 7027-11-4.
Effective date of section 5(e) consent order: July 12, 1991.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA, based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Test data on similar substances and the PMN substance itself raise concerns for carcinogenicity, neurotoxicity, systemic toxicity, and eye irritation in test animals.
Recommended testing: The consent order contains two production limits. The PMN submitter has agreed not to exceed the first production limit without performing a 90-day subchronic (gavage) in rats which will include a functional observational battery (FOB), an evaluation of motor activity, and specific histological examination of the central and autonomic nervous systems (CNS and PNS tissues) as described in 40 CFR 798.6050 in order to help characterize the possible health effects induced by this substance. If the Agency determines that the results of the 90-day subchronic study indicate the PMN substance is functionally similar to the chemical analogue isophorone, the PMN submitter will then be prohibited from exceeding a second higher production limit without performing a 2-year, two-species rodent bioassay (oral route) as described in 40 CFR 798.3300.
CFR citation: 40 CFR 721.2225.

PMN Number P-90-1384

Chemical name: (generic) Ethoxybenzothiazole disulfide.
CAS number: Not available.
Effective date of section 5(e) consent order: December 17, 1991.
Basis for section 5(e) consent order: The order was issued undef section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to human health.
Toxicity concern: Similar substances have been shown to cause carcinogenicity in test animals.
Recommended testing: EPA has determined that a 2-year two-species bioassay in rodents (40 CFR 798.3300) would help characterize carcinogenicity.
CFR citation: 40 CFR 721.1745.

PMN Numbers P-90-1472 and P-90-1473

Chemical names: Ethanediimidic acid.
CAS number: Not available.
Effective date of section 5(e) consent order: August 1, 1991.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Similar substances have been shown to cause cancer and liver and blood effects in test animals.
Recommended testing: A 90-day subchronic study, with special attention to the liver and blood, and a 2-year, two-species bioassay would help characterize health concerns. The PMN submitter has agreed not to exceed the production limit without performing the 90-day subchronic study.
CFR citation: 40 CFR 721.3260.

PMN Number P-90-1731

Chemical name: (generic) Substituted triazole.
CAS number: Not available.
Effective date of section 5(e) consent order: September 5, 1991.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to human health and the environment.
Toxicity concern: Similar chemical substances have been shown to cause oncogenicity, mutagenicity, developmental toxicity, retinopathy and kidney toxicity, and eye irritation in test animals. Test data on chemicals similar in structure to the PMN substance indicate that the PMN substance may cause toxicity in aquatic organisms at concentrations as low as 12 ppb.
Recommended testing: EPA recommends a 90-day subchronic oral study, with emphasis on the ocular structure, an acute algal study (40 CFR 797.1050), an acute daphnid study (40 CFR 797.1300), and an acute fish study (40 CFR 797.1400), and a 2-year, two-species bioassay to help characterize the human health and environmental effects. The PMN submitter has agreed not to exceed the production limit without performing the 90-day subchronic test.
CFR citation: 40 CFR 721.9820.

PMN Number P-90-1732

Chemical name: (generic)Sulfonamide.
CAS number: Not available.
Effective date of section 5(e) consent order: September 5, 1991.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to human health or the environment.
Toxicity concern: Similar chemical substances have been shown to cause retinopathy, kidney toxicity, and eye irritation in test animals. Test data on chemicals similar in structure to the PMN substance indicate that the PMN substance may cause toxicity in aquatic organisms at concentrations as low as 10 ppb.
Recommended testing: EPA recommends a 90-day subchronic oral study, with emphasis on the ocular structure, and the base set aquatic toxicity studies to help characterize the human health and environmental effects. The PMN submitter has agreed not to exceed the production volume without performing the 90-day subchronic test.
CFR citation: 40 CFR 721.9550.

PMN Number P-90-1809

Chemical name: Benzenamine, 2,5-dibutoxy-4-(4-morpholinyl)-, sulfate.
CAS number: 130169-66-3.
Effective date of section 5(e) consent order: July 25, 1991.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to the environment.
Toxicity concern: Test data on chemicals similar in structure to the PMN substance indicate that the PMN substance may cause toxicity in aquatic organisms. Specifically, based on structurally similar anilines (benzenamines) and neutral organic compounds, EPA predicts that toxicity to aquatic organisms will occur at 2 ppb PMN substance in surface waters. EPA expected releases of the PMN substance to water to result in surface water concentrations significantly exceeding that concern level. However, the Company amended the PMN submission to state that water releases from manufacturing would be to the publicly owned treatment works located at the Passaic Valley Sewerage Commission, which discharges to the New York Bay. The concentration of the PMN substance in the plant flow is predicted to be 0.33 ppb. Therefore, EPA does not expect releases during manufacturing to result in surface water concentrations exceeding the 2 ppb concern level. However, if other release sites are used, releases to water may result in surface water concentrations significantly exceeding the concern level.
Recommended testing: EPA has determined that an acute algal study (40 CFR 797.1050), an acute daphnid study (40 CFR 797.1300), and an acute fish study (40 CFR 797.1400) will help characterize the acute aquatic toxicity effects of the PMN substance. The PMN submitter has agreed not to exceed the production limit without performing these tests.
CFR citation: 40 CFR 721.1050.

PMN Number P-90-1825

Chemical name: 2-Propenoic acid, 2-[[[[[1,3,3-trimethyl-5- [[[2-[(1-oxo-2-propenyl)oxy] ethoxy]carbonyl]amino] cyclohexyl] methyl]amino]carbonyl] oxy]ethyl ester.
CAS number: 42404-50-2.
Effective date of section 5(e) consent order: March 11, 1991.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Similar substances have been shown to cause cancer in test animals.
Recommended testing: A 2-year two-species rodent bioassay (40 CFR 798.3300) could be performed to help characterize cancer effects of the PMN substance. Toxicity data on representative members of the acrylate/methacrylate class of chemical substances being developed by certain acrylate and methacrylate manufacturers may also be useful in evaluating the risk posed by the PMN substance.
CFR citation: 40 CFR 721.8425.

PMN Number P-90-1839

Chemical name: (generic) Dialkyldithiophosphoric acid, aliphatic amine salt.

CAS number: Not available.
Effective date of section 5(e) consent order: March 1, 1991.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(II) of TSCA based on a finding that this substance is expected to be produced in substantial quantities and there may be substantial human exposures.
Recommended testing: EPA has determined that the results of an Ames assay (40 CFR 798.5265), a mouse micronucleus assay by the intraperitoneal route (40 CFR 798.5395), and a 28–day repeated dose oral study in rats (OECD Guideline No. 407) would help characterize possible effects of the substance. The PMN submitter has agreed not to exceed the production volume limit without performing these tests.
CFR citation: 40 CFR 721.6140.

PMN Numbers P–90–1844, P–90–1845, and P–90–1846

Chemical name: (generic) Halogenated biphenyl glycidyl ethers.
CAS number: Not available.
Effective date of section 5(e) consent order: July 2, 1991.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that these substances may present an unreasonable risk of injury to health.
Toxicity concern: Based on analogue data, the PMN substances may cause carcinogenicity, mutagenicity, reproductive toxicity, developmental, kidney, liver toxicity and neurotoxicity.
Recommended testing: The Agency has determined that the results of a 2–year two-species rodent bioassay (40 CFR 798.3300) and a 90–day subchronic (40 CFR 798.2650) would help characterize the carcinogenicity and chronic toxicity of the PMN substances.
CFR citation: 40 CFR 721.3480.

PMN Number P–91–43

Chemical name: (generic) Fluorene substituted aromatic amine.
CAS number: Not available.
Effective date of section 5(e) consent order: September 21, 1991.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health and the environment.
Toxicity concern: Similar substances have been shown to cause cancer, reproductive toxicity, hepatotoxicity, retinopathy, and aquatic toxicity in test animals and aquatic organisms, respectively.
Recommended testing: EPA has determined that an acute oral toxicity study modified with retinopathy screen in cats (40 CFR 798.1175), a 90–day subchronic toxicity study (40 CFR 798.2650), and a 2–year, two-species rodent bioassay (40 CFR 798.3300) would help characterize the human health effects of the PMN substance. The consent order contains two production limits. The PMN submitter has agreed not to exceed the first production limit without performing the acute oral toxicity study modified with retinopathy screen in cats. The PMN submitter has also agreed not to exceed the second, higher production limit without performing the 90–day subchronic oral toxicity study. In addition, a fish acute toxicity test (40 CFR 797.1400), a daphnid toxicity test (40 CFR 797.1300), and an algal toxicity test (40 CFR 797.1050) would address the environmental effects of the PMN substance.
CFR citation: 40 CFR 721.3764.

PMN Number P–91–55

Chemical name: (generic) Alkylcarbamic acid, alkynyl ester.
CAS number: Not available.
Effective date of section 5(e) consent order: June 7, 1991.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to human health and the environment.
Toxicity concern: Similar substances have been shown to cause acute toxicity in fish and aquatic organisms. Specifically, based on test data on similar substances, EPA predicts acute LC50 values of 0.17 ppm for fish, daphnids, and algae. Based on this test data, EPA predicts chronic toxicity to fish and aquatic organisms to occur at a concentration of 2 ppb PMN substance in surface waters.
Recommended testing: EPA has determined that the results of a fish acute toxicity test (40 CFR 797.1400), a daphnid acute toxicity test (40 CFR 797.1300), and an algal acute toxicity test (40 CFR 797.1050) would help characterize the acute toxicity effects of the PMN substance to fish and aquatic organisms.
CFR citation: 40 CFR 721.2840.

PMN Number P–91–65

Chemical name: 2,4,8,10-Tetraoxa-3,9-diphosphaspiro[5.5] undecane, 3,9-bis[2,4,6-tris(1,1-dimethylethyl)phenoxy]-.
CAS number: 126505–35–9.
Effective date of section 5(e) consent order: September 4, 1991.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Similar substances have been shown to cause reproductive and developmental toxicity and neurotoxicity in test animals.
Recommended testing: EPA recommends a developmental oral toxicity study (rats) and a dietary subchronic (3–month) toxicity study with a neuropathology component (rats), following an in utero treatment phase to include a teratological component of the parental animals, to help characterize the human health effects. The PMN submitter has agreed not to exceed the production limit without performing these tests.
CFR citation: 40 CFR 721.9850.

PMN Number P–91–75

Chemical name: (generic) Reaction products of substituted hydroxyalkanes and polyalkylpolyisocyanatocarbomonocycle.
CAS number: Not available.
Effective date of section 5(e) consent order: March 21, 1991.
Basis for section 5(e) consent order: The order was issued under § 5(e)(1)(A)(i) and (ii)(II) of TSCA based on a finding that this substance is expected to be produced in substantial quantities and there may be significant or substantial human exposures.
Recommended testing: EPA has determined that the results of an acute oral toxicity test (40 CFR 798.1175), an Ames assay (40 CFR 798.5265), a mouse micronucleus assay by the intraperitoneal route (40 CFR 798.5395), and a 28–day repeated dose oral study in rats (OECD Guideline No. 407) would help characterize possible effects of the substance. The PMN submitter has agreed not to exceed the production volume limit without performing these tests.
CFR citation: 40 CFR 721.4300.

PMN Number P–91–222

Chemical name: Pentanenitrile, 3-amino-

CAS number: 75405–06–0.
Effective date of section 5(e) consent order: March 11, 1992.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Similar chemical substances have been shown to cause

developmental toxicity/osteolathyrism in test animals. Osteolathyrism is an inhibition of the enzyme lysyl oxidase which catalyzes the cross-linking of collagen and elastin. Though not reported in humans, osteolathyrism is similar to human hereditary connective tissue disorders.
Recommended testing: A one-species developmental toxicity study in rats via gavage (40 CFR 798.4900) is recommended to help characterize human health effects. The PMN submitter has agreed not to exceed the production limit without performing this test.
CFR citation: 40 CFR 721.5700.

PMN Number P–91–225

Chemical name: (generic) Tall oil fatty acids, reaction products with polyamines, alkyl substituted.
CAS number: Not available.
Effective date of section 5(e) consent order: June 13, 1991.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to the environment.
Toxicity concern: Similar substances have been shown to cause toxicity in fish and aquatic organisms at concentrations as low as 2 ppb.
Recommended testing: EPA has determined that an acute algal toxicity study (40 CFR 797.1050), an acute daphnid toxicity study (40 CFR 797.1300), an acute fish toxicity study (40 CFR 797.1400), and a humic acid test (40 CFR 795.115) would help characterize the potential toxic effects to fish and aquatic organisms. Based on test data on structurally similar compounds, EPA has learned that the presence of dissolved total organic carbon (TOC) may significantly reduce toxicity to water column species. Therefore, for this PMN substance, if the TOC significantly reduces toxicity to water column species, then testing for toxicity to benthic organisms may be required; however, if TOC does not significantly reduce the toxicity of the PMN substance to water column species, then chronic toxicity testing with fish and aquatic organisms may be required. The PMN submitter has agreed not to exceed the production volume limit without performing these tests.
CFR citation: 40 CFR 721.9460.

PMN Number P–91–272

Chemical name: Butyl acrylate, polymer with substituted methyl styrene, methyl methacrylate, and substituted silane.
CAS number: Not available.
Effective date of section 5(e) consent order: June 17, 1991.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to human health.
Toxicity concern: Test data on substances similar in structure to the PMN substance indicate that the PMN substance may cause skin and eye irritation, dermal and pulmonary sensitization, cross-sensitization responses, lung and other respiratory effects, and systemic effects in laboratory animals.
Recommended testing: The consent order contains three production volume limits. The PMN submitter has agreed to the following: Not to exceed the first production volume limit without performing a dermal sensitization study (40 CFR 798.4100); not to exceed the second, higher production volume limit without performing a pulmonary sensitization study (Karol method or equivalent); and not to exceed the third and highest production volume limit without conducting a 90–day oral subchronic study (40 CFR 798.2450). These tests will help characterize the sensitization potential and possible lung effects and systemic toxicity of the PMN substance.
CFR citation: 40 CFR 721.6920.

PMN Number P–91–389

Chemical name: Zirconium(IV), [2,2-bis[(2-propenyloxy)methyl]-1-butanolato-01,02]tris(2-propenoato-*O*-)-.
CAS number: Not available.
Effective date of section 5(e) consent order: June 22, 1991.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Similar substances have been shown to cause cancer in test animals.
Recommended testing: A 2–year rodent bioassay (40 CFR 798.3300) would help characterize carcinogenicity.
CFR citation: 40 CFR 721.9975.

PMN Number P–91–391

Chemical name: 2-Propenoic acid, 2-(2-oxo-3-oxazolidinyl) ethyl ester.
CAS number: 115965–75–8.
Effective date of section 5(e) consent order: March 5, 1992.
Basis for section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Similar substances have been shown to cause cancer in test animals.
Recommended testing: EPA has determined that the results of a 2–year rodent bioassay (40 CFR 798.3300) would help characterize the potential carcinogenic effects of the PMN substance. Toxicity data on representative members of the acrylate/methacrylate class of chemical substances being developed by certain acrylate and methacrylate manufacturers may also be useful in evaluating the risk posed by the PMN substance.
CFR citation: 40 CFR 721.8375.

PMN Number P–91–403

Chemical name: Brominated triazine derivative.
CAS number: Not available.
Effective date of section 5(e) consent order: July 10, 1991.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Similar substances have been shown to cause liver toxicity, male reproductive effects, and cancer in test animals.
Recommended testing: EPA has determined that a two-generation oral reproductive study (40 CFR 798.4700) on the substance is needed to help characterize the possible reproductive effects of the substance. The PMN submitter has agreed not to exceed the production limit without performing this test. In addition, a 2–year, two-species bioassay (40 CFR 798.3300) would help characterize the possible carcinogenic effect of the substance.
CFR citation: 40 CFR 721.9740.

PMN Number P–91–411

Chemical name: Oxiranemethanamine, *N,N'*-[methylenebis(2-ethyl-4,1-phenylene)]bis[*N*-(oxiranylmethyl)]-.
CAS number: 130728–76–6.
Effective date of section 5(e) consent order: May 31, 1991.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Similar substances have been shown to cause cancer, mutagenicity, and male reproductive toxicity in test animals. The PMN

substance is expected to act as an alkylating agent.
Recommended testing: A 90–day dermal toxicity study (40 CFR 798.2250) to help characterize toxic effects to the reproductive organs. The PMN submitter has agreed not to exceed the production limit without performing this test. In addition, the Agency has determined that the results of a 2–year, two-species oral bioassay (40 CFR 798.3300) would help characterize possible cancer effects of the substance. The PMN submitter is not required to submit this testing at any specified time or production volume.
CFR citation: 40 CFR 721.6625.

PMN Number P–91–505

Chemical name: (generic) Polymer of alkanedioic acid, methylene-biscarbomonocyclic diisocyanate, and alkylene glycols, hydroxyalkyl acrylate ester.
CAS number: Not available.
Effective date of section 5(e) consent order: June 26, 1991.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Similar substances have been shown to cause cancer in test animals.
Recommended testing: A 2–year rodent bioassay (40 CFR 798.3300) to help characterize the carcinogenic effects.
CFR citation: 40 CFR 721.6640.

PMN Number P–91–598

Chemical name: (generic) Epoxidized copolymer of phenol and substituted phenol.
CAS number: Not available.
Effective date of section 5(e) consent order: August 21, 1991.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to human health and the environment.
Toxicity concern: For the human health concerns, similar substances have been shown to cause male reproductive effects, mutagenicity and cancer in test animals. For the environmental concerns, similar substances have been shown to cause toxicity to aquatic organisms.
Recommended testing: EPA has determined that a 90–day subchronic oral toxicity study with special attention to the reproductive organs (40 CFR 798.2650) on the PMN substance is needed to help characterize the possible reproductive effects of the substance. The PMN submitter has agreed not to exceed the production limit without performing this test. In addition, a 2–year, two-species bioassay (40 CFR 798.3300) would help characterize the possible carcinogenic effect of the substance. An algae acute toxicity test (40 CFR 797.1050), a 48-h EC50 test in daphnids, and a 96-h LC50 in fish would help characterize the aquatic toxicity of the substance.
CFR citation: 40 CFR 721.7210.

PMN Number P–91–809

Chemical name: (generic) Recovered metal hydroxide.
CAS number: Not available.
Effective date of section 5(e) consent order: December 24, 1991.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(II) of TSCA based on a finding that this substance is expected to be produced in substantial quantities and there may be substantial releases to the environment.
Recommended testing: EPA has determined that the results of an acute algae study (40 CFR 797.1050), a chronic daphnid study (40 CFR 797.1330) and a fish early life stage toxicity study (40 CFR 797.1600) would help characterize possible effects of the substance. The PMN submitter has agreed not to exceed the production volume limit without performing these tests.
CFR citation: 40 CFR 721.4600.

PMN Number P–91–831

Chemical name: Propane, 1,1,1,2,3,3,3 heptafluoro-.
CAS number: 431–89–0.
Effective date of section 5(e) consent order: March 21, 1992. Basis for action: The order was issued under section 5(e)(1)(A)(i), (ii)(I), and (ii)(II) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health, will be produced in substantial quantities, and there may be significant or substantial human exposure to the substance.
Toxicity concern: Similar substances have been shown to cause developmental toxicity and cardiac sensitization in laboratory animals.
Recommended testing: The Agency believes that the results of the following testing would help characterize possible health effects of the substance cardiac sensitization (dogs), developmental inhalation toxicity (two species) (40 CFR 798.4350), and a 90–day inhalation toxicity (rats) (40 CFR 798.2450). The PMN submitter is required to submit the results of each before exceeding a specified production limit.
CFR citation: 40 CFR 721.8125.

PMN Number P–91–1086

Chemical name: (generic) Polymer of disodium maleate, allyl ether, and ethylene oxide.
CAS number: Not available.
Effective date of section 5(e) consent order: December 19, 1991.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(II) of TSCA based on a finding that this substance is expected to be produced in substantial quantities and there may be substantial human exposures.
Recommended testing: EPA has determined that the results of a 28–day repeated dose oral study in rats (OECD Guideline No. 407) would help characterize possible effects of the substance. The PMN submitter has agreed not to exceed the production volume limit without performing this test.
CFR citation: 40 CFR 721.7000.

PMN Number P–91–1153

Chemical name: (generic) Acrylate substituted siloxanes and silicones.
CAS number: Not available.
Effective date of section 5(e) consent order: December 19, 1991.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Similar substances have been shown to cause cancer in test animals.
Recommended testing: A 2–year rodent bioassay (40 CFR 798.3300) to help characterize carcinogenic effects.
CFR citation: 40 CFR 721.9525.

PMN Numbers P–91–1231, 1232, 1233, 1234, and 1235

Chemical name: (generic) Reaction products of phenolic pentaerythritol tetraester with fatty acid oils and esters, and glyceride triesters.
CAS number: Not available.
Effective date of section 5(e) consent order: January 17, 1992
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(II) of TSCA based on a finding that this substance is expected to be produced in substantial quantities and there may be significant or substantial human exposures.
Recommended testing: A fish bioconcentration test (40 CFR 798.5395) would help characterize the environmental fate of the substance. A one-species developmental toxicity test (40 CFR 798.4900) would help characterize possible toxic effects of the

substance. The consent order contains two production volume limits. The PMN submitter has agreed not to exceed the first production volume limit without performing a fish bioconcentration study on P–91–1232 or P–91–1234. The PMN submitter has also agreed not to exceed the second higher production volume limit without performing the developmental toxicity study on the substance tested in the fish bioconcentration study described above.
CFR citation: 40 CFR 721.9400.

PMN Number P–91–1250

Chemical name: (generic)Pentaerythritol, mixed esters with carboxylic acids.
CAS number: Not available.
Effective date of section 5(e) consent order: December 24, 1991.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(II) of TSCA based on a finding that this substance is expected to be produced in substantial quantities and there may be substantial human exposure.
Recommended testing: EPA has determined that the results of a mouse micronucleus assay by the intraperitoneal route (40 CFR 798.5395), and a 28–day repeated dose oral study in rats (OECD Guideline No. 407) would help characterize possible effects of the substance. The PMN submitter has agreed not to exceed the production volume limit without performing these tests.
CFR citation: 40 CFR 721.5660.

PMN Number P–91–1269

Chemical name: (generic) Polyalkylene glycol substituted acetate.
CAS number: Not available.
Effective date of section 5(e) consent order: January 27, 1992.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(II) of TSCA based on a finding that this substance is expected to be produced in substantial quantities and there may be substantial releases to the environment.
Recommended testing: EPA has determined that the results of an acute fish toxicity test (40 CFR 797.1400), an acute daphnid toxicity test (40 CFR 797.1300), a green algal toxicity test (40 CFR 797.1050), an anaerobic biodegradation study (40 CFR 796.3140), and an aquatic aerobic biodegradation study performed according to any of the following guidelines: 40 CFR 796.3100, 40 CFR 796.3180, 40 CFR 796.3200, 40 CFR 796.3220, 40 CFR 796.3240, or 40 CFR 796.3260, would help characterize possible aquatic and environmental fate effects of the substance. The PMN submitter has agreed not to exceed the production volume limit without performing these tests.
CFR citation: 40 CFR 721.3880.

PMN Number P–91–1392

Chemical name: Ethane, 1,1,1,2,2 pentafluoro-.
CAS number: 354-33-6.
Effective date of section 5(e) consent order: March 19, 1992.
Basis for section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(II) of TSCA based on a finding that this substance is expected to be produced in substantial quantities and there may be significant or substantial human exposures.
Recommended testing: EPA has determined that the results of a cardiac sensitization study in dogs, a two-species developmental inhalation toxicity study (40 CFR 798.4350), and a 90–day inhalation toxicity study in rats (40 CFR 798.2450) would help characterize possible effects of the substance. The consent order contains three production limits. The PMN submitter has agreed not to exceed the first production limit without performing the cardiac sensitization study, the second higher production limit without performing the developmental toxicity studies, and the highest production limit without performing the 90–day study.
CFR citation: 40 CFR 721.3240.

PMN Number P–91–1418

Chemical name: (generic) Modified hydrocarbon resin.
CAS number: Not available.
Effective date of section 5(e) consent order: March 14, 1992.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(II) of TSCA based on a finding that this substance is expected to be produced in substantial quantities and there may be substantial human exposures.
Recommended testing: EPA has determined that the results of an acute oral toxicity test (40 CFR 798.1175), an Ames assay (40 CFR 798.5265), a mouse micronucleus assay by the intraperitoneal route (40 CFR 798.5395), and a 28–day repeated dose oral study in rats (OECD Guideline No. 407) would help characterize possible human health effects of the substance. The PMN submitter has agreed not to exceed the production volume limit without performing these tests.
CFR citation: 40 CFR 721.4380.

PMN Number P–92–63

Chemical name: (generic) Reaction product of ethoxylated fatty acid oils and a phenolic pentaerythritol tetraester.
CAS number: Not available.
Effective date of section 5(e) consent order: March 20, 1992.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (ii)(II) of TSCA based on a finding that this substance is expected to be produced in substantial quantities and may enter the environment in substantial quantities.
Recommended testing: EPA has determined that the results of a water solubility study (40 CFR 796.1840 or 796.1860), a soil/sediment adsorption study (40 CFR 796.2750), an aerobic biodegradation study (40 CFR 796.3100) and an anaerobic biodegradation study (40 CFR 796.3140) would help characterize possible effects of the substance. The consent order contains two production volume limits. The PMN submitter has agreed not to exceed the first production volume limit without performing the water solubility study, the soil/sediment adsorption study, and the aerobic biodegradation study. The PMN submitter has also agreed not to exceed the second higher production volume limit without performing the anaerobic biodegradation study.
CFR citation: 40 CFR 721.9280.

IV. Objectives and Rationale of the Rule

During review of the PMNs submitted for the chemical substances that are subject to this SNUR, EPA concluded that for these substances, regulation was warranted under section 5(e) of TSCA pending the development of information sufficient to make reasoned evaluations of the health or environmental effects of the substances. The bases for such findings are outlined in Unit III. of this preamble. Based on these findings, section 5(e) consent orders requiring the use of appropriate controls were negotiated with the PMN submitters. The SNUR provisions for these substances designated herein are consistent with the provisions of the section 5(e) orders.

EPA is issuing this SNUR for specific chemical substances which have undergone premanufacture review to ensure the following objectives: That EPA will receive notice of any company's intent to manufacture, import, or process a listed chemical substance for a significant new use before that activity begins; that EPA will have an opportunity to review and evaluate data submitted in a SNUR notice before the notice submitter begins manufacturing, importing, or processing a listed chemical substance for a significant new use; that, when

necessary to prevent unreasonable risks, EPA will be able to regulate prospective manufacturers, importers, or processors of a listed chemical substance before a significant new use of that substance occurs; and that all manufacturers, importers, and processors of the same chemical substance which is subject to a section 5(e) order are subject to similar requirements. Issuance of a final effective SNUR for a chemical substance does not signify that the substance is contained on the TSCA Inventory. Manufacturers, importers, and processors are responsible for insuring that a new chemical substance subject to a final SNUR is contained on the TSCA Inventory.

V. Direct Final Procedure

EPA is issuing these SNURs as direct final rules, as described in § 721.160(c)(3) and 721.170(d)(4). In accordance with § 721.160(c)(3)(ii), this rule will be effective November 23, 1992, unless EPA receives a written notice by October 23, 1992 that someone wishes to make adverse or critical comments on EPA's action. If EPA receives such a notice, EPA will publish a notice to withdraw the direct final SNUR(s) for the specific substance(s) to which the adverse or critical comments apply. EPA will then propose a SNUR for the specific substance(s) providing a 30–day comment period.

This action establishes SNURs for 65 chemical substances. Any person who submits a notice of intent to submit adverse or critical comments must identify the substance and the new use to which it applies. EPA will not withdraw a SNUR for a substance not identified in a notice.

VI. Test Data and Other Information

EPA recognizes that section 5 of TSCA does not require the development of any particular test data before submission of a SNUR notice. Persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them. In cases where a section 5(e) order requires or recommends certain testing, Unit III. of this preamble lists those recommended tests.

However, EPA has established production limits in the section 5(e) orders for several of the substances regulated under this rule, in view of the lack of data on the potential health and environmental risks that may be posed by the significant new uses or increased exposure to the substances. These production limits cannot be exceeded unless the PMN submitter first submits the results of toxicity tests that would permit a reasoned evaluation of the potential risks posed by these substances. Under recent consent orders, each PMN submitter is required to submit each study at least 14 weeks (earlier orders required submissions at least 12 weeks) before reaching the specified production limit. Listings of the tests specified in the section 5(e) orders are included in Unit III. of this preamble. The SNURs contain the same production volume limits as the consent orders. Exceeding these production limits is defined as a significant new use.

The recommended studies may not be the only means of addressing the potential risks of the substance. However, SNUR notices submitted for significant new uses without any test data may increase the likelihood that EPA will take action under section 5(e), particularly if satisfactory test results have not been obtained from a prior submitter. EPA recommends that potential SNUR notice submitters contact EPA early enough so that they will be able to conduct the appropriate tests before exceeding the production limit.

SNUR notice submitters should be aware that EPA will be better able to evaluate SNUR notices which provide detailed information on:

(1) Human exposure and environmental release that may result from the significant new use of the chemical substances.

(2) Potential benefits of the substances.

(3) Information on risks posed by the substances compared to risks posed by potential substitutes.

VII. Procedural Determinations

EPA is establishing through this rule some significant new uses which have been claimed as CBI. EPA has decided it is appropriate to keep this information confidential to protect the interest of the original PMN submitter. EPA promulgated a procedure to deal with the situation where a specific significant new use is CBI. This procedure appears in § 721.575(b)(1) and is similar to that in § 721.11 for situations where the chemical identity of the substance subject to a SNUR is CBI. This procedure is cross-referenced in each of these SNURs.

A manufacturer or importer may request that EPA determine whether a proposed use would be a significant new use under this rule. Under the procedure incorporated from § 721.575(b)(1), a manufacturer or importer must show that it has a *bona fide* intent to manufacture or import the substance and must identify the specific use for which it intends to manufacture or import the substance. If EPA concludes that the person has shown a *bona fide* intent to manufacture or import the substance, EPA will tell the person whether the use identified in the *bona fide* submission would be a significant new use under the rule. Since most of the chemical identities of the substances subject to these SNURs are also CBI, manufacturers and processors can combine the *bona fide* submission under the procedure in § 721.575(b)(1) with that under § 721.11 into a single step.

If a manufacturer or importer is told that the production volume identified in the *bona fide* submission would not be a significant new use, i.e. it is below the level that would be a significant new use, that person can manufacture or import the substance as long as the aggregate amount does not exceed that identified in the *bona fide* submission to EPA. If the person later intends to exceed that volume, a new *bona fide* submission would be necessary to determine whether that higher volume would be a significant new use. EPA is considering whether to adopt a special procedure for use when CBI production volume is designated as a significant new use. Under such a procedure, a person showing a *bona fide* intent to manufacture or import the substance, under the procedure described in § 721.11, would automatically be informed of the production volume that would be a significant new use. Thus the person would not have to make multiple *bona fide* submissions to EPA for the same substance to remain in compliance with the SNUR, as could be the case under the procedures in § 721.575(b)(1).

VIII. Applicability of Rule to Uses Occurring Before Effective Date of the Final Rule

To establish a significant "new" use, EPA must determine that the use is not ongoing. The chemical substances subject to this rule have recently undergone premanufacture review. Section 5(e) orders have been issued for each substance and notice submitters are prohibited by the section 5(e) orders from undertaking activities which EPA is designating as significant new uses. In cases where EPA has not received a Notice of Commencement and the substance has not been added to the Inventory, no other person may commence such activities without first submitting a PMN. For substances for which an NOC has not been submitted at this time, EPA has concluded that the uses are not ongoing. EPA recognizes in cases when chemical substances identified in this SNUR are added to the

Inventory prior to the effective date of the rule, the substances may be manufactured, imported, or processed by other persons for a significant new use as defined in this rule before the effective date of the rule. However, 44 of the 65 substances contained in this rule have CBI chemical identities, and since EPA has received a limited number of post-PMN *bona fide* submissions, the Agency believes that it is highly unlikely that any of the significant new uses described in the following regulatory text are ongoing.

As discussed at 55 FR 17376 (April 24, 1990), EPA has decided that the intent of section 5(a)(1)(B) is best served by designating a use as a significant new use as of this date of publication rather than as of the effective date of the rule. Thus, persons who begin commercial manufacture, import, or processing of the substances regulated through this SNUR will have to cease any such activity before the effective date of this rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires. EPA has promulgated provisions to allow persons to comply with this SNUR before the effective date. If a person were to meet the conditions of advance compliance in § 721.45(h) (53 FR 28354, July 17, 1988), the person will be considered to have met the requirements of the final SNUR for those activities. If persons who begin commercial manufacture, import, or processing of the substance between publication and the effective date of the SNUR do not meet the conditions of advance compliance, they must cease that activity before the effective date of the rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

IX. Economic Analysis

EPA has evaluated the potential costs of establishing significant new use notice requirements for potential manufacturers, importers, and processors of the chemical substance subject to this rule. EPA's complete economic analysis is available in the public record for this rule (OPPTS–50601).

X. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPPTS–50601). The record includes information considered by EPA in developing this rule.

A public version of the record without any confidential business information is available in the TSCA Public Docket Office from 8 a.m. to 12 p.m. and 1 p.m. to 4 p.m., Monday through Friday, except legal holidays. The TSCA Public Docket Office is located at rm. NE-G004, 401 M St., SW., Washington, DC. Any person who submits comments claimed as CBI must mark the comments as "confidential", "trade secret", or other appropriate designation. Comments not claimed as confidential at the time of submission will be placed in the public file. Any comments marked as confidential will be treated in accordance with the procedures in 40 CFR part 2.

Any person submitting comments claimed to be confidential must prepare and submit a nonconfidential public version in triplicate of the comments that EPA can place in the public file.

XI. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this rule will not be a "major" rule because it will not have an effect on the economy of $100 million or more, and it will not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the total annual cost of compliance with this rule, EPA estimates that the cost for submitting a significant new use notice would be approximately $4,552 to $12,166, including a $2,500 user fee payable to EPA to offset EPA costs in processing the notice. EPA believes that, because of the nature of the rule and the substances involved, there will be few SNUR notices submitted. Furthermore, while the expense of a notice and the uncertainty of possible EPA regulation may discourage certain innovation, that impact will be limited because such factors are unlikely to discourage an innovation that has high potential value.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), EPA has determined that this rule would not have a significant impact on a substantial number of small businesses. EPA has not determined whether parties affected by this rule would likely be small businesses. However, EPA expects to receive few SNUR notices for the substances. Therefore, EPA believes that the number of small businesses affected by this rule will not be substantial, even if all of the SNUR notice submitters were small firms.

C. Paperwork Reduction Act.

The information collection requirements contained in this rule have been approved by OMB under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), and have been assigned OMB control number 2070–0012.

Public reporting burden for this collection of information is estimated to vary from 30 to 170 hours per response, with an average of 100 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 the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to Office of Management and Budget, Paperwork Reduction Project (2070–0012), Washington, D.C. 20503.

List of Subjects in 40 CFR Part 721

Chemicals, Environmental protection, Hazardous materials, Reporting and recordkeeping requirements, Significant new uses.

Dated:_____

_____

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR part 721 is amended as follows:

PART 721—[AMENDED]

1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, and 2607, and 2625(c).

2. By adding new § 721.1050 subpart E to read as follows:

§ 721.1050 Benzenamine, 2,5-dibutoxy-4-(4-morpholinyl)-, sulfate

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified as benzenamine, 2,5-dibutoxy-4-(4-morpholinyl), sulfate (PMN P–90–1809; CAS number 130169–66–3) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (f), (g)(3)(ii), (g)(4)(i) and (g)(5).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(iii) *Release to water.* Requirements as specified in § 721.90(a)(1), unless the substance is released to the Passaic Valley Sewerage Commission publicly-owned treatment works (NPDES Number NJ0021016) which discharges to the New York Bay.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a), (b), (c), (f) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB Control Number 2070–0012)

3. By adding new § 721.1075 to subpart E read as follows:

§ 721.1075 Benzenamine, 4-(1-methylbutoxy)-, hydrochloride.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as benzenamine, 4-(1-methylbutoxy)-, hydrochloride (PMN P–90–559) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(i), (a)(5)(ii), (a)(5)(iii), (a)(6)(i), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(i), (g)(1)(vii), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(2)(iv), (g)(2)(v), (g)(3)(ii), (g)(4)(iii), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(l).

(iv) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Modifications or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under control number 2070–0012)

4. By adding new § 721.1210 to subpart E to read as follows:

§ 721.1210 Benzene, (2-chloroethoxy)-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as benzene, (2-chloroethoxy)- (PMN P–87–1471) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3) (applies to gloves only), (a)(4), (a)(5)(iii), (a)(6)(v), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b)(2), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(vii), (g)(2)(ii), (g)(2)(iv), (g)(2)(v), (g)(3)(i), (g)(3)(ii), (g)(4)(i), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j).

(iv) *Disposal.* Requirements as specified in § 721.85(a)(1), (b)(1) and (c)(1). Disposal other than as described in the premanufacture notice referenced in paragraph (a)(1) of this section.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a) through (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under control number 2070–0012)

5. By adding new § 721.1325 to subpart E to read as follows:

§ 721.1325 Benzene, 1-(1-methylbutoxy)-4-nitro-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as benzene, 1-(1-methylbutoxy)-4-nitro- (PMN P–90–560) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(6)(i), (b) (concentration set at 1.0 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72 (a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(vi), (g)(1)(ix), (g)(2)(i), (g)(2)(v), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(l) and (p) (production limit set at 43,000 kg).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Modifications or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under control number 2070–0012)

6. By adding new § 721.1650 to subpart E to read as follows:

§ 721.1650 Alkylbenzenesulfonic acid and sodium salts.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substances identified generically as alkyl benzenesulfonic acid and sodium salts (PMNs P–88–1783, P–88–2231, P–88–2237, and P–88–2530) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* A significant new use of this substance is any manner or method of manufacture, import, or processing associated with any use of this substance without providing risk notification as follows:

(A) If as a result of the test data required under the section 5(e) consent order for this substance, the employer

becomes aware that this substance may present a risk of injury to human health, the employer must incorporate this new information, and any information on methods for protecting against such risk, into an MSDS as described in § 721.72(c) within 90 days from the time the employer becomes aware of the new information. If this substance is not being manufactured, imported, processed, or used in the employer's workplace, the employer must add the new information to an MSDS before the substance is reintroduced into the workplace.

(B) The employer must ensure that persons who will receive this substance from the employer are provided an MSDS as described in § 721.72(c) containing the information required under paragraph (a)(2)(i)(A) of this section within 90 days from the time the employer becomes aware of the new information.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a), (h), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB Control Number 2070–0012)

7. By adding new § 721.1745 to read as follows:

§ 721.1745 Ethoxybenzothiazole disulfide.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance generically identified as ethoxybenzothiazole disulfide (PMN P–90–1384) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(4), (a)(5)(i) through (vii), (a)(6)(i), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(vii), (g)(2)(ii), (g)(2)(iii), (g)(2)(iv), and (g)(5).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a) through (d) and (f) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB Control Number 2070–0012)

8. By adding new § 721.1950 to subpart E to read as follows:

§ 721.1950 2-Butenedioic acid (Z), mono(2-((1-oxopropenyloxy)ethyl) ester .

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified as 2-butenedioic acid (*Z*), mono(2-((1-oxopropenyloxy)ethyl) ester (PMN P–85–543) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (a)(6)(v), (a)(6)(vi), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(b)(2), (c), (d), (e) (concentration set at 0.1 percent), (f) (g)(1)(iii), (g)(1)(vii), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(2)(iv), (g)(2)(v) and (g)(5). The provision of § 721.72(d) requiring that employees to be provided with information on the location and availability of a written hazard communication program does not apply when the written program is not required under § 721.72(a).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(l).

(iv) *Disposal.* Requirements as specified in § 721.85(a)(1), (a)(2), (b)(1), (b)(2), (c)(1), and (c)(2).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB Control Number 2070–0012)

9. By adding new § 721.2140 to subpart E to read as follows:

§ 721.2140 Carbopolycyclicol azoalkylaminoalkylcarbomonocyclic ester, halogen acid salt.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance generically identified as carbopolycyclicol azoalkylaminoalkylcarbomonocyclic ester, halogen acid salt (PMN P–88–1682) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* Requirements as specified in § 721.72(a), (b)(2), (c), (d), (f), (g)(3)(ii), (g)(4)(i), and (g)(5).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(iii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4) and (c)(4) (where N = 1 ppb).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a), (b), (c), (f), (g), (h), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB Control Number 2070–0012)

10. By adding new § 721.2225 to subpart E to read as follows:

§ 721.2225 Cyclohexanecarbonitrile, 1,3,3-trimethyl-5-oxo-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as cyclohexanecarbonitrile, 1,3,3-trimethyl-5-oxo- (PMN P–90–1358; CAS number 7027–11–4) is subject to reporting under this section for the

significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(6)(v), (b) (concentration set at 0.1 percent) and (c). For the manufacturing workers only, additional requirements as specified in § 721.63(a)(4), (a)(5)(i), (a)(5)(ii), (a)(5)(iii), and (a)(6)(v). The respirators described at § 721.63(a)(5)(xii), (a)(5)(xiii), (a)(5)(xiv), and (a)(5)(xv) may be used by the manufacturing workers exposed via inhalation only after cartridge service life data on cartridge performance is submitted to and approved in writing by EPA.

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(vii), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(2)(v), and (g)(5). The statement required under (g)(2)(iv) applies only to manufacturers of the substance. In addition, the following human health hazard statement shall appear on each label and MSDS required by this section: This substance may cause neurotoxicity, systemic toxicity, and eye irritation.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g) and (q).

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB Control Number 2070–0012)

11. By adding new § 721.2250 to subpart E to read as follows:

§ 721.2250 1,4-Cyclohexanediamine, cis- and trans-.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substances identified as 1,4-cyclohexanediamine, *cis-* and *trans-* (PMNs P–87–1881 and P–87–1882; CAS numbers 15827–56–2 and 2615–25–0) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (f), (g)(3)(ii), (g)(4)(iii), (g)(5).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(l).

(iii) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a), (b), (c), (f), (g), (h), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB Control Number 2070–0012)

12. By adding new § 721.2475 to subpart E to read as follows:

§ 721.2475 Dimetridazole.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as dimetridazole (P–90–1308) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(i), (a)(5)(ii), (a)(5) (iii), (a)(6)(i), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(iii), (g)(1)(vi), (g)(1)(vii), (g)(1)(ix), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(2)(iv), (g)(2)(v) and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f) and (q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under control number 2070–0012)

13. By adding new § 721.2840 to subpart E to read as follows:

§ 721.2840 Alkylcarbamic acid, alkynyl ester.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as alkylcarbamic acid, alkynyl ester (PMN P–91–55) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (f), (g)(3)(i), (g)(3)(ii), (g)(4)(i), (g)(4)(iii), and (g)(5).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g).

(iii) *Disposal.* Requirements as specified in § 721.85 (a)(1), (b)(1), and (c)(1).

(iv) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a), (b), (c), and (f) through (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under control number 2070–0012)

14. By adding new § 721.3240 to read as follows:

§ 721.3240 Ethane, 1,1,1,2,2-pentafluoro-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as ethane, 1,1,1,2,2-pentafluoro- (PMN P–91–1392) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* A significant new use of this substance is any manner or method of manufacture, import, or processing associated with any use of this substance without providing risk notification as follows:

(A) If as a result of the test data required under the section 5(e) consent order for this substance, the employer

becomes aware that this substance may present a risk of injury to human health, the employer must incorporate this new information, and any information on methods for protecting against such risk, into an MSDS as described in § 721.72(c) within 90 days from the time the employer becomes aware of the new information. If this substance is not being manufactured, imported, processed, or used in the employer's workplace, the employer must add the new information to an MSDS before the substance is reintroduced into the workplace.

(B) The employer must ensure that persons who have received, or will receive, this substance from the employer are provided an MSDS as described in § 721.72(c) containing the information required under paragraph (a)(2)(i)(A) of this section within 90 days from the time the employer becomes aware of the new information.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a), (h), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB Control Number 2070–0012)

15. By adding new § 721.3260 to subpart E to read as follows:

§ 721.3260 Ethanediimidic acids.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified as ethanediimidic acids (PMNs P–90–1472 and P–90–1473), are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(4), (a)(5)(i), (a)(6)(i), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e), (concentration set at 0.1 percent), (f), (g)(1)(iv), (g)(1)(vii), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(2)(iv), (g)(4)(ii), (g)(4)(iii), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(iv) *Release to water.* Requirements as specified in § 721.90(a)(1) and (b)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB Control Number 2070–0012)

16. By adding new § 721.3480 to subpart E to read as follows:

§ 721.3480 Halogenated biphenyl glycidyl ethers.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified generically as halogenated biphenyl glycidyl ethers (PMNs P–90–1844, P–90–1845, and P–90–1846) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(i), (a)(6)(i), (b) (concentration set at 0.1 percent) and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(i), (g)(1)(ii), (g)(1)(iii), (g)(1)(iv), (g)(1)(vi), (g)(i)(vii), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(2)(iv), (g)(2)(v), (g)(3)(ii) and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(l).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB Control Number 2070–0012)

17. By adding new § 721.3700 to subpart E to read as follows:

§ 721.3700 Fatty acid, ester with styrenated phenol, ethylene oxide adduct.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as fatty acid, ester with styrenated phenol, ethylene oxide adduct (P–90–364) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.(2) The significant new uses are:

(i) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (f), (g)(3)(ii), and (g)(5).

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (where N = 400 ppb).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a), (b), (c), (f), (g), (h), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under control number 2070–0012)

18. By adding new § 721.3764 to subpart E to read as follows:

§ 721.3764 Fluorene substituted aromatic amine.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as fluorene containing diaromatic amine (PMN P–91–43) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(iii), (a)(3), (a)(4), (a)(5)(i), (a)(5)(ii), (a)(5)(iii), (a)(6)(i), (b) (concentration set at 0.1 percent), and (c). However, these requirements do not apply after the PMN substance is adhered onto film or incorporated into prepreg form (resin impregnated substrate).

provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB Control Number 2070–0012)

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(iv), (g)(1)(vi), (g)(1)(vii), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(2)(iv), (g)(2)(v), (g)(3)(i), (g)(3)(ii), (g)(4)(iii), and (g)(5). In addition, the human health hazard statement shall include a statement that this substance may cause blindness and the human health precautionary statement shall include the statement: When using this substance, use eye protection.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(l) and (q).

(iv) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB Control Number 2070–0012)

19. By adding new § 721.3800 to subpart E to read as follows:

§ 721.3800 Formaldehyde, condensated polyoxyethylene fatty acid, ester with styrenated phenol, ethylene oxide adduct.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as formaldehyde, condensated polyoxyethylene fatty acid, ester with styrenated phenol, ethylene oxide adduct (PMN P–90–360) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (f), (g)(3)(ii), and (g)(5).

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4) and (c)(4) (where N = 400 ppb).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a), (b), (c), (f), (g), (h), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under control number 2070–0012)

20. By adding new § 721.3880 to read as follows:

§ 721.3880 Polyalkylene glycol substituted acetate.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as polyalkylene glycol substituted acetate (PMN P–91–1269) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* A significant new use of this substance is any manner or method of manufacture, import, or processing associated with any use of this substance without providing risk notification as follows:

(A) If as a result of the test data required under the section 5(e) consent order for this substance, the employer becomes aware that this substance may present a risk of injury to the environment, the employer must incorporate this new information, and any information on methods for protecting against such risk, into an MSDS as described in § 721.72(c) within 90 days from the time the employer becomes aware of the new information. If this substance is not being manufactured, imported, processed, or used in the employer's workplace, the employer must add the new information to an MSDS before the substance is reintroduced into the workplace.

(B) The employer must ensure that persons who will receive this substance from the employer, or who have received this substance from the employer within 5 years from the date the employer becomes aware of this new information described in paragraph (a)(2)(i)(A) of this section, are provided an MSDS as described in § 721.72(c) containing the information required under paragraph (a)(2)(i)(A) of this section within 90 days from the time the employer becomes aware of the new information.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a), (h), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB Control Number 2070–0012)

21. By adding new § 721.4260 to subpart E to read as follows:

§ 721.4260 Hydrazine, [4-(1-methylbutoxy)phenyl]-, monohydrochloride.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as hydrazine, [4-(1-methylbutoxy)phenyl]-, monohydrochloride (PMN P–90–558; CAS number 124993–63–1) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(i), (a)(5)(ii), (a)(5)(iii), (a)(6)(i), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(i), (g)(1)(iv), (g)(1)(vii), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(2)(iv), (g)(2)(v), (g)(3)(ii), (g)(4)(iii), and (g)(5). In addition, the following human health hazard statement shall appear on each label and MSDS required by this section: This substance may cause eye irritation.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(l) and (p) (production limit set at 15,500 kg).

(iv) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Modification or revocation of certain notification requirements.* The

provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under control number 2070–0012)

22. By adding new § 721.4380 to read as follows:

§ 721.4380 Modified hydrocarbon resin.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as a modified hydrocarbon resin (P–91–1418) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* A significant new use of this substance is any manner or method of manufacture, import, or processing associated with any use of this substance without providing risk notification as follows:

(A) If as a result of the test data required under the section 5(e) consent order for this substance, the employer becomes aware that this substance may present a risk of injury to human health, the employer must incorporate this new information, and any information on methods for protecting against such risk, into an MSDS as described in § 721.72(c) within 90 days from the time the employer becomes aware of the new information. If this substance is not being manufactured, imported, processed, or used in the employer's workplace, the employer must add the new information to an MSDS before the substance is reintroduced into the workplace.

(B) The employer must ensure that persons who will receive this substance from the employer, or who have received the substance from the employer within 5 years from the date the employer becomes aware of the information described in paragraph (a)(2)(i)(A) of this section, are provided an MSDS as described in § 721.72(c) containing the information required under paragraph (a)(2)(i)(A) of this section within 90 days from the time the employer becomes aware of the new information.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a), (h), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB Control Number 2070–0012)

23. By adding new § 721.4520 to subpart E to read as follows:

§ 721.4520 Isopropylidene, bis(1,1-dimethylpropyl) derivative.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as isopropylidene, bis(1,1-dimethylpropyl) derivative (PMN P–85–648) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(2)(i), (a)(2)(ii), (a)(2)(iii), (a)(3)(applies to gloves only), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b)(2), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(vii), (g)(2)(i), (g)(2)(v), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k).

(iv) *Release to water.* Requirements as specified in § 721.90(a)(2)(ii), (b)(2)(ii), and (c)(2)(ii).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB Control Number 2070–0012)

24. By adding new § 721.4600 to read as follows:

§ 721.4600 Recovered metal hydroxide.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as a recovered metal hydroxide (PMN P–91–809) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* A significant new use of this substance is any manner or method of manufacture, import, or processing associated with any use of this substance without providing risk notification as follows:

(A) If as a result of the test data required under the section 5(e) consent order for this substance, the employer becomes aware that this substance may present a risk of injury to the environment, the employer must incorporate this new information, and any information on methods for protecting against such risk, into an MSDS as described in § 721.72(c) within 90 days from the time the employer becomes aware of the new information. If this substance is not being manufactured, imported, processed, or used in the employer's workplace, the employer must add the new information to an MSDS before the substance is reintroduced into the workplace.

(B) The employer must ensure that persons who will receive this substance from the employer, or who have received this substance from the employer within 5 years from the date the employer becomes aware of the new information described under paragraph (a)(2)(i)(A) of this section, are provided an MSDS as described in § 721.72(c) containing the information required under paragraph (a)(2)(i)(A) of this section within 90 days from the time the employer becomes aware of the new information.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a), (h), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB Control Number 2070–0012)

25. By adding new § 721.5300 to subpart E to read as follows:

§ 721.5300 Neodecaneperoxoic acid, 1,1,3,3-tetramethylbutyl ester.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as neodecaneperoxoic acid, 1,1,3,3-tetramethylbutyl ester (PMN P–89–764; CAS number 51240–95–0) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), and (b) (concentration set at 0.1 percent).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(vii), (g)(2)(v), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(b), (c), and (l).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) Recordkeeping requirements . Requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under control number 2070–0012)

26. By adding new § 721.5450 to subpart E to read as follows:

§ 721.5450 α-Olefin sulfonate, sodium salt.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as α-olefin sulfonate, sodium salt (PMN P–88–2210) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* A significant new use of this substance is any manner or method of manufacture, import, or processing associated with any use of this substance without providing risk notification as follows:

(A) If as a result of the test data required under the section 5(e) consent order for this substance, the employer becomes aware that this substance may present a risk of injury to human health, the employer must incorporate this new information, and any information on methods for protecting against such risk, into an MSDS as described in § 721.72(c) within 90 days from the time the employer becomes aware of the new information. If this substance is not being manufactured, imported, processed, or used in the employer's workplace, the employer must add the new information to an MSDS before the substance is reintroduced into the workplace.

(B) The employer must ensure that persons who will receive this substance from the employer are provided an MSDS as described in § 721.72(c) containing the information required under paragraph (a)(1)(i)(A) within 90 days from the time the employer becomes aware of the new information.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a), (h), and (i) are applicable to manufacturers, importers, and processors of this substance

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB Control Number 2070–0012)

27. By adding new § 721.5475 to subpart E to read as follows:

§ 721.5475 1-Oxa-4-azaspiro[4.5]decane, 4-dichloroacetyl-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 1-oxa-4-azaspiro[4.5]decane, 4-dichloroacetyl- (PMN P–86–1648, CAS number 71526-07-3) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3) (applies to gloves only), (a)(4), (a)(5)(i), (a)(5)(ii), (a)(5)(iii), (a)(5)(iv), (a)(6)(i), (b) (concentration set at 1.0 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b)(2), (c), (d), (e) (concentration set at 1.0 percent), (f), (g)(1)(ix), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(2)(iv), (g)(2)(v), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f) and (k). (iv) *Disposal.* Requirements as specified in § 721.85(a)(1), (b)(1) and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a) through (j) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB Control Number 2070–0012)

28. By adding new § 721.5660 to read as follows:

§ 721.5660 Pentaerythritol, mixed esters with carboxylic acids.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as pentaerythritol, mixed esters with carboxylic acids (PMN P–91–1250) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* A significant new use of this substance is any manner or method of manufacture, import, or processing associated with any use of this substance without providing risk notification as follows:

(A) If as a result of the test data required under the section 5(e) consent order for this substance, the employer becomes aware that this substance may present a risk of injury to human health, the employer must incorporate this new information, and any information on methods for protecting against such risk, into an MSDS as described in § 721.72(c) within 90 days from the time the employer becomes aware of the new information. If this substance is not being manufactured, imported, processed, or used in the employer's workplace, the employer must add the new information to an MSDS before the

substance is reintroduced into the workplace.

(B) The employer must ensure that persons who have received, or will receive, this substance from the employer are provided an MSDS as described in § 721.72(c) containing the information required under paragraph (a)(2)(i)(A) of this section within 90 days from the time the employer becomes aware of the new information.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a), (h), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB Control Number 2070–0012)

29. By adding new § 721.5700 to read as follows:

§ 721.5700 Pentanenitrile, 3-amino-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as pentanenitrile, 3-amino- (PMN P–91–222; CAS number 75405–06–0) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(3), (a)(4), during both drumming and transfer of the substance requirements as specified in § 721.63(a)(5)(i), (a)(5)(ii), and (a)(5)(iii) apply, and during transfer (but not drumming) of the substance, requirements as specified in § 721.63(a)(5)(xii), (a)(5)(xiii), (a)(5)(xiv), and (a)(5)(xv) apply following submittal by the company, and written approval by the EPA, of the results of cartridge service life testing performance in accordance with *Interim Recommendations for Determining Organic Vapor Cartridge Service Life for Category 23C Respirators* (available through the TSCA Assistance Office), or equivalent, which demonstrates the effectiveness of the organic vapor cartridge, (a)(6)(v), (b) (concentration set at 1.0 percent), and (c). The requirements specified in § 721.63(a)(4) and (5) apply only during drumming activities and during transfer of liquid PMN substance from a process vessel into a tank, truck, or rail car.

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 1.0 percent), (f), (g)(1)(i), (g)(1)(ix), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(2)(iv), (g)(2)(v), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB Control Number 2070–0012)

30. By adding new § 721.6140 to subpart E to read as follows:

§ 721.6140 Dialkyldithiophosphoric acid, aliphatic amine salt.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as a dialkyldithiophosphoric acid, aliphatic amine salt (P–90–1839) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* A significant new use of this substance is any manner or method of manufacture, import, or processing associated with any use of this substance without providing risk notification as follows:

(A) If as a result of the test data required under the section 5(e) consent order for this substance, the employer becomes aware that this substance may present a risk of injury to human health, the employer must incorporate this new information, and any information on methods for protecting against such risk, into an MSDS as described in § 721.72(c) within 90 days from the time the employer becomes aware of the new information. If this substance is not being manufactured, imported, processed, or used in the employer's workplace, the employer must add the new information to an MSDS before the substance is reintroduced into the workplace.

(B) The employer must ensure that persons will receive this substance from the employer are provided an MSDS as described in § 721.72(c) containing the information required under paragraph (a)(2)(i)(A) of this section within 90 days from the time the employer becomes aware of the new information.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a), (h), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under control number 2070–0012)

31. By adding new § 721.6160 to subpart E to read as follows:

§ 721.6160 Piperazinone, 1,1′,1″-[1,3,5-triazine-2,4,6-triyltris[(cyclohexylimino)-2,1-ethanediyl]]tris-[3,3,4,5,5-pentamethyl]-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as piperazinone, 1,1′,1″-[1,3,5-triazine-2,4,6-triyltris [(cyclohexylimino)-2,1-ethanediyl]]tris-[3,3,4,5,5-pentamethyl]- (PMN P–89–589; CAS number 130277–45–1) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(4), (a)(5)(iv) through (vii), (a)(6)(i), (b) (concentration set at 1.0 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72 (a), (b), (c), (d) (e) (concentration set at 1.0 percent), (f), (g)(1)(iv), (g)(1)(vi), (g)(1)(viii), (g)(2)(ii), (g)(2)(iv), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a) through (d), and (f) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB Control Number 2070–0012)

32. By adding new § 721.6620 to subpart E to read as follows:

§ 721.6620 Alkanaminium, polyalkyl-[(2-methyl-1-oxo-2-propenyl)oxy] salt, polymer with acrylamide and substituted alkyl methacrylate.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as alkanaminium, polyalkyl-[(2-methyl-1-oxo-2-propenyl)oxy] salt, polymer with acrylamide and substituted alkyl methacrylate (PMN P–87–252) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(p) (production limit set at 680,000 kg).

(ii) *Release to water.* Requirements as specified in § 721.85(a)(4), (b)(4) and (c)(4) (concentration set at 40 ppb).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a), (b), (c), (i), and (j) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB Control Number 2070–0012)

33. By adding new § 721.6625 to subpart E to read as follows:

§ 721.6625 Oxiranemethanamine, N,N'-[methylenebis(2-ethyl-4,1-phenylene)]bis[N-(oxiranylmethyl)]-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as oxiranemethanamine, *N,N'*-[methylenebis(2-ethyl-4,1-phenylene)]bis[*N*-(oxiranylmethyl)]- (PMN P–91–411; CAS number 130728–76–6) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(vi), (g)(1)(vii), (g)(2)(i), (g)(2)(v), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), (o), and (q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under control number 2070–0012)

34. By adding new § 721.6640 to subpart E to read as follows:

§ 721.6640 Polymer of alkanedioic acid, methylenebiscarbomonocyclic diisocyanate, and alkylene glycols, hydroxyalkyl acrylate ester.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as a polymer of alkanedioic acid, methylenebiscarbomonocyclic diisocyanate, and alkylene glycols, hydroxyalkyl acrylate ester (PMN P–91–505) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), (h)(2)(i)(D), and (h)(2)(iii)(A).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB Control Number 2070–0012)

35. By adding new § 721.6920 to subpart E to read as follows:

§ 721.6920 Butyl acrylate, polymer with substituted methyl styrene, methyl methacrylate, and substituted silane.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as butyl acrylate, polymer with substituted methyl styrene, methyl methacrylate, and substituted silane (PMN P–91–272) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(iii), (a)(3), (a)(4), (a)(5)(ii), (a)(5)(viii), (a)(5)(ix), (a)(6)(ii), (b) (concentration set at 1.0 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 1.0 per cent), (f), (g)(1)(i), (g)(1)(ii), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(2)(iv), (g)(2)(v), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(p) (volume set at 90,000 kg), (volume set at 512,000 kg), (volume set at 1,235,000 kg).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under control number 2070–0012)

36. By adding new § 721.7000 to read as follows:

§ 721.7000 Polymer of disodium maleate, allyl ether, and ethylene oxide.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as a polymer of disodium maleate, allyl ether, and ethylene oxide (P–91–1086) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* A significant new use of this substance is any manner or method of manufacture, import, or processing associated with any use of this substance without providing risk notification as follows:

(A) If as a result of the test data required under the section 5(e) consent order for this substance, the employer becomes aware that this substance may present a risk of injury to human health, the employer must incorporate this new information, and any information on methods for protecting against such risk, into an MSDS as described in § 721.72(c) within 90 days from the time the employer becomes aware of the new information. If this substance is not being manufactured, imported, processed, or used in the employer's workplace, the employer must add the new information to an MSDS before the substance is reintroduced into the workplace.

(B) The employer must ensure that persons who have received, or will receive, this substance from the employer are provided an MSDS as described in § 721.72(c) containing the information required under paragraph (a)(2)(i)(A) of this section within 90 days from the time the employer becomes aware of the new information.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a), (h), and (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB Control Number 2070–0012)

37. By adding new § 721.7200 to subpart E to read as follows:

§ 721.7200 Perfluoroalkyl aromatic carbamate modified alkyl methacrylate copolymer.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as perfluoroalkyl aromatic carbamate modified alkyl methacrylate copolymer (PMN P–87–1555) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* Requirements asspecified in § 721.72 (a), (b), (c), (d), (e) (concentration set at 0.1 percent for cancer; 1.0 percent for other effects), (f), (g)(1)(ii), (g)(2)(ii), and (g)(5). In addition, the following human health hazard statement shall appear on each label and MSDS required by this section: This substance may cause lung effects.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o) and (q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a), (b), (c), and (f) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB Control Number 2070–0012)

38. By adding new § 721.7210 to subpart E to read as follows:

§ 721.7210 Epoxidized copolymer of phenol and substituted phenol.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as epoxidized copolymer of phenol and substituted phenol (P–91–598) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(1), (a)(3), (a)(4), (a)(5)(iv), (a)(5)(v), (a)(6)(i), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72 (a) through (e) (concentration set at 0.1 percent), (f), (g)(1)(vi), (g)(1)(vii), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(2)(iv), (g)(2)(v), (g)(3)(i), (g)(3)(ii), (g)(4)(iii), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(iv) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB Control Number 2070–0012)

39. By adding new § 721.8125 to read as follows:

§ 721.8125 Propane, 1,1,1,2,3,3,3-heptafluoro- .

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as propane, 1,1,1,2,3,3,3-heptafluoro- (PMN P–91–831; CAS number 431–89–0) is subject to reporting under this section for the significant new

uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q), use in aerosol products intended for consumer use. This restriction does not apply to use of the PMN substance in fire extinguishing apparatus or systems.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a) (b), (c), (f), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB Control Number 2070–0012)

40. By adding new § 721.8250 to subpart E to read as follows:

§ 721.8250 1-Propanol, 3,3'-oxybis[2,2-bis(bromomethyl)

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 1-propanol, 3,3'-oxybis[2,2-bis(bromomethyl)]- (PMN P–87–1273) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3)(applies to gloves only), (a)(4), (a)(5)(iv), (a)(5)(v), (a)(5)(vi), (a)(5)(vii), (a)(6)(i), (a)(6)(ii), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements asspecified in § 721.72(a), (b)(2), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(iv), (g)(1)(vi), (g)(1)(vii), (g)(1)(ix), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(2)(v), and (g)(5). In addition, the human health hazard statement shall include a statement that this substance may cause acute and chronic toxicity.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f) and (p). In addition, use other than as a flame retardant additive is a significant new use.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a) through (i), and (j) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB Control Number 2070–0012)

41. By adding new § 721.8375 to subpart E to read as follows:

§ 721.8375 2-Propenoic acid, 2-(2-oxo-3-oxazolidinyl)ethyl ester.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified as 2-propenoic acid, 2-(2-oxo-3-oxazolidinyl)ethyl ester (PMN P–91–391) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iii), (a)(6)(iv), (a)(6)(v), (a)(6)(vi), (b) (concentration set at 0.1 percent), and (c). Based on organic vapor cartridge service life data available on the PMN substance, respirator cartridges shall be changed at least every 8 h.

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(D), and (h)(2)(iii)(A). In addition to the preceding statements, the label and MSDS shall contain the following statement: Use respiratory protection when there is a reasonable likelihood of exposure in the work area from dust, mist, smoke, fumes, vapor, or gas.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB Control Number 2070–0012)

42. By adding new § 721.8425 to subpart E to read as follows:

§ 721.8425 2-Propenoic acid, 2-[[[[[1,3,3-trimethyl-5- [[[2-[(1-oxo-2-propenyl)oxy] ethoxy]carbonyl]amino]cyclohexyl]methyl] amino]carbonyl]oxy]ethyl ester.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified as 2-propenoic acid, 2-[[[[[1,3,3-trimethyl-5- [[[2-[(1-oxo-2-propenyl)oxy]ethoxy] carbonyl]amino] cyclohexyl]methyl] amino]carbonyl]oxy]ethyl ester (PMN P–90–1825; CAS number 42404–50–2) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under control number 2070–0012)

43. By adding new § 721.9280 to read as follows:

§ 721.9280 Reaction product of ethoxylated fatty acid oils and a phenolic pentaerythritol tetraester.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance

identified generically as a reaction product of ethoxylated fatty acid oils and a phenolic pentaerythritol tetraester (PMN P–92–63) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* A significant new use of this substance is any manner or method of manufacture, import, or processing associated with any use of this substance without providing risk notification as follows:

(A) If as a result of the test data required under the section 5(e) consent order for this substance, the employer becomes aware that this substance may present a risk of injury to human health, the employer must incorporate this new information, and any information on methods for protecting against such risk, into an MSDS as described in § 721.72(c) within 90 days from the time the employer becomes aware of the new information. If this substance is not being manufactured, imported, processed, or used in the employer's workplace, the employer must add the new information to an MSDS before the substance is reintroduced into the workplace.

(B) The employer must ensure that persons who have received, or will receive, this substance from the employer are provided an MSDS as described in § 721.72(c) containing the information required under paragraph (a)(2)(i)(A) of this section within 90 days from the time the employer becomes aware of the new information.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a), (h), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB Control Number 2070–0012)

44. By adding new § 721.9300 to subpart E to read as follows:

§ 721.9300 Reaction products of substituted hydroxyalkanes and polyalkylpolyisocyanatocarbomonocycle.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as reaction products of substituted hydroxyalkanes and polyalkylpolyisocyanatocarbomonocycle (PMN P–91–75) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* A significant new use of this substance is any manner or method of manufacture, import, or processing associated with any use of this substance without providing risk notification as follows:

(A) If as a result of the test data required under the section 5(e) consent order for this substance, the employer becomes aware that this substance may present a risk of injury to human health, the employer must incorporate this new information, and any information on methods for protecting against such risk, into an MSDS as described in § 721.72(c) within 90 days from the time the employer becomes aware of the new information. If this substance is not being manufactured, imported, processed, or used in the employer's workplace, the employer must add the new information to an MSDS before the substance is reintroduced into the workplace.

(B) The employer must ensure that persons who will receive this substance from the employer are provided an MSDS as described in § 721.72(c) containing the information required under paragraph (a)(2)(i)(A) of this section within 90 days from the time the employer becomes aware of the new information.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(p)(volume set at 433,000 kg).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a), (h), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under control number 2070–0012)

45. By adding new § 721.9400 to read as follows:

§ 721.9400 Reaction product of phenolic pentaerythritol tetraesters with fatty acid esters and oils, and glyceride triesters.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substances identified generically as Reaction product of phenolic pentaerythritol tetraesters with fatty acid esters and oils, and glyceride triesters (PMNs P–91–1231, –1232, –1233, –1234, and –1235) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* A significant new use of this substance is any manner or method of manufacture, import, or processing associated with any use of this substance without providing risk notification as follows:

(A) If as a result of the test data required under the section 5(e) consent order for this substance, the employer becomes aware that this substance may present a risk of injury to human health, the employer must incorporate this new information, and any information on methods for protecting against such risk, into an MSDS as described in § 721.72(c) within 90 days from the time the employer becomes aware of the new information. If this substance is not being manufactured, imported, processed, or used in the employer's workplace, the employer must add the new information to an MSDS before the substance is reintroduced into the workplace.

(B) The employer must ensure that persons who will receive this substance, or who have received this substance from the employer within 5 years from the date the employer becomes aware of the new information described in section (a)(2)(i)(A) of this subparagraph, are provided an MSDS as described in § 721.72(c) containing the information required under paragraph (a)(2)(i)(A) of this section within 90 days from the time the employer becomes aware of the new information.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a), (h), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB Control Number 2070–0012)

46. By adding new § 721.9420 to subpart E to read as follows:

§ 721.9420 Polymethylcarbomonocycle, reaction product with 2-hydroxyethyl acrylate.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as polymethylcarbomonocycle, reaction product with 2-hydroxyethyl acrylate (PMN P–90–1338) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(iii)(A), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(iv) *Disposal.* Requirements as specified in § 721.85(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a) through (j) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under control number 2070–0012)

47. By adding new § 721.9460 to subpart E to read as follows:

§ 721.9460 Tall oil fatty acids, reaction products with polyamines, alkyl substituted.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as tall oil fatty acids, reaction products with polyamines, alkyl substituted (PMN P–91–225) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (f), (g)(3)(i), (g)(3)(ii), (g)(4)(iii), and (g)(5).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q) and any use in a manner that will result in overspray over or into waters of the United States.

(iii) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), (c)(1), or use in any manner that will result in overspray over or into waters of the United States.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a), (b), (c), and (f) through (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under control number 2070–0012)

48. By adding new § 721.9525 to subpart E to read as follows:

§ 721.9525 Acrylate substituted siloxanes and silicones.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as acrylate substituted siloxanes and silicones (PMN P–91–1153) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), (h)(2)(i)(D), and (h)(2)(iii)(A).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB Control Number 2070–0012)

49. By adding new § 721.9550 to subpart E to read as follows:

§ 721.9550 Sulfonamide.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance generically identified as a sulfonamide (PMN P–90–1732) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(iv), (a)(5)(v), (a)(5)(vi), (a)(5)(vii), (a)(6)(i), (b) (concentration set at 1.0 percent) and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(i), (g)(1)(iv), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(2)(iv), (g)(2)(v), (g)(3)(i), (g)(3)(ii), (g)(4)(i), (g)(4)(ii), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (where N = 10 ppb).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a) through (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB Control Number 2070–0012)

50. By adding new § 721.9740 to subpart E to read as follows:

§ 721.9740 Brominated triazine derivative.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as a brominated triazine derivative (PMN P–91–403) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(4), (a)(5)(iv), (a)(6)(i), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72 (a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(iv), (g)(1)(vi), (g)(1)(vii), (g)(2)(iv), and (g)(5). The hazard communication requirements do not apply when the chemical substance is present in a plastic, elastomer, rubber matrix, or in solution.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in section 721.80(q). Any amount of the PMN substance imported in a plastic, elastomer, rubber matrix, or in a solution, such that inhalation is precluded, shall not be included in the production limit calculations.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a) through (d) and (f) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB Control Number 2070–0012)

51. By adding new § 721.9820 to subpart E to read as follows:

§ 721.9820 Substituted triazole.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance generically identified as a substituted triazole (PMN P–90–1731) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(i), (a)(5)(ii), (a)(5)(iii), (a)(6)(i), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(i), (g)(1)(iv), (g)(1)(v), (g)(1)(vi), (g)(1)(vii), (g)(1)(ix), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(2)(iv), (g)(2)(v), (g)(3)(i), (g)(3)(ii), (g)(4)(i), (g)(4)(ii), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (where N = 12).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a) through (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB Control Number 2070–0012)

52. By adding new § 721.9850 to subpart E to read as follows:

§ 721.9850 2,4,8,10-Tetraoxa-3,9-diphosphaspiro[5.5]undecane, 3,9-bis[2,4,6-tris(1,1-dimethylethyl)phenoxy]-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 2,4,8,10-tetraoxa-3,9-diphosphaspiro[5.5]undecane, 3,9-bis[2,4,6-tris(1,1-dimethylethyl)phenoxy]- (PMN P–91–65; CAS number 126505–35–9) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(ii), (a)(5)(iv), (a)(5)(v), (a)(6)(i), (b) (concentration set at 1.0 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 1.0 percent), (f), (g)(1)(iii), (g)(1)(vi), (g)(1)(ix), (g)(2)(i) through (v), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a) through (h) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB Control Number 2070–0012)

53. By adding new § 721.9975 to subpart E to read as follows:

§ 721.9975 Zirconium(IV), [2,2-bis[(2-propenyloxy)methyl]-1-butanolato-01,02]tris(2-propenoato-O-)-.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance zirconium(IV) 2,2-(bis-2-propenyloxy)methyl)-1-butanolato-01,02]tris 2-propenoato-*O*)- (PMN P–91–389) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(vi), (h)(2)(i)(B), (h)(2)(i)(C), (h)(2)(i)(D), and (h)(2)(iii)(A).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part

apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

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Reader Aids

Federal Register

Vol. 57, No. 185

Wednesday, September 23, 1992

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	202-523-5227
Public inspection desk	523-5215
Corrections to published documents	523-5237
Document drafting information	523-3187
Machine readable documents	523-3447

Code of Federal Regulations

Index, finding aids & general information	523-5227
Printing schedules	512-1557

Laws

Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230

The United States Government Manual

General information	523-5230

Other Services

Data base and machine readable specifications	523-3447
Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the hearing impaired	523-5229

FEDERAL REGISTER PAGES AND DATES, SEPTEMBER

39597-40070.....1
40071-40300.....2
40301-40590.....3
40591-40826.....4
40827-41052.....8
41053-41374.....9
41375-41640.....10
41641-41852.....11
41853-42484.....14
42485-42680.....15
42681-42880.....16
42881-43124.....17
43125-43334.....18
43335-43604.....21
43605-43884.....22
43885-44076.....23

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

2.....40024
3.....40024
11.....40024

3 CFR

Executive Orders:
12154 (See EO 12814).....42483
12543 (See DOT final rule of August 26, 1992).....41696
12722 (See DOT rule of August 21).....39603
12724 (See DOT rule of August 21).....39603
12735 (See State Dept. final rule of Aug. 24).....41077
12775 (See DOT rule of August 17).....39603
12779 (See DOT rule of August 17).....39603
12814.....42483
Administrative Orders:
Presidential Determinations:
No. 91-52 of September 13, 1991 (See Presidential Determination No. 92-45 of August 28, 1992).....43125
No. 92-39 of August 17, 1992.....40071
No. 92-40 of August 17, 1992.....40073
No. 92-42 of August 25, 1992.....40075
No. 92-43 of August 25, 1992.....40077
No. 92-44 of August 25, 1992.....40079
No. 92-45 of August 28, 1992).....43125
No. 92-46 of September 4, 1992.....42881
Notices:
September 18, 1992.....43603
Proclamations:
6467.....40591
6468.....40827
6469.....41051
6470.....41373
6471.....42679
6472.....43127
6473.....43129
6474.....43333

4 CFR

Proposed Rules:
Ch. III.....43776

5 CFR

531.....43131
536.....43131
550.....40070, 43131
870.....43131
890.....43131, 43132
Proposed Rules:
532.....42513

7 CFR

2.....40829
210.....40729
301.....42485
319.....43134
723.....43580
800.....40301
916.....42681
917.....42681, 42683
920.....41853, 42684
944.....42685, 42687
966.....42688
967.....42689
980.....42688
987.....43335
1207.....40081
1427.....40593
1464.....43580
1956.....42691
Proposed Rules:
13.....43628
319.....40872, 43628
780.....43937
910.....42515, 43943
1033.....42899
1036.....42899
1049.....42899
1209.....43943
1413.....42899
1744.....39628
1902.....39631
1930.....39631
1944.....39635

8 CFR

204.....41053
209.....42883
214.....40830, 42884
251.....40830
258.....40830
274a.....42884

9 CFR

75.....43605
94.....43606, 43885
381.....43588
Proposed Rules:
75.....40139
92.....41549
124.....40493
201.....42515
203.....42515
307.....40623

310.....40623
318.....42885
319.....42885

10 CFR

11.....41375
25.....41376
35.....41376
50.....41378, 43886
600.....40083
605.....40582

Proposed Rules:

26.....42901
70.....42901
73.....42901
1023.....40345

11 CFR

200.....39743

12 CFR

3.....40302
204.....40597
208.....43889
217.....43336
225.....41381, 41641, 43889
230.....43337
250.....40597, 41643
262.....41641
265.....40597
545.....40085
562.....40085
563.....40085
563c.....40085
571.....40085
603.....42888
611.....43393
612.....43394
614.....43290
619.....43290
701.....42486
935.....42888
940.....42888
1616.....43607

Proposed Rules:

3.....42623, 42901
208.....39641, 42623
225.....39641, 42623
325.....42623
363.....42516
509.....40350
516.....40350
517.....42906
528.....40350
541.....40350
543.....40350
545.....40350
552.....40350
556.....40350
558.....40350
559.....40350
561.....40350
563.....40140, 40350, 40524
563b.....40350
563e.....40350
567.....40143, 40147, 40350, 40524
571.....40350, 40524
579.....40350
580.....40350
791.....42532
1625.....39743

13 CFR

121.....41068

Proposed Rules:

108.....43155, 43157

14 CFR

13.....40094
21.....41069, 41072, 41360, 42846, 43776
23.....41069, 41072
36.....41360, 42846
39.....40307–40313, 40601, 40835–40838, 42692, 42693, 43291, 43890
43.....41360
71.....40095, 40096, 42488
91.....41360, 42662
97.....41074, 41075
121.....42662
125.....42662
135.....42662, 43776
147.....41360
200.....40097
203.....40097
205.....40097
206.....40097
231.....40097
232.....40097
255.....43780
263.....40097
288.....40097
294.....40097
296.....40097
297.....40097
298.....40097
302.....40097
372.....40097
399.....40097
1214.....41077, 41854

Proposed Rules:

Ch. I.....41894
39.....40359, 40623, 40624, 41114, 41115, 41439, 43944
61.....41974
71.....40148–40156, 41441–41445, 42810
93.....42810
101.....41628
107.....43294
108.....43294
207.....42864
208.....42864
212.....42864
294.....42864
298.....42864
380.....42864
389.....42864

15 CFR

29b.....43892
60.....40840
770.....41854
771.....41854
773.....41854
776.....41854
779.....41854
786.....41854
799.....41854
Ch. IX.....43310
944.....43310

Proposed Rules:

799.....41894
806.....43158
946.....40877

16 CFR

305.....41388, 43611
1115.....39597

Proposed Rules:

229.....41706
230.....41707
232.....41706

17 CFR

4.....41173
16.....40601
19.....41389
30.....40603

Proposed Rules:

Ch. II.....43631
33.....40626

19 CFR

10.....40314, 40604, 43059
24.....42697
122.....43395
141.....40605
145.....40255
171.....40605
172.....40605

Proposed Rules:

4.....40627
101.....42712
141.....40361
142.....40361
143.....40361
146.....41896
151.....40361
191.....41446

20 CFR

655.....40966, 43118, 43495

Proposed Rules:

626.....41447
627.....41447
628.....41447
629.....41447
630.....41447
631.....41447
637.....41447

21 CFR

5.....40315–40318, 43397
177.....43398
178.....43631
310.....41857
520.....42490, 42623
522.....41861, 42623
526.....42623
529.....42489
556.....41861
573.....40318
1308.....43399
1310.....43614
1313.....43614

Proposed Rules:

131.....40255, 43059
166.....43634
310.....40944
864.....43161
872.....43165
884.....42908

22 CFR

121.....41077

24 CFR

25.....40111
91.....40038
135.....40111
570.....40038
905.....40113

25 CFR

Proposed Rules:

211.....40298
212.....40298

26 CFR

1.....40118, 40319, 40841, 41079, 41644, 42490, 43893, 43897
5c.....43893
5f.....43893
5h.....43893
6.....43893
7.....43893
7a.....43893
10.....43893
13.....43893
14.....43893
14a.....43893
18.....43893
19.....43893
301.....43893
602.....40118, 40319, 41079, 41644, 43893, 43897

Proposed Rules:

1.....39743, 40378, 41707, 41897, 42712, 42720, 43776, 43945
49.....41549
301.....43777

27 CFR

5.....40323
20.....40847, 42623
53.....40324
70.....40327
194.....39597

Proposed Rules:

4.....40380, 40884
5.....40884
250.....40885
251.....40886
252.....40887
290.....40889

28 CFR

2.....41391–41394
50.....39598
80.....39598

Proposed Rules:

2.....41450

29 CFR

506.....40966, 43495
1910.....42102
1915.....42102
1926.....42102
2200.....41676
2676.....42490

Proposed Rules:

103.....43635
403.....41634
2610.....42910

30 CFR

206.....41862
207.....41862
208.....41862
210.....41862
216.....41862
218.....41862
219.....41862
220.....41862
228.....41862
914.....41869
935.....41690
944.....41692

Proposed Rules:

75.....40395, 42808

400.....43411
609.....43411
651.....43412
917.....41897, 43946–43952
920.....41712
935.....43954
950.....41714, 41715

31 CFR

10.....41093
204.....40239
315.....39601
353.....39601
358.....40607
550.....41696
575.....39603
580.....39603

Proposed Rules:

270.....41117

32 CFR

60.....40849
220.....41096
323.....40608
701.....40609
706.....41698
806.....41396
1906.....39604

Proposed Rules:

202.....43645
317.....40397

33 CFR

3.....39613, 42699
64.....43401
100.....40125, 40609, 40610, 41419, 41420
117.....39614, 41873
135.....41104
136.....41104
137.....41104
157.....40494
165.....40125, 40330, 40612, 41421, 43615
334.....40612

Proposed Rules:

89.....43169
117.....43647
162.....41899

34 CFR

Proposed Rules:

231.....44046
238.....44046
305.....43572

36 CFR

51.....42808

Proposed Rules:

51.....40496
242.....43074
1191.....41006

37 CFR

1.....40493
2.....40493
202.....39615

Proposed Rules:

1.....41899, 42721, 43412
5.....43412
10.....43412

38 CFR

3.....40944, 43904
17.....41700
21.....40613, 43616
36.....40615, 43616

Proposed Rules:

3.....40424
21.....41451

39 CFR

111.....43403

Proposed Rules:

111.....39646, 40890, 41716, 43956

40 CFR

52.....40126, 40331–40336, 42889–42895, 43905
55.....40792
62.....43405
136.....41830
148.....41173
156.....42472
170.....42472
180.....40128, 42699, 42700
185.....42700
186.....42700
260.....41173, 41566
261.....41173, 41566
262.....41173
264.....41173, 42832
265.....41173, 42832
266.....41566
268.....41173
270.....41173
271.....41173, 41566, 41699
279.....41566
281.....41874
414.....41836
721.....44050

Proposed Rules:

Ch. I.....42533, 43956
52.....40157, 40159, 41716, 42536, 42911, 42913, 43420–43425, 43648–43657, 43957, 43959
60.....43171
61.....43173
62.....40628
81.....43846
122.....41344
180.....40161–40163, 42727–42730
228.....43427
260.....43171
264.....43171
265.....43171
270.....43171
271.....43171
300.....39659, 41452
372.....10820
721.....10820

42 CFR

60.....41875
405.....42491
410.....39743
412.....39746
413.....39746, 42491, 43906
414.....42491
415.....42491
431.....43922
442.....43922
447.....43906, 43922
483.....43922
488.....43922
489.....43922
498.....43922

Proposed Rules:

100.....41809
413.....43659

43 CFR

Public Land Orders:

6942.....42808
6943.....39616
2460 (Revoked in part by PLO 6945).....43405
6945.....43405
6947.....43618

Proposed Rules:

3710.....41846
3800.....42732

44 CFR

64.....39617, 41104, 41875, 43618
65.....41877, 41878
67.....39619, 41880

Proposed Rules:

67.....41905

45 CFR

400.....42896
641.....40337
1301.....41881
1302.....41886

46 CFR

30.....41812
32.....41812
35.....41812
70.....41812
78.....41812
90.....41812
97.....41812
107.....41812
108.....41812
109.....41812
167.....41812
169.....41812
170.....41812
171.....41812
184.....41812
185.....41812
188.....41812
196.....41812
272.....39621
298.....39621
510.....39622, 40129
514.....39622
540.....41887
560.....40616
572.....40616
580.....39622
582.....39622

Proposed Rules:

67.....43432

47 CFR

1.....43406
2.....43290
63.....41106, 41109
73.....39624, 39625, 40342, 40849, 41698, 41700, 42510, 42511, 42701, 43290
74.....41110
80.....43406
90.....40850, 42706, 43408
95.....40343
97.....40343

Proposed Rules:

Ch. I.....39661
2.....40630, 42916, 43434
13.....41718
15.....40630
21.....42916
22.....40630, 42916
25.....40425, 40426, 40891
61.....40426
63.....41118
69.....40426
73.....39663, 41719, 41911, 41912, 42536–42538, 42732
94.....42916
99.....40630

48 CFR

30.....43409, 43495
31.....40344
52.....43409, 43495
202.....42626
204.....42626
208.....42626
214.....42626
215.....41422, 42626
216.....42626
219.....42626
223.....42626
225.....42626
226.....42626
227.....42626
228.....42626, 42707
231.....42626
232.....42626, 42707
236.....42626
237.....42626
239.....42626
242.....42626
245.....42626
252.....41422, 42626, 42707
253.....42626
270.....41422
525.....42708
552.....42708
923.....41974
1801.....40851
1803.....40851
1804.....40851
1805.....40851
1806.....40851
1807.....40851
1808.....40851
1809.....40851
1813.....40851
1815.....40851
1816.....40851
1819.....40851
1822.....40851
1823.....40851
1825.....40851
1827.....40851
1831.....40851
1832.....40851
1833.....40851
1836.....40851
1837.....40851
1842.....40851
1845.....40851
1849.....40851
1851.....40851
1852.....40851
1853.....40851
1870.....40851
9903.....43620

Proposed Rules:

45.....40891
9903.....43776
9904.....43776

49 CFR

1.....40620

110.....43062
350.....40946
355.....40946
396.....40946
571.....40131, 41423, 41428
588.....41428
1003.....41111
1023.....43151
1039.....40620
1109.....39743
1313.....40620
1321.....40857, 43059, 43925
1313.....43291

Proposed Rules:

174.....42466
177.....42466
192.....41119
218.....41454
571.....40165, 41912
1002.....39743, 41459
1018.....41459
1039.....39663, 41122
1105.....42733
1145.....41122
1150.....42733
1312.....41459
1313.....41459
1314.....41459

50 CFR

20.....40032, 43856
204.....40858
216.....41701
217.....40859, 40861, 41703
227.....40859, 40861, 41703
285.....42710, 43409
299.....40858
641.....41892
642.....43153
646.....41892
653.....40134
661.....39626, 40135, 40136, 40622, 41705, 42511, 43621
663.....40136, 41112, 42898
672.....40137, 40255, 43621, 43926
675.....42710, 43154, 43621, 43627, 43926
681.....41112
683.....40255

Proposed Rules:

17.....39664, 40429, 43673–43686
100.....43074
216.....40166
217.....41123
227.....41123
228.....42538
611.....40493
685.....40493, 43290

LIST OF PUBLIC LAWS

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.**

Last List September 11, 1992

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As the official handbook of the Federal Government, the *Manual* is the best source of information on the activities, functions, organization, and principal officials of the agencies of the legislative, judicial, and executive branches. It also includes information on quasi-official agencies and international organizations in which the United States participates.

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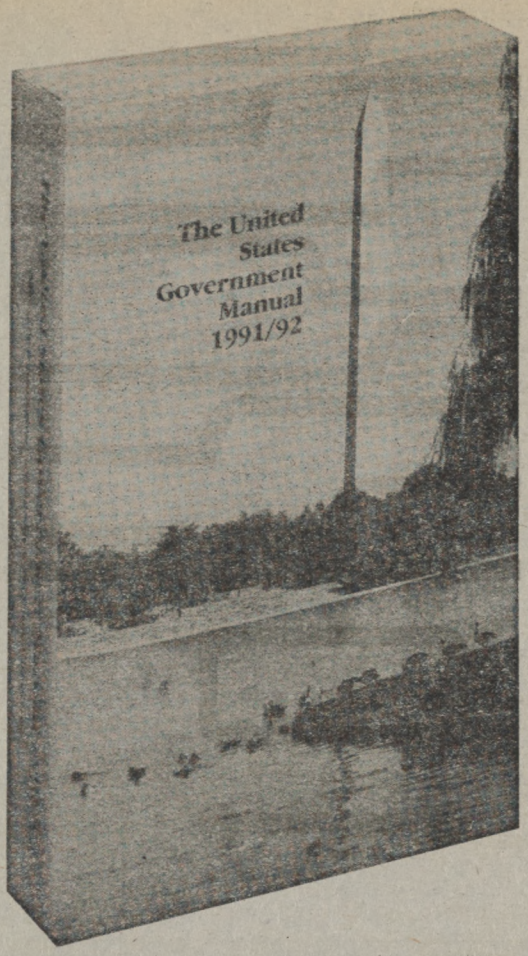

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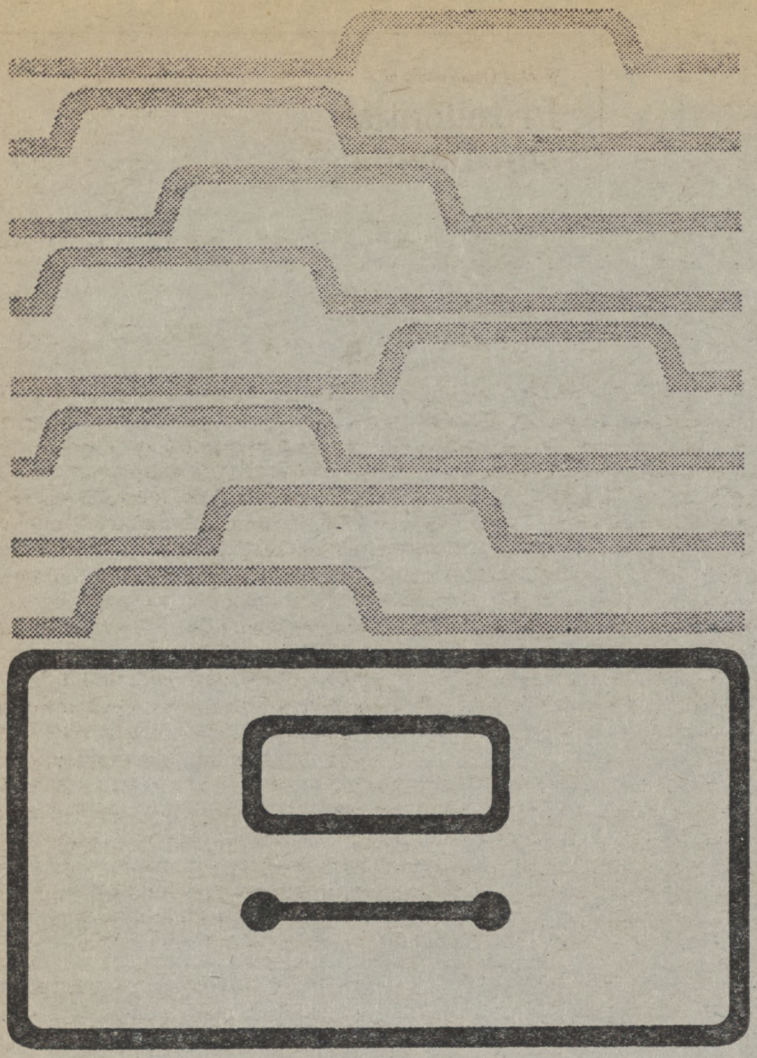

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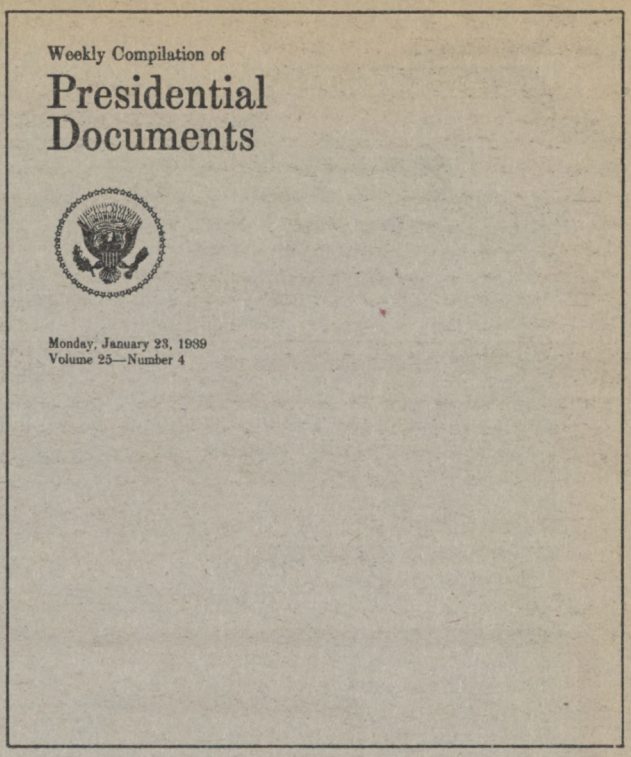

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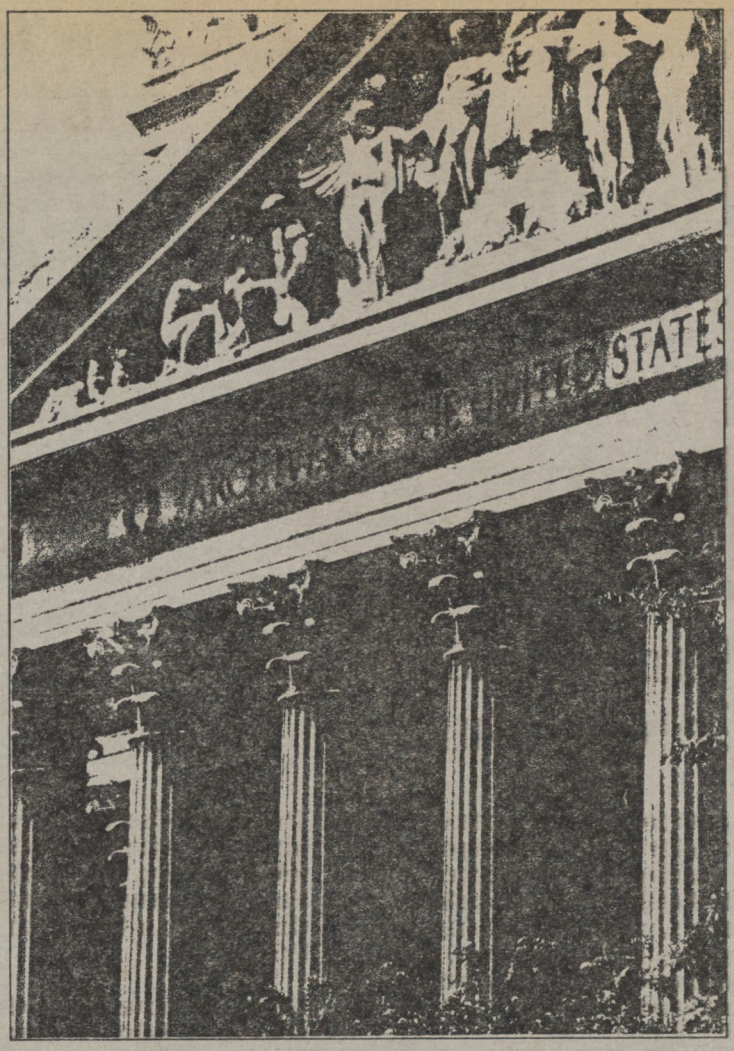

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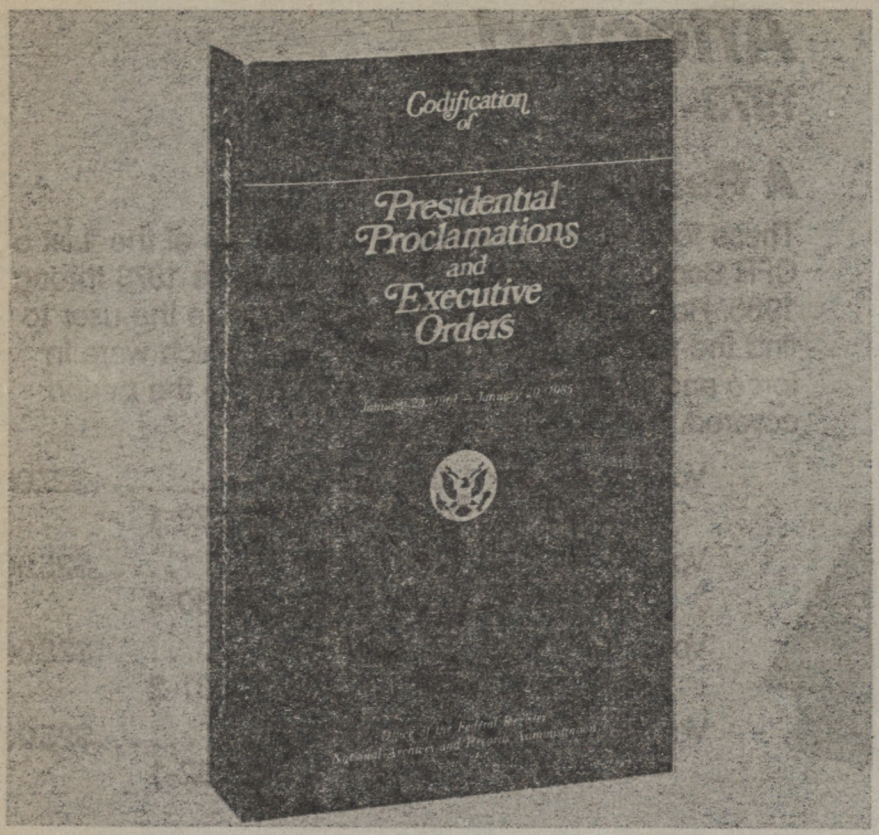

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