AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

2–5–93
Vol. 58 No. 23

federal register

Friday
February 5, 1993

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

SECOND CLASS NEWSPAPER

Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097–6326)

2-5-93
Vol. 58 No. 23
Pages 7185-7476

federal register

Friday
February 5, 1993

Briefing on How To Use the Federal Register
For information on a briefing in Washington, DC, see announcement on the inside cover of this issue.

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The seal of the National Archives and Records Administration authenticates this issue of the **Federal Register** as the official serial publication established under the Federal Register Act. 44 U.S.C. 1507 provides that the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper, 24x microfiche format and magnetic tape. The annual subscription price for the **Federal Register** paper edition is $375, or $415 for a combined **Federal Register**, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $353; and magnetic tape is $37,500. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $4.50 for each issue, or $4.50 for each group of pages as actually bound; or $1.50 for each issue in microfiche form; or $175.00 per magnetic tape. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA or MasterCard. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 58 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC	
Subscriptions:	
Paper or fiche	**202–783–3238**
Magnetic tapes	**512–1530**
Problems with public subscriptions	**512–2303**
Single copies/back copies:	
Paper or fiche	**783–3238**
Magnetic tapes	**512–1530**
Problems with public single copies	**512–2457**
FEDERAL AGENCIES	
Subscriptions:	
Paper or fiche	**523–5243**
Magnetic tapes	**512–1530**
Problems with Federal agency subscriptions	**523–5243**

For other telephone numbers, see the Reader Aids section at the end of this issue.

THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

WASHINGTON, DC

WHEN: March 5 at 9:00 a.m.
WHERE: Office of the Federal Register, 7th Floor Conference Room, 800 North Capitol Street NW, Washington, DC
RESERVATIONS: 202–523–4538

Printed on recycled paper containing 100% post consumer waste

Contents

Federal Register
Vol. 58, No. 23
Friday, February 5, 1993

Acquired Immune Deficiency Syndrome, National Commission
See National Commission on Acquired Immune Deficiency Syndrome

Agricultural Marketing Service
PROPOSED RULES
Frozen cauliflower; grade standards
Correction, 7296

Agricultural Workers Commission
See Commission on Agricultural Workers

Agriculture Department
See Agricultural Marketing Service
See Animal and Plant Health Inspection Service
See Food and Nutrition Service
See Forest Service

Animal and Plant Health Inspection Service
NOTICES
Environmental statements; availability, etc.:
Genetically engineered organisms; field test permits—Corn, 7208
Genetically engineered organisms for release into environment; permit applications, 7208, 7209

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Blind or Severely Disabled, Committee for Purchase From People Who Are
See Committee for Purchase From People Who Are Blind or Severely Disabled

Centers for Disease Control and Prevention
NOTICES
Meetings:
Hanford Thyroid Morbidity Study Advisory Committee, 7232
Vital and Health Statistics Committee, 7232

Coast Guard
RULES
Pollution:
Facility response plans and required pollution response equipment, 7330
Vessel response plans, 7336
NOTICES
Committees; establishment, renewal, termination, etc.:
National Offshore Safety Advisory Committee, 7291
Northwest Pacific Loran-C; transfer/closure, 7293
Tank level or pressure monitoring devices; technical feasibility study, 7292

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration
See National Technical Information Service

Commission on Agricultural Workers
NOTICES
Report to Congress, 7215

Committee for Purchase From People Who Are Blind or Severely Disabled
NOTICES
Procurement list; additions and deletions, 7215

Defense Department
NOTICES
Meetings:
DIA Advisory Board, 7216

Drug Enforcement Administration
RULES
Schedules of controlled substances:
Zolpidem, 7186
NOTICES
Applications, hearings, determinations, etc.:
Alford, William L., Jr., M.D., 7246
Gamad, Romulo Robleda, Jr., M.D., 7247
Shah, Arunkumar J., M.D., 7247
Womack, James C., M.D., 7248

Education Department
NOTICES
Meetings:
Educational Research and Improvement National Advisory Council, 7216

Employment and Training Administration
NOTICES
Adjustment assistance:
Pennzoil Sulphur Co.; correction, 7249
Spaulding Composites Co. Inc., 7249

Employment Standards Administration
NOTICES
Minimum wages for Federal and federally-assisted construction; general wage determination decisions, 7250

Energy Department
See Energy Information Administration
See Federal Energy Regulatory Commission
See Hearings and Appeals Office, Energy Department
NOTICES
Grants and cooperative agreement awards:
Lawrence Livermore National Laboratory-Site 300, 7216
Meetings:
Nuclear waste management plan report, 7217

Energy Information Administration
NOTICES
Agency information collection activities under OMB review, 7217

Environmental Protection Agency
RULES
Air programs; State authority delegations:
Tennessee, 7189
Public information:
Senior environmental employment program; confidentiality of business information, 7187

Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update, 7189
Toxic substances:
Significant new uses—
2-Butenedioic acid (Z), mono (2-((1-oxopropenyloxy))ethyl) ester, etc.; correction, 7190
NOTICES
Clean Air Act and Clean Water Act:
Confidential business information and data transfer to contractors, 7225
Environmental statements; availability, etc.:
Agency statements—
Comment availability, 7226
Weekly receipts, 7226
Low-level radioactive mixed waste; national profile availability (NUREG/CR-5938), 7265
Pesticide registration, cancellation, etc.:
Cancer-causing pesticides in processed foods, 7470
Superfund; response and remedial actions, proposed settlements, etc.:
Old Springfield Landfill Site, VT, 7227
Superfund program:
Federal Agency Hazardous Waste Compliance Docket; Federal facilities, list update, 7298

Executive Office of the President
See Presidential Documents

Federal Aviation Administration
RULES
Airworthiness directives:
Fokker, 7185
PROPOSED RULES
Airworthiness directives:
Airbus Industrie, 7196
Omnibus Transportation Employee Testing Act of 1991:
Alcohol use by transportation workers, limitations, 7197

Federal Communications Commission
RULES
Radio stations; table of assignments:
Florida, 7194
Georgia et al., 7194
Missouri et al., 7195
PROPOSED RULES
Television broadcasting:
Cable television systems—
Cable Television Consumer Protection and Competition Act of 1992; implementation, 7205
NOTICES
Travel reimbursement program; summary report, 7227
Applications, hearings, determinations, etc.:
Atkins Broadcasting et al., 7229

Federal Election Commission
NOTICES
Special elections; filing dates:
Ohio, 7230

Federal Energy Regulatory Commission
NOTICES
Electric rate, small power production, and interlocking directorate filings, etc.:
Lockhart Power Co. et al., 7218
Environmental statements; availability, etc.:
Public Utility District No. 1, WA, 7219
Natural gas certificate filings:
Williams Natural Gas Co. et al., 7220
Natural Gas Policy Act:
State jurisdictional agencies tight formation recommendations; preliminary findings—
Texas Railroad Commission, 7219, 7220
Applications, hearings, determinations, etc.:
Northwest Pipeline Corp., 7223
Texas Eastern Transmission Corp., 7223

Federal Highway Administration
PROPOSED RULES
Omnibus Transportation Employee Testing Act of 1991:
Alcohol use by transportation workers, limitations, 7197

Federal Maritime Commission
RULES
Maritime carriers in foreign commerce:
Unpaid freight charges; adjudication jurisdiction, 7190
PROPOSED RULES
Practice and procedure:
Miscellaneous amendments, 7199
NOTICES
Meetings; Sunshine Act, 7295

Federal Railroad Administration
PROPOSED RULES
Omnibus Transportation Employee Testing Act of 1991:
Alcohol use by transportation workers, limitations, 7197

Federal Register Office
NOTICES
[**Editorial note:** For a list of Acts requiring publication in the **Federal Register**, see the Reader Aids section at the end of this issue.]

Federal Reserve System
NOTICES
Meetings; Sunshine Act, 7295
Applications, hearings, determinations, etc.:
First Community Financial Group, Inc., et al., 7231
Kempton and Grace Spooner Revocable Trust, 7231
Norwest Corp. et al., 7231

Federal Retirement Thrift Investment Board
NOTICES
Meetings; Sunshine Act, 7295

Federal Transit Administration
PROPOSED RULES
Omnibus Transportation Employee Testing Act of 1991:
Alcohol use by transportation workers, limitations, 7197

Food and Drug Administration
NOTICES
Meetings:
Advisory committees, panels, etc., 7232

Food and Nutrition Service
PROPOSED RULES
Food stamp program:
Quality control claims, State agency challenges; administrative review process
Correction, 7296

Forest Service
NOTICES
Environmental statements; availability, etc.:
Flathead National Forest, MT, 7210

Meetings:
Allegheny Wild and Scenic River Advisory Committee, 7212
Newberry National Volcanic Monument Advisory Council, 7212

General Accounting Office
NOTICES
Meetings:
Federal Accounting Standards Advisory Board, 7232

Geological Survey
NOTICES
Grants and cooperative agreements; availability, etc.:
National earthquake hazards reduction program, 7240

Health and Human Services Department
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Resources and Services Administration
See Public Health Service
See Social Security Administration
NOTICES
Family planning service projects ("gag rule"), human fetal tissue transplantation, and Mifepristine (drug) importation; Secretary's actions in accordance with President's directives, 7468

Health Resources and Services Administration
See Public Health Service
NOTICES
Meetings; advisory committees:
March, 7233

Hearings and Appeals Office, Energy Department
NOTICES
Cases filed, 7223–7224

Housing and Urban Development Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Facilities to assist homeless—
Excess and surplus Federal property, 7235

Interior Department
See Geological Survey
See Land Management Bureau
See National Park Service
See Reclamation Bureau

Internal Revenue Service
RULES
Income taxes:
Fringe benefits; taxation and gross income exclusions; correction, 7296

International Trade Administration
NOTICES
Export trade certificates of review, 7212

International Trade Commission
NOTICES
Import investigations:
Circuit board testers, 7246
High-information content flat panel displays and subassemblies from Japan, 7245

Judicial Conference of the United States
NOTICES
Meetings:
Judicial Conference Advisory Committee on—
Appellate rules, 7246

Justice Department
See Drug Enforcement Administration

Labor Department
See Employment and Training Administration
See Employment Standards Administration
See Pension and Welfare Benefits Administration

Land Management Bureau
NOTICES
Agency information collection activities under OMB review, 7241
Environmental statements; availability, etc.:
Lewis and Clark National Forest, MT, 7241
MetFuel Hanna Basin Coalbed Methane Project, WY, 7242
Survey plat filings:
Idaho, 7242

National Aeronautics and Space Administration
NOTICES
Meetings:
Aerospace Safety Advisory Panel, 7263

National Archives and Records Administration
See Federal Register Office
NOTICES
Agency records schedules; availability, 7263

National Commission on Acquired Immune Deficiency Syndrome
NOTICES
Meetings, 7264

National Foundation on the Arts and the Humanities
NOTICES
Meetings:
Museum Advisory Panel, 7264

National Highway Traffic Safety Administration
PROPOSED RULES
Motor vehicle safety standards:
Fuel system integrity, 7206

National Labor Relations Board
PROPOSED RULES
Court decisions; fees and dues, exaction limitations, 7199

National Oceanic and Atmospheric Administration
PROPOSED RULES
Endangered and threatened species:
Snake River sockeye salmon, etc.; critical habitat designation, 7206
NOTICES
Permits:
Endangered and threatened species, 7213
Marine mammals, 7214

National Park Service
NOTICES
Environmental statements; availability, etc.:
Lake Mead National Recreation Area, NV, 7244

Meetings:
Delta Region Preservation Commission, 7244
San Francisco Maritime National Historical Park Advisory Commission, 7244
Mining plans of operation; availability, etc.:
Wrangell-St. Elias National Park and Preserve, AK, 7245

National Science Foundation
NOTICES
Meetings:
Computer and Information Science and Engineering Advisory Committee, 7264

National Technical Information Service
NOTICES
Meetings:
Advisory Board, 7214

Nuclear Regulatory Commission
NOTICES
Low-level radioactive mixed waste; national profile availability (NUREG/CR–5938), 7265
Meetings; Sunshine Act, 7295
Applications, hearings, determinations, etc.:
Northeast Nuclear Energy Co., 7265–7267
Safety Light Corp. et al., 7268

Pension and Welfare Benefits Administration
NOTICES
Employee benefit plans; prohibited transaction exemptions:
ELK Promotions, Inc., et al., 7251
Union Labor Life Insurance Co. et al., 7255

Presidential Documents
ADMINISTRATIVE ORDERS
Abortion counseling in family-planning clinics (suspension of "gag rule") (Memorandum of January 22, 1993), 7455
Fetal tissue transplantation research; Federal funding (Memorandum of January 22, 1993), 7457
RU–486 (Mifepristine) drug; personal use importation into U.S. (Memorandum of January 22, 1993), 7459

Public Health Service
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Resources and Services Administration
RULES
Grants:
Family planning service projects; abortion-related services; compliance standards; "gag rule" suspension, 7462
PROPOSED RULES
Grants:
Family planning service projects; abortion-related services; compliance standards; "gag rule" revocation, 7464

Railroad Retirement Board
NOTICES
Agency information collection activities under OMB review, 7272

Reclamation Bureau
NOTICES
Environmental statements; availability, etc.:
Central Valley Project, CA, 7242
Rio Grande floodway projects, NM, 7243

Research and Special Programs Administration
PROPOSED RULES
Omnibus Transportation Employee Testing Act of 1991:
Alcohol use by transportation workers, limitations, 7197

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
American Stock Exchange, Inc., 7272, 7273
Chicago Board Options Exchange, Inc., 7274
Midwest Securities Trust Co., 7276
New York Stock Exchange, Inc., 7281, 7282
Pacific Stock Exchange, Inc., 7283
Participants Trust Co., 7284
Self-regulatory organizations; unlisted trading privileges:
Midwest Stock Exchange, Inc., 7285
Pacific Stock Exchange, Inc., 7285
Philadelphia Stock Exchange, Inc., 7285
Applications, hearings, determinations, etc.:
First Transamerica Life Insurance Co. et al., 7286, 7287

Small Business Administration
NOTICES
Disaster loan areas:
Arizona et al., 7289
Florida, 7289
Hawaii, 7289
Massachusetts et al., 7290
New Jersey, 7290
License surrenders:
Southeast SBIC, Inc., 7290
Westamco Investment Co., 7290
Meetings:
Albuquerque District Advisory Council, 7290
Columbia District Advisory Council, 7291
Concord District Advisory Council, 7291
Des Moines District Advisory Council, 7291
Helena District Advisory Council, 7291
Lower Rio Grande Valley District Advisory Council, 7291

Social Security Administration
NOTICES
Agency information collection activities under OMB review, 7234

State Department
NOTICES
Meetings:
International Radio Consultative Committee, 7290

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Federal Highway Administration
See Federal Railroad Administration
See Federal Transit Administration
See National Highway Traffic Safety Administration
See Research and Special Programs Administration
PROPOSED RULES
Omnibus Transportation Employee Testing Act of 1991:
Alcohol use by transportation workers, limitations, 7197

Treasury Department
See Internal Revenue Service
NOTICES
Agency information collection activities under OMB review, 7293, 7294

Veterans Affairs Department
RULES
Federal claims collection:
Waiver of benefit and home loan program debts collection
Correction, 7296

Separate Parts In This Issue

Part II
Environmental Protection Agency, 7298

Part III
Department of Transportation, Coast Guard, 7330

Part IV
The President, 7455

Part V
Department of Health and Human Services, 7462

Part VI
Environmental Protection Agency, 7470

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.

Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers, Federal Register finding aids, and a list of Clinton Administration officials is available on 202-275-1538 or 275-0920

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.

3 CFR

Administrative Orders:

Memorandums:

January 22, 1993.....7455
January 22, 1993.....7455
January 22, 1993.....7455

7 CFR

Proposed Rules:

52.....7296
275.....7296
283..... 7296

14 CFR

39.....7185

Proposed Rules:

39.....7196
61.....7197
63.....7197
65.....7197
121.....7197
135.....7197

21 CFR

1308.....7186

26 CFR

1.....7296

29 CFR

Proposed Rules:

103.....7199

33 CFR

150.....7330
154.....7330
155.....7376

38 CFR

1.....7296

40 CFR

2.....7187
60.....7189
300.....7189
721.....7190

42 CFR

59.....7462

Proposed Rules:

59.....7464

46 CFR

571.....7190

Proposed Rules:

502.....7199
505.....7199
510.....7199
540.....7199

47 CFR

73 (3 documents).....7194–7195

Proposed Rules:

15.....7205
76.....7205

49 CFR

Proposed Rules:

40.....7197
199.....7197
217.....7197
219.....7197
350.....7197
382.....7197
383.....7197
391.....7197
392.....7197
395.....7197
571.....7206
653.....7197
654.....7197

50 CFR

Proposed Rules:

226.....7206

Rules and Regulations

Federal Register
Vol. 58, No. 23
Friday, February 5, 1993

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92-NM-192-AD; Amendment 39-8488; AD 93-02-06]

Airworthiness Directives; Fokker Model F27 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Fokker Model F27 series airplanes, that requires replacing each long bolt at the wing truss and rib attachment points with two shorter improved bolts. This amendment is prompted by reports of loose truss members in the wing. The actions specified by this AD are intended to prevent reduced structural integrity of the wing.

DATES: Effective March 12, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 12, 1993.

ADDRESSES: The service information referenced in this AD may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 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. Mark Quam, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2145; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain Fokker Model F27 series airplanes was published in the **Federal Register** on October 30, 1992 (57 FR 49150). That action proposed to require replacing each long bolt at the wing truss and rib attachment points with two shorter improved bolts.

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

The commenter supports the proposed rule.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 31 airplanes of U.S. registry will be affected by this AD, that it will take approximately 12 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. The cost of required parts is expected to be negligible. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $20,640, or $660 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

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

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it 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 adding the following new airworthiness directive:

93-02-06. Fokker: Amendment 39-8488. Docket 92-NM-192-AD.

Applicability: Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 series airplanes; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the wings, accomplish the following:

(a) Within 3 years after the effective date of this AD, remove each bolt, part number AN3-15A or AN3-16A, attaching the truss members to the ribs at wing stations 4800, 5950, 7200, 8350, and 9397, and install two bolts, part number NAS1303, in accordance with Fokker Service Bulletin F27/57-25, Revision 1, dated August 1, 1991.

(b) 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, Standardization Branch, ANM-113, 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, Standardization Branch, ANM-113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM-113.

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

(d) The bolt installation shall be done in accordance with Fokker Service Bulletin F27/57-25, Revision 1, dated August 1, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. 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.

(e) This amendment becomes effective on March 12, 1993.

Issued in Renton, Washington, on January 28, 1993.

Ronald T. Wojnar,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-2705 Filed 2-4-93; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Placement of Zolpidem into Schedule IV

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: With the issuance of this final rule, the Administrator of the Drug Enforcement Administration (DEA) places zolpidem into Schedule IV of the Controlled Substances Act (CSA) (21 U.S.C. 801 et seq.). As a result of this rule, the regulatory controls and criminal sanctions of Schedule IV will be applicable to the manufacture, distribution, importation and exportation of zolpidem.

EFFECTIVE DATE: February 5, 1993.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 307-7183.

SUPPLEMENTARY INFORMATION: Zolpidem is a hypnotic drug pharmacologically similar to the benzodiazepines. It will be marketed under the trade name of Ambien for the treatment of transient, short-term and chronic insomnia. The Assistant Secretary for Health, acting on behalf of the Secretary of the Department of Health and Human Services, by letter dated September 4, 1992, recommended to the Administrator of the DEA that zolpidem be placed into Schedule IV of the CSA pending approval of a New Drug Application (NDA) for the drug. The Administrator of the DEA, in a November 24, 1992 **Federal Register** notice (57 FR 55201), proposed to place zolpidem into Schedule IV of the CSA if and when the Food and Drug Administration (FDA) approved an NDA for zolpidem. This notice provided an opportunity for all interested persons to submit their comments, objections or requests for a hearing in writing on the proposed scheduling of zolpidem until December 24, 1992. DEA received no comments regarding this proposal. The FDA notified the DEA that it has determined that zolpidem is safe and effective for use as recommended in the final labelling and accordingly approved the NDA for zolpidem on December 16, 1992.

Based on the information gathered and reviewed by the DEA, the scientific and medical evaluation and scheduling recommendation of the Assistant Secretary for Health, and the FDA's approval of the NDA for zolpidem, the Administrator of the DEA, pursuant to the provisions of 21 U.S.C. 811 (a) and (b), finds that:

(1) Zolpidem has a low potential for abuse relative to the drugs or other substances currently listed in Schedule III;

(2) Zolpidem has a currently accepted medical use in treatment in the United States; and

(3) Abuse of zolpidem may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in Schedule III.

The above findings are consistent with the placement of zolpidem into Schedule IV of the CSA. In order to avoid delays in the marketing of zolpidem, the Schedule IV control of zolpidem will be effective upon publication of this final notice in the **Federal Register**. In the event that the regulations impose special hardships on any registrant, the DEA will entertain any justified request for an extension of time to comply with the Schedule IV regulations regarding zolpidem. The applicable regulations are as follows:

1. *Registration.* Any person who manufactures, distributes, delivers, imports or exports zolpidem, or who engages in research or conducts instructional activities with zolpidem, or who proposes to engage in such activities, must be registered to conduct such activities in accordance with Parts 1301 and 1311 of Title 21 of the Code of Federal Regulations.

2. *Security.* Zolpidem must be manfactured, distributed and stored in accordance with §§ 1301.71-1301.76 of Title 21 of the Code of Federal Regulations.

3. *Labeling and Packaging.* All labels and labeling for commercial containers of zolpidem shall comply with the requirements of §§ 1302.03-1302.05 and 1302.08 of Title 21 of the Code of Federal Regulations.

4. *Inventory.* Every registrant required to keep records and who possesses any quantity of zolpidem shall maintain an inventory pursuant to §§ 1304.11-1304.19 of Title 21 of the Code of Federal Regulations.

5. *Records.* All registrants required to keep records pursuant to §§ 1304.21-1304.27 of Title 21 of the Code of Federal Regulations shall do so regarding zolpidem.

6. *Prescriptions.* All prescriptions for products containing zolpidem shall comply with §§ 1306.01-1306.06 and §§ 1306.21-1306.26 of Title 21 of the Code of Federal Regulations.

7. *Importation and Exportation.* All importation and exportation of zolpidem shall be in compliance with Part 1312 of Title 21 of the Code of Federal Regulations.

8. *Criminal Liability.* Any activity with respect to zolpidem not authorized by, or in violation of the CSA or the Controlled Substances Import and Export Act shall be unlawful.

Pursuant to 5 U.S.C. 605(b), the Administrator certifies that the placement of zolpidem into Schedule IV of the CSA will have no impact upon small businesses or other entities whose interests must be considered under the Regulatory Flexibility Act (Pub. L. 96-354). This action will allow the initial marketing of a drug product which has been approved by the FDA.

This action has been analyzed in accordance with the principles and criteria contained in E.O. 12612, and it has been determined that this matter does not have sufficient federalism implications to require the preparation of a Federalism Assessment.

In accordance with the provisions of 21 U.S.C. 811(a), this order to place zolpidem into Schedule IV of the CSA is a formal rulemaking "on the record after opportunity for a hearing." Such formal proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557 and as such have been exempted from the consultation requirements of Executive Order 12291 (46 FR 13193). Accordingly, this action is not subject to those provisions of E.O. 12778 which are contingent upon

review by OMB. Nevertheless, the Administrator has determined that this is not a "major rule," as that term is used in E.O. 12291, and that it would otherwise meet the applicable standards of Sections 2(a) and 2(b)(2) of E.O. 12778.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

Pursuant to the authority vested in the Attorney General by 21 U.S.C. 811(a) and delegated to the Administrator of DEA by the regulations of the Department of Justice (28 CFR part 0.100), and based on the information gathered and reviewed by the DEA, the scientific and medical evaluation and scheduling recommendation of the Assistant Secretary for Health, and the FDA's approval of the NDA for zolpidem, the Administrator of the DEA hereby amends 21 CFR part 1308 as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

1. The authority citation of 21 CFR part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b) unless otherwise noted.

2. Section 1308.14 is amended by adding paragraph (c)(48) to read as follows:

§ 1308.14 Schedule IV.

* * * * *

(c) * * *

(48) Zolpidem 2783

* * * * *

Dated: January 27, 1993.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 93–2753 Filed 2–4–93; 8:45 am]

BILLING CODE 4410–09–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 2

[FRL–4560–7]

Disclosure of Confidential Data to Persons Working Under the Senior Environmental Employment Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim rule with request for comments.

SUMMARY: EPA is issuing interim regulations modifying certain of EPA's regulations at 40 CFR part 2, subpart B governing confidential business information. This rule authorizes disclosure of confidential data, submitted pursuant to certain environmental statutes administered by the Agency, to persons working under the Senior Environmental Employment Program.

EFFECTIVE DATE: This rule is effective February 5, 1993.

ADDRESSES: Send or deliver written comments to Donald A. Sadowsky, Contracts, Information and General Law Division (LE–132K), Office of General Counsel, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald A. Sadowsky, Office of General Counsel. Telephone 202/260–5469.

SUPPLEMENTARY INFORMATION: On May 20, 1975 EPA published in the **Federal Register** (40 FR 21987) a proposed rule concerning procedures for the treatment of confidential business information (CBI) submitted under various environmental statutes. This rule was made final on September 1, 1976 (41 FR 36902), codified as 40 CFR part 2, subpart B. Rules governing treatment of CBI submitted under additional environmental statutes were promulgated on September 8, 1978 (43 FR 40003), December 18, 1985 (50 FR 51663), and July 29, 1988 (53 FR 28772).

A. The SEE Program

The Senior Environmental Employment (SEE) program is authorized by the Environmental Programs Assistance Act of 1984 (Pub. L. 98–313), which provides that the Administrator may "make grants or enter into cooperative agreements" for the purpose of "providing technical assistance to Federal, State, and local environmental agencies for projects of pollution prevention, abatement, and control."

EPA currently has cooperative agreements under the SEE program with organizations such as the American Association for Retired Persons and the National Urban League. Persons working under the SEE program perform a multitude of functions for the Agency, including opening mail, filing documents, clerical support, answering telephones, staffing hot lines, providing support to Agency enforcement activities, and compiling data.

B. Disclosure of Confidential Data to SEE Enrollees

Under sections 114, 208, and 307(a) of the Clean Air Act (42 U.S.C. 7414, 7542, and 7607), sections 308 and 509(a) of the Clean Water Act (33 U.S.C. 1318 and 1369(a)), section 1445(d) of the Safe Drinking Water Act (42 U.S.C. 300j–4), sections 3001(b)(3)(B), 3007(b), and 9005(b) of the Solid Waste Disposal Act (42 U.S.C. 6921(b)(3)(B), 6927(b), and 6995(b)), and section 104(e)(7) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9604(e)(7)) EPA may disclose CBI to authorized representatives of the United States. Similarly, under section 10(e) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136h(e)) EPA may disclose CBI to contractors with the United States. And under section 408(f) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 346a(f)) EPA may disclose CBI to persons authorized by the Administrator or by an advisory committee.

Although Congress did not require that authorized representatives have a contractual relationship with EPA, the Agency chose to confine the definition of authorized representatives to contractors (and state or local governmental bodies where allowed by statute) when it first proposed and promulgated regulations governing disclosure of CBI to authorized representatives. See 40 FR 21990, 40 CFR 2.301(h)(2)(i). At the time there was no SEE program, and it was therefore not contemplated that there would be a need to disclose CBI to persons assisting EPA who were not contractors. EPA's regulations at 40 CFR 350.23(b)(1), implementing section 322(f) of the Emergency Planning and Community Right-to-Know Act (EPCRA) (42 U.S.C. 11042(f)) and promulgated after the inception of the SEE program, specifically allow a grantee who performs work for EPA in connection with EPCRA or regulations which implement EPCRA to be an authorized representative. See the **Federal Register** notice of July 29, 1988 (53 FR 28772).

The nature of EPA's work requires that the Agency collect significant amounts of CBI. In order for SEE enrollees to perform their duties, they must be authorized for access to this information. Many Agency offices have been providing SEE enrollees with access to CBI, under the impression that EPA regulations allowed such access. The Agency is hereby rectifying this error by amending its regulations to provide for access to SEE enrollees.

Although section 10(e) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) provides for access to CBI by "contractors", rather than the broader term "authorized representatives" employed in other environmental statutes, EPA's Office of Pesticide Programs has a long-standing

interpretation that FIFRA section 10 authorizes access to SEE enrollees.

Neither FIFRA nor its legislative history contain any definition of "contractor". Although Federal contract and grant law distinguishes contractors and grantees, there is reason to conclude that FIFRA section 10 allows SEE grantees access to CBI. First, the Environmental Programs Assistance Act of 1984 was drafted in part to allow a certain class of grantees to perform tasks which otherwise would require a contractual relationship with EPA. Second, FIFRA section 10 does not forbid all disclosures of CBI; section 10(b) provides that EPA "shall not make public" information which is entitled to confidentiality. (Similarly, section 10(c) refers to situations in which EPA would "release for inspection" FIFRA CBI, and sections 10(d) and 10(e) refer to "disclosure to the public".) By disclosing FIFRA CBI to SEE enrollees who are bound by agreement not to further disclose the data and who would be subject to criminal penalties for unauthorized disclosure (FIFRA section 10(f) imposes penalties on contractors and Federal employees for unauthorized disclosure), EPA is not making the information public or releasing it for inspection, and is thus acting within the limits of FIFRA section 10.

By comparison, section 14 of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2613, prohibits disclosure of CBI collected under the Act to anyone, with the exceptions of Federal employees and contractors. Therefore, EPA does not interpret TSCA to allow access to TSCA CBI by SEE enrollees (and has not provided SEE enrollees with such access in the past under TSCA), and the regulation is written accordingly.

By disclosing CBI to SEE enrollees, EPA does not compromise the confidentiality of the information. This regulation provides procedures for the protection of confidential data, including a bar from disclosure of confidential information unless the grant or cooperative agreement provides that:

a. Persons working under the grant or cooperative agreement shall use the information only for the purpose of carrying out the work required by the grant or cooperative agreement;

b. Persons working under the grant or cooperative agreement shall refrain from disclosing the information to anyone other than EPA without prior written approval of each affected business or of an EPA legal office;

c. Persons working under the grant or cooperative agreement shall return to EPA all copies of such information (and any abstracts or extracts therefrom) upon request by the EPA program office, whenever the information is no longer required for performance of the work required under the grant or cooperative agreement, or upon completion of the grant or cooperative agreement;

d. The grantee organization shall obtain a written agreement to honor such terms of the grant or cooperative agreement from each of the persons working under the grant or cooperative agreement who will have access to such information, before such employee is allowed access; and

e. The grantee organization acknowledges and agrees that the provisions concerning the use and disclosure of business information supplied to the grantee organization by EPA under the grant or cooperative agreement are included for the benefit of, and shall be enforceable by, both EPA and any affected business having an interest in information concerning the business.

In addition, before such disclosure is made, the Agency must notify the submitter of the information to be disclosed, the identity of the grantee organization, and the purposes to be served by the disclosure, and give the submitter an opportunity to comment on the disclosure. Note also that SEE enrollees have their duty stations in Agency facilities, work directly with Agency staff, and will be subject to the same security requirements as Federal employees.

This rule is by its nature retroactive, in that it authorizes disclosure of information already obtained by EPA. The retroactivity is inherent in the authority granted by the statutes discussed above to disclose information to authorized representatives. Moreover, the public interest in efficient operation of the Agency weighs in favor of such a result, while the restrictions on further use and disclosure of the information discussed above ensure that there is no adverse effect on persons who have submitted confidential information to EPA.

Waiver of Notice of Proposed Rulemaking and Delay in Effective Date

I find that prior notice is unnecessary and that good cause exists for making this rule effective immediately, pursuant to the Administrative Procedure Act, 5 U.S.C. 553(b), for the following reason: Persons working under the SEE program and grantee organizations will be required by agreement, regulation, and grant or cooperative agreement to have the same protections against unauthorized use and disclosure of CBI as are EPA contractors. These protections have been in place for Agency contractors for many years, and the record of the Agency with respect to protection of confidential information is excellent. Thus, the rights of CBI submitters are unaffected, and there are no issues for comment.

Executive Order 12291

Executive Order (E.O.) 12291 requires the preparation of a regulatory impact analysis for major rules, defined by the order as those likely to 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 industries; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

EPA has determined that this regulation does not meet the definition of a major rule under E.O. 12291 and has therefore not prepared a regulatory impact analysis.

Paperwork Reduction Act

Information collection requirements in a rule must be submitted for approval to the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. No reporting or recordkeeping requirements are included as part of this regulation. Therefore, no Information Collection Request document has been prepared.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities. The rule authorizes the disclosure to authorized representatives of the United States of confidential information and disclosure pursuant to a proceeding. The persons receiving the confidential information are bound by agreement, regulation, and in some cases criminal statute not to disclose the information except where authorized or to use the information for unauthorized purposes. These restrictions ensure that such disclosure does not affect the competitive position of the submitters of the information. Thus, there is no economic impact on small entities.

List of Subjects in 40 CFR Part 2

Administrative practice and procedure, Confidential business information, Courts, Freedom of Information, Government employees.

Dated: January 15, 1993.

William K. Reilly,

Administrator.

Therefore 40 CFR Part 2 is amended as follows:

1. The authority citation for part 2 continues to read as follows:

Authority: 5 U.S.C. 301, 552 (as amended), 553; secs. 114, 206, 208, 301, and 307, Clean Air Act, as amended (42 U.S.C. 7414, 7525, 7542, 7601, 7607); secs. 308, 501 and 509(a), Clean Water Act, as amended (33 U.S.C. 1318, 1361, 1369(a)); sec. 13, Noise Control Act of 1972 (42 U.S.C. 4912); secs. 1445 and 1450, Safe Drinking Water Act (42 U.S.C. 300j–4, 300j–9); secs. 2002, 3007, and 9005, Solid Waste Disposal Act, as amended (42 U.S.C. 6912, 6927, 6995); secs. 8(c), 11, and 14, Toxic Substances Control Act (15 U.S.C. 2607(c), 2610, 2613); secs. 10, 12, and 25, Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136h, 136j, 136w); sec. 408(f), Federal Food, Drug and Cosmetic Act, as amended (21 U.S.C. 346(f)); secs. 104(f) and 108, Marine Protection Research and Sanctuaries Act of 1972 (33 U.S.C. 1414(f), 1418); sec. 115, Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. 9604, 9615); sec. 505, Motor Vehicle Information and Cost Savings Act, as amended (15 U.S.C. 2005).

2. Section 2.301 is amended by adding a sentence after the first sentence of paragraph (h)(2)(i) to read as follows:

§ 2.301 Special rules governing certain information obtained under the Clean Air Act.

* * * * *

(2)(i) * * * For purposes of this section, the term "contract" includes grants and cooperative agreements under the Environmental Programs Assistance Act of 1984 (Pub. L. 98–313), and the term "contractor" includes grantees and cooperators under the Environmental Programs Assistance Act of 1984. * * *

* * * * *

[FR Doc. 93–2695 Filed 02–04–93; 8:45 am]

BILLING CODE 6560–50–P

---

40 CFR Part 60

[FRL–4560–9]

Standards of Performance for New Stationary Sources; Supplemental Delegation of Authority to Nashville-Davidson County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Informational notice.

SUMMARY: On October 6, 1992, the Nashville-Davidson County Metropolitan Health Department of the State of Tennessee requested delegation of authority for the implementation and enforcement of an additional category of the Standards of Performance for New Stationary Sources (NSPS). EPA's review of Nashville-Davidson County's laws, rules, and regulations showed them to be adequate for the implementation and enforcement of this federal standard. On December 3, 1992, EPA granted the delegation as requested.

EFFECTIVE DATE: The effective date of the delegation of authority is December 3, 1992.

ADDRESSES: Copies of the request for delegation of authority and EPA's letter of delegation are available for public inspection during normal business hours at the following locations:

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Tennessee Department of Environment and Conservation, L & C Annex, 9th Floor, Nashville, Tennessee 37243–1531.

Metropolitan Health Department, Nashville-Davidson County, 311 23rd Avenue, North, Nashville, Tennessee 37203.

Effective immediately, all requests, applications, reports and other correspondence required pursuant to the newly delegated standards should not be submitted to the Region IV office, but should instead be submitted to the following address: Paul J. Bontrager, P.E., Director, Bureau of Environmental Health Services, Metropolitan Health Department, Nashville-Davidson County, 311 23rd Avenue, North, Nashville, Tennessee 37203.

FOR FURTHER INFORMATION CONTACT: Leslie Cox, Air Programs Branch, EPA Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365, and telephone number (404) 347–2864.

SUPPLEMENTARY INFORMATION: Section 301, in conjunction with sections 110, 111(c)(1), and 112(d)(1) of the Clean Air Act as amended November 15, 1990, authorize the Administrator to delegate his authority to implement and enforce the standards set out in 40 CFR part 60, Standards of Performance for New Stationary Sources (NSPS) to any state which has submitted adequate implementation and enforcement procedures.

On May 25, 1977, EPA initially delegated to Nashville-Davidson County the authority to implement the NSPS. On October 6, 1992, Nashville-Davidson County requested a delegation of authority for implementation and enforcement of the following NSPS category promulgated on September 28, 1992: Subpart UUU—Standards of Performance for Calciners and Dryers in Mineral Industries, which construction commenced after April 23, 1986.

After a thorough review of the category requested for delegation, the Regional Administrator determined that such delegation was appropriate for this source category with the conditions set forth in the initial delegation letter of May 25, 1977, and subsequent delegation letters of February 20, 1986; January 28, 1987; September 30, 1987; May 31, 1989; June 18, 1990; June 28, 1991; and May 11, 1992.

Review of the pertinent Nashville-Davidson County laws, rules, and regulations showed them to be adequate for the implementation and enforcement of the aforementioned category of NSPS. EPA, thereby, delegated its authority for 40 CFR part 60, Subpart UUU, Standards of Performance for Calciners and Dryers in Mineral Industries, which construction commenced after April 23, 1986.

The Administrator retains the exclusive right to approve equivalent and alternative test methods, continuous monitoring procedures, and reporting requirements.

The EPA hereby notifies the public that it has delegated the authority over Subpart UUU to Nashville-Davidson County of the State of Tennessee.

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

This notice is issued under the authority of sections 101, 110, 111, 112, and 301 of the Clean Air Act, as amended (42 U.S.C. 7401, 7410, 74121, 7412, and 7601).

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 93–2785 Filed 2–4–93; 8:45 am]

BILLING CODE 6560–50–M

---

40 CFR Part 300

[FRL-4560-5]

National Oil and Hazardous Substances Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of a site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of the Waste Research & Reclamation site in Eau Claire, Wisconsin from the National Priorities List (NPL). The NPL is Appendix B of 40 CFR part 300 which

is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) which the EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. EPA and the State of Wisconsin have determined that all appropriate Fund-financed responses under CERCLA have been implemented and that no further CERCLA response action by responsible parties is appropriate; rather, all remaining remedial actions will be performed under the Research Conservation and Recovery Act (RCRA).

EFFECTIVE DATE: February 5, 1993.

FOR FURTHER INFORMATION CONTACT: Susan Menconi, Remedial Section Chief, Office of Superfund, U.S. Environmental Protection, Region V, 77 West Jackson Blvd. (HSRM-6J), Chicago, IL 60604-3507, (312)886-3010.

SUPPLEMENTARY INFORMATION:

The site to be deleted from the NPL is:

Waste Research & Reclamation Co., Eau Claire, WI

A Notice of Intent to Delete this site was published October 19, 1992 (57 FR 47585). The closing date for comments on the Notice of Intent to Delete was November 18, 1992. EPA received no comments. A Responsiveness Summary is not being prepared because no comments were received. See the October 19, 1992, notice for further information on the site.

The EPA identifies sites which appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Sites on the NPL may be the subject of Hazardous Substance Response Trust Fund (Fund-) financed remedial actions. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.425(e)(3) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Air pollution control, Hazardous waste.

Dated: January 14, 1993.

Don. R. Clay,

Assistant Administrator, Office of Solid Waste and Emergency Response

For the reasons set out in the preamble, 40 CFR part 300 is amended as follows:

1. The authority citation for part 300 continues to read as follows:

PART 300—[AMENDED]

Authority: 42 U.S.C. 9601-9657; 33 U.S.C. 1321(c)(2); E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B [Amended]

2. Table 1 of Appendix B to part 300 is amended under Wisconsin by removing the entry, "Waste Research & Reclamation Co;"; and by revising the total number of sites,"1,082" to read, "1,081".

[FR Doc. 93-2698 Filed 2-4-93; 8:45 am]

BILLING CODE 6560-50-F

---

40 CFR Part 721

[OPPTS-50601A; FRL-4169-3]

Significant New Use Rule; Technical Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendment.

SUMMARY: This document corrects a final rule (FR Doc. 92-22779) published in the **Federal Register** of September 23, 1992 (57 FR 44050), that promulgated significant new use rules for 63 chemical substances under section 5(a)(2) of the Toxic Substances Control Act. In that document on page 44061, third column, the date of signature and name of signatory were inadvertently omitted. The date of signature was September 8, 1992. The signatory was Victor J. Kimm, Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances. Because this is a nonsubstantive change, notice and public comment are not required.

DATES: This document is effective on November 23, 1992.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, rm. E-543B, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

Dated: January 22, 1993.

Joseph A. Carra,

Acting Director, Office of Pollution Prevention and Toxics.

[FR Doc. 93-2691 Filed 2-4-93; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL MARITIME COMMISSION

46 CFR Part 571

[Docket No. 92-46]

Unpaid Freight Charges

AGENCY: Federal Maritime Commission.

ACTION: Final interpretive rule.

SUMMARY: The Federal Maritime Commission adds to its regulations a statement that the Commission will not, in the absence of evidence of bad faith or deceit, infer from a shipper's failure to pay ocean freight due that the shipper has obtained or attempted to obtain transportation at less than the applicable rates by an "unjust or unfair device or means" in violation of section 10(a)(1) of the Shipping Act of 1984. This is being issued in order to clarify the elements necessary for an offense under section 10(a)(1). Proceedings previously held in abeyance pending completion of this rulemaking may now be resumed.

DATES: Final Interpretive Rule effective on March 8, 1993.

ADDRESSES: Joseph C. Polking, Secretary, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573-0001, (202) 523-5725.

FOR FURTHER INFORMATION CONTACT: Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573-0001, (202) 523-5740.

SUPPLEMENTARY INFORMATION:

Background

The Federal Maritime Commission ("Commission" or "FMC") published in the **Federal Register** on August 27, 1992 (57 FR 38,807), a proposed interpretive rule ("Proposed Rule"), which would add to 46 CFR Part 571, Interpretations and Statements of Policy, a notice that the Commission does not have jurisdiction under section 10(a)(1) of the Shipping Act of 1984 ("1984 Act"), 46 U.S.C. app. 1709(a)(1), to adjudicate a complaint brought by an ocean common carrier against a shipper for a "simple failure" by the shipper to pay the carrier's freight bill. The Proposed Rule tentatively concluded that the Commission has jurisdiction over such

complaints only when the shipper's failure to pay is compounded by additional conduct, such as false measurement or false commodity description, that amounts to an "unjust or unfair device or means" within the meaning of section 10(a)(1). Comments on the Proposed Rule have been filed by various members of the ocean shipping industry, the U.S. Department of Transportation ("DOT") and the Maritime Administrative Bar Association ("MABA").

The Proposed Rule

The Supplementary Information section of the proposed interpretive rule noted that in its original form, the Shipping Act, 1916 ("1916 Act") did not include substantive prohibitions applicable to shippers. That changed in 1936, when section 16 of the 1916 Act, 46 U.S.C. app. 815, was expanded to include a new initial paragraph outlawing certain behavior by shippers. However, the Commission noted that no change was made in section 22 of the 1916 Act, 46 U.S.C. app. 821, to authorize the filing of private complaints against shippers. Shipper violations of the new provision of section 16 were punishable only by a public remedy, which initially was a criminal prosecution by the Department of Justice and subsequently civil penalties assessed or compromised by the Commission. Authorization for private reparations actions against shippers did not occur until passage of the 1984 Act, in which section 11(a), 46 U.S.C. app. 1710(a), authorizes complaints for reparations for any injury caused by "a violation" of the Act without the former restriction to violations by carriers, terminal operators and freight forwarders.

A few years after the enactment of the new complaint provision in the 1984 Act, the Commission began to receive carrier complaints under section 10(a)(1) seeking reparations from shippers for unpaid freight charges. Usually, these cases resulted in a settlement or a default judgment against the shipper for failure to answer the complaint or to respond to procedural orders.

The Commission in issuing the Proposed Rule found no indication in the legislative history of the 1984 Act that Congress meant to expand the FMC's substantive jurisdiction in enacting section 11(a)'s complaint-filing provision. Section 10(a)(1) of the 1984 Act simply carried forward, in essentially unchanged language and without comment from Congress, the initial paragraph added in 1936 to section 16 of the 1916 Act.[1] From those facts, the Commission reasoned that the legislative history and subsequent case interpretations of the original section 16, initial paragraph, are the best available guides to the proper scope of section 10(a)(1) of the 1984 Act.

Having reviewed the relevant Congressional hearings and reports, the Commission stated that there was no indication that Congress intended that failure by a shipper to pay ocean freight charges in and of itself was to be considered a chargeable offense under the original criminal penalties attached to section 16 or, later, a violation subject to civil penalties. Congress appeared to focus exclusively on active subterfuges, especially false declarations and false weighing. To the extent that failure to pay freight was mentioned during the hearings, it appeared that the carriers—who were the initiating force behind the legislation—expected to continue to pursue their debtors through civil litigation in the courts, while any underlying deception or concealment would be subject to a separate (and perhaps parallel) prosecution under the new provision of section 16.

The Commission explained that the case law under section 16 was similarly focused. For example, in *Pacific Far East Lines—Alleged Rebates*, 11 F.M.C. 357, 364 (1968), aff'd, 410 F.2d 257 (D.C. Cir. 1969), the FMC stated that there must be "some element of falsification, deception, fraud, or concealment" in order to violate the statute. *Capitol Transportation, Inc.* v. *United States*, 612 F.2d 1312 (1st Cir. 1979) ("*Capitol Transportation*"), involved a failure by a shipper to pay a carrier's demurrage charges, coupled with continuous assertions of baseless objections to the charges even after they had been verified by the shipper's own auditor, and attempts to persuade other shippers to boycott the carrier's collection agent. The court of appeals affirmed the Commission's holding that this pattern of conduct violated section 16, but cautioned that it "undoubtedly nears the outer limits" of the statute. *Id.* at 1324. The court also stated that "a mere stubborn but good faith refusal to pay a disrupted rate or charge" or a "refusal to pay based on honest differences" would not constitute the requisite "unjust or unfair device or means." *Id.* at 1323, 1324.

The Commission pointed out that the freight collection cases filed under section 10(a)(1) in recent years have not alleged fraud, deception, misclassification, false weighing or similar malpractices. Instead, they typically have pleaded only that the respondent shipper failed to pay ocean freight, that this by itself amounted to a violation of section 10(a)(1), and that reparations should be awarded in the amount of the unpaid freight. The Commission tentatively concluded that, based on the case law and especially the legislative history of the 1936 amendment, the act of failing to pay a freight bill is not, in and of itself, an "unjust or unfair device or means" within the meaning intended by Congress, and that the freight collection complaints should return to the courts. The proposed interpretive rule was intended to provide guidance to the ocean shipping industry on this question and, in effect, a warning to carriers that lawsuits seeking to collect unpaid freight would be more safely filed in an appropriate state or federal court than at the Commission.

Comments

Comments Supporting Proposed Rule

Comments supporting the Proposed Rule were filed by Cyprus Minerals Company ("Cyprus"), the National Industrial Transportation League ("NIT League") and DOT.

Cyprus supports the Proposed Rule and also urges the inclusion of an additional caveat, as follows:

> In all proceedings initiated more than two years after the completion of the ocean transportation in question, there shall be a rebuttable presumption that there has been a simple failure by the shipper to pay such ocean freight bills.

Comments at 2.

The NIT League likewise urges adoption of the Proposed Rule, expressing full agreement with the Commission's tentative analysis of section 10(a)(1) and the relevant legislative history and case law.

DOT agrees with the rationale for the Proposed Rule as set forth by the Commission, but believes that the rule does not go far enough. It urges the

[1] Section 16, initial paragraph, of the 1916 Act stated: That it shall be unlawful for any shipper, consignor, consignee, forwarder, broker, or other person, or any officer, agent, or employee thereof, knowingly and wilfully, directly or indirectly, by means of false billing, false classification, false weighing, false report of weight, or by any other unjust or unfair device or means to obtain or attempt to obtain transportation by water for property at less than the rates or charges which would otherwise be applicable.

46 U.S.C. 815 (1982).

Section 10(a)(1) provides that no person may—

* * * knowingly and wilfully, directly or indirectly, by means of false billing, false classification, false weighing, false report of weight, false measurement, or by any other unjust or unfair device or means obtain or attempt to obtain ocean transportation for property at less than the rates or charges that would otherwise be applicable * * *.

46 U.S.C. app. 1709(a)(1).

Commission to issue a rule "disclaiming jurisdiction over all complaints brought by carriers against shippers, that is, even those that allege more than a simple failure of a shipper to pay the applicable freight." Comments at 2. DOT states that it believes that Congress did not intend to give the Commission jurisdiction to adjudicate carrier complaints against shippers when it enacted the 1984 Act, despite the revised complaint-filing provision in section 11(a). It points out that no such jurisdiction exists with respect to carriers and shippers in the domestic offshore trades, since no change was made in section 22 of the current 1916 Act, 46 U.S.C. app. 821, which still permits only complaints against carriers, freight forwarders and terminal operators. DOT notes that actions for breach of a service contract must be filed in an appropriate court rather than before the Commission, and further asserts that undercharge complaints against shippers generally do not lie under the Interstate Commerce Act. Therefore, DOT argues, "it makes little logical or equitable sense to continue to subject a limited class of shippers in foreign trades to FMC reparation proceedings simply because the 1984 Act does not explicitly carry forward the 1916 Act provision restricting complaint jurisdiction to proceedings commenced against" carriers, forwarders and terminal operators. Comments at 5.

DOT also asserts that the broader rule it recommends would prevent a carrier from invoking FMC jurisdiction by simply alleging in its complaint something more than mere failure by the shipper to pay its freight bill. Even if such wider allegations would not in fact be supportable during the course of a hearing, DOT warns that this would not be possible to determine if carriers, having filed such complaints, continue to be awarded default judgments against shippers who fail to answer the complaint or to otherwise participate in the hearing.

Comments Opposing Proposed Rule

Comments opposed to the Proposed Rule and urging that it be withdrawn or substantially modified were filed by a group of conferences serving Central and South America ("Latin America Conferences");[2] the Trans-Atlantic Agreement ("TAA") and its members; the Asia North America Eastbound Rate Agreement, the South Europe/U.S.A. Freight Conference and the Israel Trade Conference, filing jointly ("ANERA, et al."); Tropical Shipping and Construction Co., Ltd. ("Tropical"); the Council of European & Japanese National Shipowners' Associations ("CENSA"); American President Lines, Ltd. ("APL"); the Transpacific Westbound Rate Agreement ("TWRA"); and MABA.[3]

The major arguments made by these commenters are that the Commission's proposed interpretation of section 10(a)(1) is contrary to the statute and an unlawful renunciation of jurisdiction over shipper malpractices. They assert that the Proposed Rule, if made final, would deprive the carriers of a remedy that Congress created when it broadened the complaint-filing authority with the enactment of the 1984 Act. Some commenters also argue that the Proposed Rule is too vague in its reference to a "simple failure" by a shipper to pay ocean freight, and that the Commission must clarify how the rule would work in particular cases filed with the Commission.

The Latin America Conferences contend that the Commission's analysis in the Proposed Rule "lost sight of the overall purpose (of section 10(a)(1)), which is to prohibit a shipper from obtaining or attempting to obtain ocean transportation of property at less than the applicable rates and charges." Comments at 3. The Conferences acknowledge that there is no discussion in the legislative history of the 1936 amendment concerning the effect of a shipper's failure to pay freight charges. However, they assert that "the result in that circumstance would be exactly what the Congress was trying to prevent * * *." *Id.* at 3–4.

The commenters argue that the Proposed Rule is contrary to the result in *Capitol Transportation*, which, according to TWRA, "clearly makes a shipper's refusal to pay a violation of section 10(a)(1) in the absence of a showing of a bona fide dispute over the freight or similar defense." Comments at 3. These parties would read *Capitol Transportation* as implanting a rule of law that establishes substantive FMC jurisdiction under section 10(a)(1) whenever a shipper fails to pay its freight bills without providing any defense or explanation. Further, this argument continues, a carrier should be deemed to have satisfied its burden of establishing jurisdiction "at the pleading stage" (ANERA, et al. Comments at 4) by alleging in its complaint that it has demanded the freight due from the shipper and that the shipper has, in turn, "indicated a refusal to pay the same, either in writing or by conduct, without any justification." *Id.* In other words, if the carrier pleads in its complaint that it has billed the shipper and that the shipper has failed to pay, this should shift the burden onto the shipper to come forward with an explanation for its failure to pay. Failure to meet that burden would then constitute "an admission against interest compelling entry of default judgment" against the shipper. TAA Comments at 5.

Tropical seeks to buttress this argument by describing the background of a freight collection complaint:

> In virtually all cases, a shipper with Tropical must complete a credit application to be allowed to transport its cargo without prepaying the freight. The shipper, by executing the application, knowingly induces the carrier to undertake the transportation of cargo with the promise of payment for the carriage subsequent to its performance. By such inducement, the carrier gives up its possessory lien for freight. In addition, in the Tropical credit application, the shipper agrees that in return for credit it will pay the freight charges in a timely fashion.

Comments at 2.

Some commenters contend that a carrier may proceed against a debtor shipper before either the Commission or a court of appropriate jurisdiction. Comments of ANERA, et al. at 5–6; Comments of CENSA at 3; see Comments of TAA at 5–6. They cite *Application of Sea-Land Service, Inc., for the Benefit of Affiliated Food Corporation*, 23 S.R.R. 105 (I.D.), *administratively final*, Special Docket No. 1299 (F.M.C. Apr. 29, 1985), where the administrative law judge asserted:

> If there has been a violation of section 10(a)(1) by a shipper or consignee, the regulatory scheme of the 1984 Act providing for interaction between Commission and the courts, if necessary, now authorizes a remedy to carriers as an alternative to the traditional common law court action for non-payment of freight charges.

23 S.R.R. at 107. ANERA, et al. urge the Commission to amend the Proposed Rule to allow carriers "the choice of bringing their claims either before the Commission or a court." Comments at 5.

On the other hand, MABA argues that requiring carriers to pursue the

[2] Venezuelan American Maritime Association; Atlantic and Gulf/West Coast South America Conference; United States/Central America Discussion Agreement; United States Atlantic & Gulf/Hispaniola Steamship Freight Association; Hispaniola Discussion Agreement; United States Atlantic Gulf/Southeastern Caribbean Steamship Freight Association; Southeastern Caribbean Discussion Agreement; Jamaica Discussion Agreement; United States/Panama Freight Association; PANAM Discussion Agreement; Puerto Rico/Caribbean Agreement; Caribbean and Central American Discussion Agreement; Inter-American Freight Conference; and United States Atlantic and Gulf/Ecuador Conference.

[3] MABA cautions that its comments "do not necessarily reflect the views of all members of the organization." Comments at 1, n.1.

"parochial remedy" of collection actions in local courts would undercut the tariff system and be contrary to the 1984 Act's goal of nondiscriminatory common carrier practices. Comments at 4. MABA and the Latin America Conferences also assert that the 1984 Act's provisions for attorney's fees in reparation cases is an indication that Congress wanted unpaid freight complaints to be pursued before the Commission rather than the courts.

Discussion

Some of the points raised by the commenters appear to require little discussion. TWRA asserts that there is no significant administrative burden imposed on the Commission by the collection cases filed by carriers under section 10(a)(1). Comments at 2. Similarly, APL argues that the Commission should not decline jurisdiction over such cases "out of considerations of its own convenience or distaste for 'collection' matters." Comments at 5. The Proposed Rule was not based on such policy considerations but on the Commission's legal analysis of the scope of section 10(a)(1).

Cyprus urges that the rule include a statement that, if the complaint has been filed more than two years after the ocean transportation in question, there will be a "rebuttable presumption" that the Commission lacks jurisdiction over the case.[4] This suggestion is consistent with the 1984 Act's three-year statute of limitations for reparations actions. 46 U.S.C. app. 1710(g). The Commission has no power to impose, by rulemaking, a codicil to the statute to the effect that reparations complaints based on unpaid freight must be filed within two years, or face an additional evidentiary burden.

Similarly, the Commission lacks the authority to bar all complaints against shippers as advocated by DOT. The violations covered by section 10(a)(1) can be by "any person," which certainly includes shippers, and section 11(a) states that all violations of the 1984 Act, except section 6(g), can be the subject of a reparations complaint. 46 U.S.C. app. 1710(a). Thus, if conduct by a shipper does come within section 10(a)(1), a carrier injured by that conduct can recover under section 11(a). Against such clear statutory language, the fact that the *1916 Act* does not permit complaints against shippers is irrelevant. If this inconsistency between the 1984 Act and the 1916 Act is undesirable, the solution must come from Congress. The Commission cannot disregard the explicit language of the 1984 Act.

Lastly, the argument advanced by some of the opposing commenters that a carrier faced with an unpaid freight bill has a choice of proceeding before the Commission or a court seems clearly wrong. The Commission has exclusive jurisdiction to administer and enforce the 1984 Act. Violations of the 1984 Act can be rectified only by the sanctions and remedies provided for in that Act. If failure by a shipper to pay a freight bill violates section 10(a)(1), as the opposing commenters contend, then the affected carrier *must* seek to recover through a reparations complaint before the Commission and may not seek relief from a court, the administrative law judge *dicta* cited by the commenters notwithstanding.

The underlying legal basis for the Proposed Rule set forth in the Supplementary Information has not been effectively refuted by the opposing commenters, whose arguments are essentially policy-driven. The Supplementary Information explicitly acknowledged that "[s]ound policy reasons may exist as to why carrier complaints seeking to collect unpaid freight from a shipper should be brought under the Commission's jurisdiction." 57 FR at 38,809. However, the Commission may not itself act upon those policy reasons in the first instance; that power is reserved to Congress. At present, it continues to appear that section 10(a)(1) does not encompass ordinary freight collection complaints.

As acknowledged in the Supplementary Information and advanced now by the opposing commenters, *Capitol Transportation* is an arguable precedent for Commission jurisdiction over freight collection complaints.[5] However, the simple, one-count collection complaints now being filed bear little resemblance to the elaborate efforts of the *Capitol Transportation* respondent to avoid paying the carrier's demurrage bills (including attempts to persuade other persons to refuse to pay). Although the court in *Capitol Transportation* found that the record in that case was sufficient to support the Commission's finding that the requisite element of fraud or concealment had been established, it observed that "this case undoubtedly nears the outer limits of Section 16." 612 F.2d at 1324.

The opposing commenters would have the Commission interpret *Capitol Transportation* as establishing a rule that, when a shipper fails to pay a carrier's freight bill and also fails to provide a "good faith" defense of the nonpayment, the shipper has obtained transportation at less than the applicable rates by an "unjust or unfair device or means." This would amount to a rebuttable presumption that every failure to pay ocean freight involves an "unjust or unfair device or means." The burden of proof regarding the use of an "unjust or unfair device or means" would be on the respondent shipper, not on the complainant carrier. The Commission finds no justification for such a presumption. As the complainant, the carrier has the burden of proving each element of the alleged offense. See 5 U.S.C. 556. It may not rely on the failure to pay plus the shipper's silence to establish that the shipper has obtained transportation at less than the applicable rates by an "unjust or unfair device or means" in violation of section 10(a)(1) of the 1984 Act.

The most compelling argument made by the opposing commenters was that advanced by Tropical. Tropical avers that, when a shipper executes a credit application, it induces the carrier to relinquish its possessory lien over the cargo and to transport the cargo without prepayment by the shipper of the applicable freight charges. Under such circumstances, Tropical contends, the shipper defrauds the carrier if it subsequently fails to pay the freight bill after the shipment has been completed.

The Commission is not willing to assume that every shipper that fails to pay its freight bill in accordance with its credit arrangement with the carrier is guilty of fraud. However, to the extent the shipper in Tropical's example misrepresented its ability to pay on its credit application, it would be engaging in the sort of conduct that was found unlawful in *Capitol Transportation*. The Commission's finding of violation in that care was based in part on its conclusion that Capitol misled the carrier by first suggesting that auditors be jointly appointed to review the outstanding demurrage accounts receivable, but then, upon completion of the audit, refusing to honor the

[4] APL's complaints against Cyprus in Docket Nos. 91-27 and 92-1 allege misclassification of the cargo involved, and thus differ from the freight collection complaints addressed by the Proposed Rule.

[5] These commenters also cite *Hohenberg Brothers Company* v. *FMC*, 316 F.2d 381 (D.C. Cir. 1963), where the Commission successfully applied section 16 to a shipper who sought to obtain transportation at unlawfully reduced rates by applying for a refund from the carrier that it knew to be unjustified. The commenters argue that the shipper's action was tantamount to not paying the carrier's freight bill in the first place. However, the refund request was based upon a false classification by the shipper of its cargo, a malpractice clearly covered then by section 16, initial paragraph, of the 1916 Act and now by section 10(a)(1). *Id.* at 383–84.

conclusions of the auditors or pay even a portion of the carrier's claims.[6]

Accordingly, the Commission finds that it could have section 10(a)(1) jurisdiction over a freight collection complaint that recited facts showing some kind of shipper inducement or deceit, as described above. In that case, the shipper would be required to answer the complaint, and if it did not, a default judgment could properly follow. This will be reflected in the final interpretive rule.

Several commenters criticized the Proposed Rule's operative phrase "simple failure" as overly cryptic and lacking in sufficient guidance to a carrier trying to decide whether to pursue a debtor in court or before the Commission. From the other camp, DOT points out that the Proposed Rule would do nothing to prevent a carrier from simply including a boilerplate recitation in its complaint that the failure to pay stemmed from section 10(a)(1) trickery, and then hoping for a default judgment. To meet these concerns, the final rule will make it clear that, in the absence of evidence of bad faith or deceit, the Federal Maritime Commission will not infer an "unjust or unfair device or means" from the failure of a shipper to pay ocean freight.

Finally, by separate rulemaking, the Commission is proposing to amend Rule 62 of the Commission's Rules of Practice and Procedure to require that a complaint alleging a violation of section 10(a)(1), state with particularity the circumstances constituting the violation. In the event that the complaint fails to specify the circumstances, as required by the rule, the presiding officer may dismiss the complaint without waiting for an answer to the complaint. A complaint which merely alleges that respondent has failed to pay ocean freight bills without alleging conduct that violates section 10(a)(1) will be subject to dismissal.

List of Subjects in 46 CFR Part 571

Administrative practice and carriers; Antitrust; Maritime carriers.

Therefore, pursuant to 5 U.S.C. 553 and section 17 of the Shipping Act, 1984, 46 U.S.C. app. 1716, part 571 of Title 46, Code of Federal Regulations, is amended as follows:

1. The authority citation for part 571 continues to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 1706, 1707, 1709 and 1716.

2. Part 571 is amended by adding a new section 571.2 to read as follows:

[6] *See* 21 F.M.C. at 196, 202–203.

§ 571.2 Interpretation of Shipping Act of 1984—unpaid ocean freight charges.

Section 10(a)(1) of the Shipping Act of 1984 states that it is unlawful for any person to obtain or attempt to obtain transportation for property at less than the properly applicable rates, by any "unjust or unfair device or means." An essential element of the offense is use of an "unjust or unfair device or means." In the absence of evidence of bad faith or deceit, the Federal Maritime Commission will not infer an "unjust or unfair device or means" from the failure of a shipper to pay ocean freight. An "unjust or unfair device or means" could be inferred where a shipper, in bad faith, induced the carrier to relinquish its possessory lien on the cargo and to transport the cargo without prepayment by the shipper of the applicable freight charges. By the Commission

Joseph C. Polking,

Secretary.

[FR Doc. 93–2692 Filed 2–4–93; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 90–522; RM–7493, RM–7499]

Radio Broadcasting Services; Douglas, GA, and LaCrosse, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 258C for Channel 258C1 to Douglas, Georgia, at the request of WDMG, Inc., and allots Channel 258A to LaCrosse, Florida, at the request of Robert E. Wideman. See 55 FR 47343, November 13, 1990. Channel 258C can be allotted to Douglas, Georgia, in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction at coordinates North Latitude 31–30–36 and West Longitude 82–50–54. Channel 258A can be allotted to LaCrosse, Florida, in compliance with the Commission's minimum distance separation requirements with a site restriction of 13.1 kilometers (8.2 miles) southeast, in order to avoid a short-spacing to Station WQIK(FM), Channel 256C, Jacksonville, Florida, at coordinates North Latitude 29–44–38 and West Longitude 82–19–52. With this action, this proceeding is terminated.

DATES: Effective March 18, 1993. The window period for filing applications will open on March 19, 1993, and close on April 19, 1993.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90–522, adopted January 6, 1993, and released February 1, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Florida, is amended by adding Channel 258A, LaCrosse.

3. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by removing Channel 258C1 and adding Channel 258C at Douglas.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 93–2678 Filed 2–4–93; 8:45 am]

BILLING CODE 6712–01–M

---

47 CFR Part 73

[MM Docket No. 92–232; RM–8077]

Radio Broadcasting Services; Monticello, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 270C3 for Channel 270A at Monticello, Florida, at the request of Webster Broadcasting Corporation. See 57 FR 49058, October 29, 1992. Channel 270C3 can be allotted to Monticello, Florida, in compliance with the Commission's minimum distance separation requirements with a site restriction of 18.0 kilometers (11.2

miles) south at petitioners's desired site. The coordinates are North Latitude 30–22–56 and West Longitude 83–53–26. With this action, this proceeding is terminated.

EFFECTIVE DATE: March 18, 1993.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 92–232, adopted January 8, 1993, and released February 1, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

47 CFR PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Florida, is amended by removing Channel 270A and adding Channel 270C3 at Monticello.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 93–2679 Filed 2–4–93; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 92–49; RM–7924 and RM–8009]

Radio Broadcasting Services; Greenfield, Halfway, and Seligman, MO, and Huntsville, AR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 227C1 for Channel 227C2 at Seligman, Missouri, and modifies the license for Station KESE to specify operation on Channel 227C1 in response to a petition filed by KJEM FM, A Limited Partnership. See 57 FR 9987, March 23, 1992. The coordinates for Channel 227C1 are 36–28–03 and 94–10–25. To accommodate the upgrade at Seligman, we shall substitute Channel 299A for Channel 228A at Greenfield, Missouri, and modify the license for Station KXBR and substitute Channel 258A for Channel 225A at Huntsville, Arkansas, and modify the license for Station KFAY–FM. The coordinates for Channel 299A at Greenfield are 37–23–10 and 93–53–16. The coordinates for Channel 258A at Huntsville are 36–05–35 and 93–36–16. The counterproposal filed by KYOO Broadcasting Company to substitute Channel 226C3 for Channel 226A at Halfway, Missouri, was withdrawn on November 18, 1992, in accordance with § 1.420(j) of the Commission's rules (RM–8009). With this action, this proceeding is terminated.

EFFECTIVE DATE: March 18, 1993.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 92–49, adopted January 8, 1993, and released February 1, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street NW., Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arkansas, is amended by removing Channel 225A and adding Channel 258A at Huntsville.

3. Section 73.202(b), the Table of FM Allotments under Missouri, is amended by removing Channel 227C2 and adding Channel 227C1 at Seligman, and by removing Channel 228A and adding Channel 299A at Greenfield.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 93–2680 Filed 2–4–93; 8:45 am]

BILLING CODE 6712–01–M

Proposed Rules

Federal Register
Vol. 58, No. 23
Friday, February 5, 1993

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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92-NM-224-AD]

Airworthiness Directives; Airbus Industrie Model A320 Series Airplanes

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 Airbus Industrie Model A320 series airplanes. This proposal would require installation of a nylon insulation plate on each attachment bracket in the center fuel tank, and installation of new support bracket assemblies on the fuel probes in the left- and right-hand inner wing fuel tanks. This proposal is prompted by reports of insufficient clearance between the fuel probes and their attachment brackets of the center and inner wing fuel tanks. The actions specified by the proposed AD are intended to prevent the occurrence of electrical arcing between the fuel probes and the center and inner wing fuel tanks in the event of a lightning strike on the airplane.

DATES: Comments must be received by April 5, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-224-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Greg Holt, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98056-4056; telephone (206) 227-2140; fax (206) 227-1320.

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-224-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-224-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion:

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Airbus Industrie Model A320 series airplanes. The DGAC advises that a safety analysis has revealed that insufficient clearance exists between the fuel probes and their attachment brackets of the center fuel tanks, as well as fuel probes 1 and 2 of the inner wing fuel tanks. Other fuel probes in the inner wing fuel tanks also have insufficient clearance. This condition, if not corrected, could result in the occurrence of electrical arcing between the fuel probes and the center and inner wing fuel tanks in the event of a lightning strike on the airplane.

Airbus Industrie has issued Service Bulletin A320-28-1040, Revision 1, dated April 3, 1992, which describes procedures for installation of a nylon insulation plate on each attachment bracket in the center fuel tank; and installation of new support bracket assemblies on the fuel probes in the inner fuel tanks of the left- and right-hand wings. Modification 22647J0833 entails the installation of a nylon plate between each attachment bracket and the fuel probe in the center fuel tank, in order to provide positive insulation between the fuel probe and the airplane structure in case of a lightning strike. Modification 22855J0899 entails the installation of new support bracket assemblies on the fuel probes to increase clearance by moving the fuel probes away from the wing tanks; it also entails the installation of a nylon packer on the attachment brackets for fuel probes 1 and 2 in the inner tanks. The DGAC classified this service bulletin as mandatory and issued Airworthiness Directive 92-048-024(B), dated February 19, 1992, in order to assure the continued airworthiness of these airplanes in France.

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or

develop on other airplanes of the same type design registered in the United States, the proposed AD would require installation of a nylon insulation plate on each attachment bracket in the center fuel tank, and installation of new support bracket assemblies on the fuel probes in the left- and right-hand inner wing fuel tanks. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 48 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 91 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 is expected to be negligible. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $240,240, or $5,005 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

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:

Airbus Industrie: Docket 92–NM–224–AD.

Applicability: Model A320 series airplanes, as listed in Airbus Industrie Service Bulletin A320–28–1040, Revision 1, dated April 3, 1992; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent the occurrence of electrical arcing between the fuel probes and the center and wing fuel tanks, accomplish the following:

(a) For airplanes on which Modification 22647J0833 has not been accomplished: Within 9 months after the effective date of this AD, remove fuel probes 35QT, 36QT, 37QT, 38QT and 39QT; install a nylon plate on each attachment bracket in the center fuel tank, Modification 22647J0833; reinstall the fuel probes; and perform a functional check; in accordance with Airbus Industrie Service Bulletin A320–28–1040, Revision 1, dated April 3, 1992.

(b) For airplanes on which Modification 22855J0899 has not been accomplished: Within 9 months after the effective date of this AD, remove fuel probes 21QT1, 21TQ2, 22QT1, 22QT2, 23QT1, 23QT2, 25QT1, 25QT2, 26QT1, 26QT2, 27QT1, 27QT2, 29QT1, 29QT2, 31QT1 and 31QT2; install new support bracket assemblies on fuel probes 1 and 2 in the inner fuel tanks of the left- and right-hand wings, Modification 22855J0899; reinstall fuel probes; and perform a functional check; in accordance with Airbus Industrie Service Bulletin A320–28–1040, Revision 1, dated April 3, 1992.

(c) 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, Standardization Branch, 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, Standardization Branch, ANM–113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(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 February 1, 1993.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–2710 Filed 2–4–93; 8:45 am]

BILLING CODE 4910–13–P

Office of the Secretary

14 CFR Parts 61, 63, 65, 121, and 135; 49 CFR Parts 40, 199, 217, 219, 350, 382, 383, 391, 392, 395, 653, and 654

[Notice No. 93–7; Docket Nos.: (OST) 48513; (FAA) 27065, 25148; (FHWA) MC–92–19, MC–93–3; MC–93–2; MC–92–23; (FRA) RSOR–6; (FTA) 92–H; 92–I; (RSPA) PS–128; PS–129]

RIN Nos. 2105–AB95; 2120–AE43; 2120–AE–80; 2125–AC85; 2125–AD11; 2125–AC81; 2125–AD06; 2130–AA81; 2130–AA82; 2130–AA64; 2132–AA37; 2132–AA38; 2137–AC21; 2137–AB95

Alcohol Misuse Prevention and Drug Testing Rulemakings; Public Hearings

AGENCIES: The Office of the Secretary, the Federal Aviation Administration, the Federal Highway Administration, the Federal Railroad Administration, the Federal Transit Administration, and the Research and Special Programs Administration.

ACTION: Proposed rules; public hearings.

SUMMARY: On December 15, 1992, the Office of the Secretary and several operating administrations of the Department of Transportation published NPRMs that would implement the mandate in the Omnibus Transportation Employee Testing Act of 1991 and other statutes to develop alcohol misuse prevention and anti-drug rules for several transportation industries, and announced that the Department planned to conduct public hearings on these proposals. This notice announces the dates, times, locations, and procedures for those hearings.

DATES: The three public hearings are scheduled 8:30 a.m. to 5 p.m. (local time) as follows:

1. February 25–26, 1993; Washington, DC.
2. March 1–2, 1993; Chicago, IL.
3. March 4–5, 1993; San Francisco, CA.

ADDRESSES: The Washington, DC meeting will be held at: U.S. Department of Transportation, room 2230, 400 7th Street SW., Washington, DC 20590. The Chicago, IL, meeting will be held at: The Palmer House Hilton Hotel, 17 East Monroe, Chicago, IL, 60631; (phone number 312–726–7500. Special room rate $100.00 single) (inclusive). The San Francisco, CA,

meeting will be held at: Holiday Inn-Union Square, 480 Sutter Street, San Francisco, CA 94108; (phone number 415–398–8900. Special room rate of: $105.45 single/$127.65 double) (inclusive). The individuals interested in speaking at one of the public hearings should contact and provide the requested information to Donna Smith at 202–366–3784, no later than February 17, 1993, for the Washington, DC hearing and February 22, 1993, for the Chicago and San Francisco hearings. Registration information can also be obtained from the DOT's Anti-Drug Information Center through automated telephone or fax requests, 1–800–225–3784, or by modem, 1–800–225–3804. Written materials submitted at the hearings will be placed in the appropriate rulemaking dockets. Interpreters are available upon request; requests should be made by the dates listed above.

FOR FURTHER INFORMATION CONTACT: Donna Smith, Acting Director, Office of Drug Enforcement and Program Compliance, Department of Transportation, (202) 366–3784, 400 7th Street SW., Washington, DC 20590. For information concerning a particular DOT agency NPRM, contact the individual(s) listed under "**FOR FURTHER INFORMATION CONTACT**" in the particular document.

SUPPLEMENTARY INFORMATION: On December 15, 1992, the Federal Aviation Administration (FAA), the Federal Highway Administration (FHWA), the Federal Railroad Administration (FRA), and the Federal Transit Administration (FTA) published proposed rules to implement the Omnibus Transportation Employee Testing Act of 1991 (the Act), which requires alcohol misuse prevention programs, including testing, in the aviation, motor carrier, rail, and mass transit industries in the interest of public safety. It also requires anti-drug programs in the mass transit industry and changes to the existing anti-drug programs in the other transportation industries. The Research and Special Programs Administration (RSPA) has proposed to apply similar alcohol misuse prevention requirements to the pipeline transportation industry using existing statutory authority. All of these agencies and the U.S. Coast Guard (USCG) also published proposed rules to establish uniform reporting requirements for their anti-drug rules. Because the USCG is only proposing reporting requirements for its existing drug and alcohol testing program, the USCG will not be participating in these hearings. Any comments to the USCG NPRM should be submitted, in writing, to the USCG as directed in its NPRM.

Notice of Public Hearings and Hearing Procedures

The Department believes that the public will benefit from an opportunity to make oral presentations concerning the rulemaking documents described below that it has issued on alcohol misuse and drug use prevention. Therefore, the Department of Transportation is holding three public hearings beginning at 8:30 a.m. and ending at 5 p.m. (local time) on February 25–26, 1993, Washington, DC; March 1–2, 1993, Chicago, IL; and March 4–5, 1993, San Francisco, CA. Information gathered at the public hearings will be included in the appropriate rulemaking dockets and evaluated in conjunction with the development of the final rules. This notice establishes the general procedures set forth below to facilitate the hearing process; the Federal Railroad Administration-specific hearing will be conducted under its own statutorily-mandated procedures.

The following related documents are the subject of these hearings:

(1) An NPRM on alcohol and drug testing procedures issued by the Office of the Secretary and adopted by each of the affected DOT agencies in their NPRMs or existing rules;

(2) Modal-specific alcohol misuse prevention NPRMs and a common preamble issued jointly by each of the five operating administrations (FAA, FHWA, FRA, FTA, and RSPA) issuing the NPRMs that provides the background for and an overview of the general, common elements of the NPRMs;

(3) An FTA NPRM that would impose on transit operator recipients (of Federal funds) anti-drug requirements similar to those in the other transportation industries;

(4) FAA, FHWA, FRA, and RSPA NPRMs that would require submission of drug test results to each agency's Management Information System (the FTA proposal is contained in number 3 above); and

(5) An FHWA NPRM that proposes changes to its existing drug rule in order to conform to the Act, including extending coverage to intrastate truck and motorcoach operators.

Each hearing will last 2 days, beginning at 8:30 a.m. The hearings will be conducted in two successive parts: (1) A DOT-wide hearing and (2) Modal-specific hearings. At the DOT-wide hearing, testimony will be taken on the common testing procedures (number 1, above), as well as from anyone who specifically asks to address all of the affected DOT agencies together. After that, the hearing will split into separate rooms to discuss the operating administrations' specific alcohol, drug and management information system proposals. Those who would be subject to more than one rule may testify at more than one of the applicable operating administration hearings, and we will attempt to schedule speaking times to facilitate this.

There will be a morning and afternoon break as well as a break for lunch. Seating will be restricted by available room size and will be made available on a first-come-first-served basis, with some seats reserved for scheduled speakers. For those who cannot attend, a tape-recording, transcript, or other record of the hearings will be available in the rulemaking dockets after the hearings. Individuals who wish to speak at one of the hearings should notify the Department no later than February 17, 1993, for the Washington, DC hearing and February 22, 1993, for the Chicago and San Francisco hearings; they should (1) specify the hearing at which they wish to speak, (2) the issue(s) they wish to address, (3) the position(s) they wish to take on that issue(s); and (4) whether, if more time becomes available, they would want additional time, and, if so, how much. To register, they should contact Donna Smith, (202) 366–3784, who will coordinate scheduling of testimony with the modal administrations. Registration information can also be obtained from DOT's Anti-Drug Information Center (ADIC) by modem, 1–800–225–3804; or through automated telephone or fax requests, 1–800–225–3784.

An individual, whether speaking in a personal or a representative capacity on behalf of an organization, may be limited to a 10-minute statement. If possible, when we confirm a speaker's time and place of testimony, we will notify the speaker if additional time is available. The Department officials chairing the hearing may take additional time to ask clarifying questions of the speakers. Sign and oral interpretation can be made available at each hearing, as well as an assistive listening device, if requested at the above number seven calendar days before the hearing. The Department intends to transcribe the hearings.

We will try to accommodate all speakers. If the available time does not permit this, speakers generally will be scheduled on a first-come-first-served basis. However, the Department reserves the right to exclude some speakers if necessary to present a balance of

viewpoints and issues. The Department will confirm by mail, fax, or telephone the time and place of each speaker's testimony. Four calendar days before the hearing, a final schedule of when the modal-specific hearings will begin, and the specific speakers and their scheduled times for both the DOT-wide and modal-specific hearings will be available from the ADIC by modem, 1-800-225-3804; or through automated telephone or fax requests, 1-800-225-3784. Individuals may be able to register to speak on the hearing day at each location between 8:00 a.m. and 8:30 a.m. to the extent there is any time available.

It would be appreciated if any individuals who wish to provide prepared written statements or documents at the hearings would provide three copies at the hearing at which the individual will be speaking so that the panel members can have a copy. All statements and materials received at the hearing will become part of the appropriate rulemaking dockets.

The hearings are intended to solicit public views and information on the proposed rules. Therefore, they will be conducted in an informal and nonadversarial manner. Department officials will be available half an hour before the hearing begins in the main hearing room to answer any questions about the rules. If time permits, written questions to be asked of speakers at the hearing may be submitted by the public to Department officials during the testimony.

Issued in Washington, DC on January 29, 1993.

Rosalind A. Knapp,

Acting General Counsel.

[FR Doc. 93-2683 Filed 2-2-93; 11:44 am]

BILLING CODE 4910-62-M

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 103

Union Dues Regulations

AGENCY: National Labor Relations Board.

ACTION: Notice of oral argument.

SUMMARY: The National Labor Relations Board gives notice that it is scheduling oral argument on March 8, 15, and 16, 1993, on the proposed rulemaking for the implementation of the United States Supreme Court's decision in *Communications Workers of America* v. *Beck*, 487 U.S. 735 (1988).

DATES: The Board will hold oral argument on March 8, 15, and 16, 1993. Persons wishing to be heard at the oral argument should notify the Office of the Executive Secretary by close of business Tuesday, February 16, 1993. Thereafter, the Board will notify interested persons of the time and place of the oral argument and those who will be scheduled to participate and the time to be allotted to each speaker.

ADDRESSES: Persons wishing to be heard at the oral argument should notify the Office of the Executive Secretary, 1717 Pennsylvania Avenue, NW., Washington, DC 20570. Telephone: (202) 254-9430.

FOR FURTHER INFORMATION CONTACT: John C. Truesdale, Executive Secretary. Telephone: (202) 254-9430.

SUPPLEMENTARY INFORMATION:

Background

The Board's notice of proposed rulemaking and original notice of oral argument was published in the **Federal Register** (57 FR 43635) on September 22, 1992. The notice provided that the period for comment ended at the close of business on October 22, 1992. The notice also provided that oral argument would be held on November 5, 1992. On October 14, 1992, the Board published in the **Federal Register** (57 FR 47023) a notice extending the time for filing comments until the close of business on Monday, November 30, 1992, but also advised that it would adhere to the date of November 5, 1992, for the purpose of hearing oral argument. Oral argument was held on that date. The Board subsequently extended the time for filing comments to the close of business on December 4, 1992 (57 FR 55491).

The Board has now determined that additional oral argument, focused more narrowly on specific areas covered by the Proposed Rule, will aid it in its formulation of final rules. Accordingly, the Board has scheduled additional oral argument on the proposed rule on March 8, 15, and 16, 1993. The March 8 session will focus on issues raised by the notice and informational provisions of the proposed rule contained in §§ 103.40(e) 103.40(f) (1) and (2). The March 8 argument also will concern the model union security clause set forth in § 103.42 and the Appendix to that section. On March 15 the Board will focus on the financial aspects of the proposed rule raised by § 103.41, including but not limited to unit-by-unit accounting and chargeability issues. Finally, the March 16 session will focus on the procedural aspects of the proposed rule, such as those contained in §§ 103.40(f) (3) and (4) and 104.30(g).

Persons wishing to be heard at any of these sessions should notify the Office of the Executive Secretary by close of business February 16, 1993, and specify in which session or sessions they wish to participate. The Board will thereafter give notice of the time and place of the oral argument, those persons who will be scheduled to participate, and the time periods for each participant.

Dated Washington, DC, February 2, 1993.

By direction of the Board.

John C. Truesdale,

Executive Secretary.

[FR Doc. 93-2780 Filed 2-4-93; 8:45 am]

BILLING CODE 7545-01-M

FEDERAL MARITIME COMMISSION

46 CFR Parts 502, 505, 510, 540

[Docket No. 93-02]

Miscellaneous Amendments to Rules of Practice and Procedure

AGENCY: Federal Maritime Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Maritime Commission proposes to amend its rules of practice and procedure in numerous respects. Experience under these rules indicates that several changes are desirable to remove ambiguities, to delete outdated or extraneous provisions, and to improve the efficient administration of proceedings.

DATES: Comments due March 22, 1993.

ADDRESSES: Send comments (original and fifteen copies) to: Joseph C. Polking, Secretary, Federal Maritime Commission, 800 N. Capitol Street NW., Washington, DC 20573-0001, 202-523-5725.

FOR FURTHER INFORMATION CONTACT: Joseph C. Polking, Secretary, Federal Maritime Commission, 202-523-5725.

SUPPLEMENTARY INFORMATION: The Commission's Rules of Practice and Procedure, 46 CFR part 502, govern procedures in proceedings before the Commission. Experience under the rules suggests certain provisions are either outdated, unclear, conflicting or inadequate to achieve their desired purpose. Additionally, it would appear that certain provisions in parts 505 and 540 dealing with assessment and compromise of civil penalties would more appropriately be included in part 502. To remedy these deficiencies, the Commission proposes to make several revisions to its rules.

A section-by-section explanation of the proposed rule changes follows:

Federal Rules of Civil Procedure

The Commission has consistently endorsed the policy of following the

Federal Rules of Civil Procedure in situations not covered by a specific Commission rule and where there is no conflict with administrative law or another Commission rule. This policy is well established in Commission cases, see, e.g., *Brazilian National Steel Co.* v. *Lloyd Brasileiro*, 21 SRR 1505, 1507–1508 (ALJ 1983). It is proposed that a new § 502.12 be added which codifies this policy in the Commission's Rules of Practice and Procedure.

Firms and Corporations

Section 502.28 currently bars "firms or corporations" from practicing before the Commission on behalf of others. This rule is confusing in its application and is frequently not followed. For example, tariff publishing firms or filing agent firms often represent carriers in special docket proceedings and rate auditors often represent shippers in overcharge claim proceedings. It is unclear whether the existing rule is intended to bar practice by such firms or corporations when their representative is one who is admitted to practice before the Commission. The current prohibition appears to serve no purpose and it is proposed to be removed. Firms and corporations then would be permitted to represent others, subject of course to the requirement in 46 CFR 502.27 that their representative is admitted to practice before the agency.

Section 10(a)(1) Complaints

In recent years the Commission has experienced a marked increase in the volume of complaints alleging violations of section 10(a)(1) of the Shipping Act of 1984 ("1984 Act"), 46 U.S.C. app. 1709(a)(1). In the large majority of such cases, complainants merely allege that respondent shippers have failed to pay ocean freight on the shipments involved, the respondent shippers fail to answer the complaint or respond to orders and notices, and default judgments are issued.

In a final interpretive rule issued in Docket No. 92–46, *Unpaid Freight Charges*, the Commission has provided guidance to persons who wish to file complaints alleging violations of section 10(a)(1), explaining in part:

> An essential element of [section 10(a)(1)] is use of an "unjust or unfair device or means." In the absence of evidence of bad faith or deceit, the Federal Maritime Commission will not infer an "unjust or unfair device or means" from the failure of a shipper to pay ocean freight. An "unjust or unfair device or means" could be inferred where a shipper, in bad faith, induced the carrier to relinquish its possessory lien on the cargo and to transport the cargo without prepayment by the shipper of the applicable freight charges.

Under the current Rules of Practice and Procedure ("Rules"), 46 CFR part 502, however, the Commission cannot promptly determine with reasonable assurance that the case properly involves section 10(a)(1) and is therefore a matter for the Commission rather than the courts which have traditionally heard such cases. Furthermore, the typical complaint in such cases fails to give respondents adequate notice of the true nature of a section 10(a)(1) violation, possibly discouraging respondents from asserting a valid defense under the Shipping Act. Even though further proof or amendment to the complaint could be required by the presiding officer under the present Rules, such action consumes time and leads to unnecessary delay which could have been avoided had complainants taken more care to identify the unjust or unfair device or means or the conduct which section 10(a)(1) expressly mentions.

The Commission is therefore proposing to amend its Rules applicable to the filing of complaints so as to enable presiding officers to determine more promptly and efficiently whether such complaints are proper matters for the Commission rather than the courts. The proposed amendment is patterned after the corresponding rule 9(b) of the Federal Rules of Civil Procedure, ("FRCP"), governing complaints alleging fraud, which, by its nature, bears some resemblance to the type of conduct which is prohibited by section 10(a)(1). In addition, the proposed amendment will encourage complainants to be careful to frame their complaints with particularity as to the operative events by authorizing presiding officers to dismiss inadequately drafted complaints without waiting for answers or for defaults. Such a rule should help to screen out mere freight-collection cases and ensure that future complaints invoking section 10(a)(1) have proper jurisdictional bases. Since the dismissal would normally be without prejudice, a complainant having a legitimate claim under section 10(a)(1) could refile a properly framed complaint, if the facts permitted, so that the Commission could have reasonable assurance of its subject-matter jurisdiction, respondent would receive adequate notice, and the delays experienced in default situations could be avoided.

Counter-complaints

The Commission currently has no rule permitting or governing the filing of counter-complaints in complaint proceedings, even though in practice they have been allowed. See *A/S Ivaran* v. *Lloyd Brasileiro*, 24 SRR 1029, 1032, n.7 (FMC 1988). The frequency with which such filings have been made has been increasing and often they fail to include a verification, which is required by statute for complaints before the Commission, 46 U.S.C. app. 1710. It is proposed that § 502.64 be amended to provide for the filing of properly verified counter-complaints and providing for their service directly by the parties if authorized by the presiding officer.

Amendments to Pleadings

Section 502.113 provides that complaints and amendments to complaints will be served by the Secretary of the Commission. Section 502.70(b) states that amendments to pleadings allowed prior to hearing will be served in the same manner as the original pleading. These rules would seem to mandate that amended complaints be served only by the Secretary. In practice, when amended complaints are filed, the complainant simultaneously serves a copy on respondents. In such situations, there appears to be no need to have the complaint re-served by the Secretary, and the presiding Administrative Law Judge ("ALJ") has sometimes, with agreement of the parties, waived application of the requirement. It is proposed, therefore, to amend §§ 502.70(b) and 502.113 to authorize the presiding officer to allow service of amended complaints merely by having the filing party serve respondent or its counsel of record.

Bill of Particulars

Section 502.71 contains provisions for a bill of particulars. Under the FRCP, the bill of particulars has been replaced by motions for more definite statement, FRCP 12 (e). To avoid confusion and to bring Commission rules more in line with modern Federal practice, § 502.71 is proposed to be revised to include provisions modeled on present Rule 12(e) of the FRCP.

Satisfaction of Complaint

Section 502.93 contains provisions relating to satisfaction of complaints. This rule is outdated, is drafted to apply to shipper complaints against carriers only, and refers to a nonexistent form ("Exhibit No. 1 to Subpart D"). The rule would appear to be unnecessary, in any event, because any proceeding may be dismissed by the presiding officer upon a proper showing, and the requirement for seeking dismissal would be no different where the complaint has been satisfied than where any other

settlement has been reached. It is proposed that the rule be removed.

Subscription and Verification of Documents

Section 502.112(a) currently provides that the signature of the attorney or practitioner on a filing constitutes a certificate that the filer has read the filing and "that to the best of his or her knowledge, information, and belief there is good ground to support it." This rule is the Commission's counterpart to FRCP 11, which now imposes a requirement that a filer's signature on a pleading represents that the filer has made reasonable inquiry that the pleading is well grounded in fact and is warranted in existing law. The FRCP provision imposes a stricter standard on the filer and is designed to avoid the bringing of frivolous actions or the submission of frivolous pleadings. It is proposed to amend § 502.112 to pattern it after FRCP 11 provisions. This language in conjunction with the current provision of the Commission's rule which subjects violators to disciplinary action, should serve to minimize the filing of inappropriate pleadings in Commission proceedings.

Section 502.112(b) currently requires that when filings are made by an officer or agent of a party not represented by someone admitted or qualified to practice before the Commission, the filing either must (in the case of a corporate part) by attested under seal of the corporation, or (in the case of non-corporate party) be accompanied with a power of attorney. These requirements have not been uniformly applied and do not appear to be necessary inasmuch as such filings are otherwise required to be sworn, verified, or submitted under penalty of perjury. It is therefore proposed that this requirement be removed.

Modern practice in civil courts and in some administrative agencies permits the filing of unsworn declarations under penalty of perjury in lieu of requiring the submission of sworn or verified filings. This is embodied in the provisions of 28 U.S.C. 1746 which applies to any rule, regulation, order or requirement made pursuant to United States law. It is especially appropriate to permit such unsworn declarations where the filing is executed outside of the United States and filers are unfamiliar with United States verification requirements. It is proposed that a new paragraph be added to § 502.112 which permits the use of unsworn declarations whenever the rules otherwise require a sworn or verified filing.

Deposition Upon Oral Examination

Section 502.203 contains procedures for the taking of depositions upon oral examination. It has been discovered that when this rule was reissued in 1984, a portion of the rule which required a notice of oral deposition to provide the name and address of each person to be examined or, if unknown, a general description sufficiently complete to identify the person, was inadvertently omitted. This proposal would reinsert the omitted language.

Exceptions/Appeals

Section 502.227 includes procedures for filing of exceptions to an ALJ's initial decisions and appeals of an ALJ's order of dismissal, and allows 22 days for their filing. The rule allows 22 days for filing of replies to exceptions, but allows only 15 days for filing of replies to appeals. In the interest of consistency and fairness, the rule is proposed to be amended to allow 22 days for filing of replies to appeals.

Attorney's Fees

Section 502.254 governs proceedings to determine whether an award of attorney's fees is appropriate in particular Commission reparation proceedings. Paragraph (f) of this section governs appeals to the Commission of a presiding officer's award of attorney's fees. The procedures for such appeals are significantly different than those contained in § 502.227 for exceptions and appeals of other presiding officer decisions. Additionally, no provision is included for review of such awards by the Commission on its own motion in the absence of appeal. It is proposed that the rule be amended to include the same appeal and review procedures that apply under current Rule 227.

Petitions for Reconsideration and Replies

Section 502.261 governs the filing of petitions for reconsideration and stay. Under this rule, such petitions are limited to specific and narrow grounds. The rule provides that "[p]etitions which merely elaborate upon or repeat arguments made prior to the decision or order will not be received * * *" Despite these restrictions, lengthy petitions are too frequently filed that deal with extraneous matters. The Federal Rules of Appellate Procedure limit petitions for rehearing of a circuit court decision to 15 pages. It is proposed that a page limitation be imposed on such petitions at the Commission. Since Commission decisions and petitions for reconsideration of such decisions may involve questions of evidence, however, and such questions may require more space to discuss than would pure issues of law, the page limit is proposed to be set at 25.

Section 502.262 currently permits "any party" to file a reply to a petition for reconsideration. It is proposed that this rule be amended to clarify that only replies in opposition to petitions for reconsideration may be filed. The filing of replies in support of petitions usually evokes a request for the filing of a further reply to the reply. Additionally, it is reasonable to require parties who feel aggrieved by a Commission decision to timely file their own petitions for reconsideration rather than tagging onto someone else's petition. It is further proposed that the same 25 page limitation be imposed on replies to petitions for reconsideration.

Civil Penalty Procedures

The Commission's rules on compromise and settlement of civil penalties currently are contained in part 505 of title 46 CFR. Because these rules are essentially procedural in nature and in part pertain to proceedings conducted under part 502 of 46 CFR, it is proposed that they be relocated and incorporated as a new subpart in part 502. It is further proposed that Appendix A (model compromise agreement) be revised to better reflect current practice and that Appendix B (Example of Promissory Note) be deleted because installment payments are seldom permitted, and the presence of this appendix leaves the wrong impression that the Commission welcomes them. References to the civil penalty provisions of section 19 of the Merchant Marine Act, 1920, 46 U.S.C. app. 875, also are proposed to be added.

Subpart C of 46 CFR part 540, the Commission's passenger vessel certification rules, also contains provisions governing civil penalties, *viz.*, for violations of Public Law 89–777. Confusion has resulted, however, from those provisions being separated from, and sometimes conflicting with, part 505. Accordingly, it is proposed that subpart C of part 540 be removed and that the new subpart of part 502 be amended to reflect that its procedures also govern civil penalties for violations of Public Law 89–777.

Although the Commission, as an independent regulatory agency, is not subject to Executive Order 12291, dated February 17, 1981, it nonetheless has reviewed the rule in terms of this Order and has determined that this rule is not a "major rule" as defined in Executive Order 12291 because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovations, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Federal Maritime Commission certifies, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(n), that because this rule deals only with agency practice and procedure, it will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units and small government jurisdictions.

List of Subjects

46 CFR Part 502

Administrative practice and procedure, Claims, Equal access to justice, Investigations, Lawyers, Penalties, Reporting and recordkeeping requirements.

46 CFR Part 505

Administrative practice and procedure, Maritime carriers, Penalties.

46 CFR Part 510

Freight forwarders, Maritime carriers, Reporting and recordkeeping requirements, Surety bonds.

46 CFR Part 540

Insurance, Maritime carriers, Reporting and recordkeeping requirements, Surety bonds.

Therefore, notice is hereby given that the Commission proposes to amend parts 502, 505, 510 and 540 of title 46 CFR as follows:

PART 502—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 502 is revised to read as follows:

Authority: 5 U.S.C. 504, 551, 552, 553, 559; 12 U.S.C. 1141j(a); 18 U.S.C. 207; 26 U.S.C. 501(c)(3); 28 U.S.C. 2112(a); 46 U.S.C. app. 817, 820, 821, 826, 841a, 1114(b), 1705, 1707–1711, 1713–1716; E.O. 11222 of May 8, 1965 (30 FR 6499); 21 U.S.C. 853a; and Pub. L. 89–777 (46 U.S.C. app. 817d, 817e).

2. A new § 502.12 is added to subpart A reading as follows:

§ 502.12 Applicability of Federal Rules of Civil Procedure.

In proceedings under this part, for situations which are not covered by a specific Commission rule, the Federal Rules of Civil Procedure will be followed to the extent that they are consistent with sound administrative practice.

§ 502.28 [Removed]

3. Section 502.28 is removed.

4. Section 502.62 is amended by redesignating paragraphs (b) through (g) as paragraphs (c) through (h) and by adding a new paragraph (b), to read as follows:

§ 502.62 Complaints and fee.

* * * * *

(b) In all averments of violations of section 10(a)(1), the circumstances constituting such violations shall be stated with particularity. In the event that the complaint fails to specify the circumstances, as required by this paragraph, the presiding officer may dismiss the complaint at any time whether or not an answer has been filed. A complaint which merely alleges that respondent has failed to pay ocean freight bills without alleging conduct that violates section 10(a)(1) will be deemed not to have complied with this paragraph. For a discussion of an essential element of this offense and the evidence necessary to satisfy it, reference should be had to the Federal Maritime Commission Interpretation set forth at § 571.2 of this chapter.

* * * * *

5. Section 502.64 is amended to revise the section title and to add a new paragraph (d) reading as follows:

§ 502.64 Answer to complaint; counter-complaint.

* * * * *

(d) In addition to filing an answer to a complaint, respondent may file a counter-complaint alleging violations of the Shipping Acts within the jurisdiction of the Commission. The filing of counter-complaints and answers to counter-complaints is governed by the rules and requirements of § 502.62 (excluding fees) and of this section for the filing of complaints and answers. Counter-complaints may be served directly by the parties if authorized by the presiding officer.

6. Section 502.70 is amended by revising the last sentence of paragraph (b) to read as follows:

§ 502.70 Amendments or supplements to pleadings.

(a) * * *

(b) * * * . Amendments or supplements allowed prior to hearing will be served in the same manner as the original pleading, except that the presiding officer may authorize the service of amended complaints directly by the parties rather than by the Secretary of the Commission.

* * * * *

7. Section 502.71 is revised to read as follows:

§ 502.71 Motions for more definite statements.

If a pleading (including a complaint or cross complaint filed pursuant to § 502.62 or § 502.64) to which a responsive pleading is permitted is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading, the party may move for a more definite statement before interposing a responsive pleading. The motion shall be filed within 15 days of the pleading and shall point out the defects complained of and the details desired. If the motion is granted and the order of the presiding officer is not obeyed within 10 days after service of the order or within such time as the presiding officer may fix, the presiding officer may strike the pleading to which the motion was directed or make such order as is deemed just. If the motion is disallowed, the time for responding to the pleading shall be extended to a date 10 days after service of the notice of disallowance.

§ 502.93 [Removed]

8. Section 502.93 is removed.

9. Section 502.112 is amended by revising the third sentence of paragraph (a) and by adding a new paragraph (c) to read as set forth below; and is further amended by removing the last sentence of paragraph (b).

§ 502.112 Subscription and verification of documents.

(a) * * * . The signature of a person admitted or qualified to practice before the Commission constitutes a certificate by the signer that the signer has read the pleading, document or paper; that the signer is authorized to file it; that to the best of the signer's knowledge, information, and belief formed after reasonable inquiry the filing is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. * * *

* * * * *

(c) Wherever, under any rules of this part, any matter is required or permitted to be supported, evidenced, established, or proved by the sworn declaration, verification, certificate, statement, oath, or affidavit, in writing of the person

making the same (other than a deposition under § 502.203 or § 502.204), such matter may, with like force and effect, be supported, evidenced, established, or proved by the unsworn declaration, certificate, verification or statement, in writing of such person which is subscribed by such person, as true under penalty of perjury, in substantially the following form.

(1) If executed without the United States: "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct."

(2) If executed within the United States, its territories, possessions, or commonwealths: "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct."

10. The first sentence of § 502.113 is revised to read as follows:

§ 502.113 Service by the Commission.

Complaints filed pursuant to § 502.62, amendments to complaints (unless otherwise authorized by the presiding officer pursuant to § 502.70(b)), and complainant's memoranda filed in shortened procedure cases will be served by the Secretary of the Commission. * * *

* * * * *

11. Section 502.203 is amended by revising the second sentence of paragraph (a)(1) to read as follows:

§ 502.203 Depositions upon oral examination.

(a) *Notice of examination.* (1) * * * The Notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify the person or the particular class or group to which the person belongs. * * *

* * * * *

12. Section 502.227 is amended by revising paragraph (b)(2) to read as follows:

§ 502.227 Exceptions to decision or orders of administrative law judges; replies thereto; and review of decisions or orders of dismissal by Commission.

* * * * *

(b)(1) * * *

(2) Any adverse party may file and serve a reply to an appeal under this paragraph within twenty-two (22) days after the appeal is served.

13. Section 502.254 is amended by revising paragraph (f) to read as follows:

§ 502.254 Attorney's fees in reparation proceedings.

* * * * *

(f) In cases where the presiding officer issues an award order, appeal of that order and Commission review of that order in the absence of appeal shall be governed by the procedures of § 502.227 of his part. (Rule 254)

14. Section 502.261 is amended by revising the second sentence of paragraph (a) to read as follows:

§ 502.261 Petitions for reconsideration and stay.

(a) * * * Such petition shall be limited to 25 pages in length and shall be served in conformity with the requirements of subpart H of this part. * * *

* * * * *

15. Section 502.262 is revised to read as follows:

§ 502.262 Reply to petition for reconsideration or stay.

Any party may file a reply in opposition to a petition for reconsideration or stay within fifteen (15) days after the date of service of the petition in accordance with § 502.74.

The reply shall be limited to 25 pages in length and shall be served in conformity with subpart H of this part. (Rule 262.)

16. Subpart W—Paperwork Reduction Act is redesignated as Subpart X.

PART 505—COMPROMISE, ASSESSMENT, SETTLEMENT AND COLLECTION OF CIVIL PENALTIES

17. Part 505 of chapter IV, title 46 CFR, is redesignated as subpart W of part 502, and is revised to read as follows:

Subpart W—Compromise, Assessment, Mitigation, Settlement, and Collection of Civil Penalties

Sec.
502.601 Purpose and scope.
502.602 Definitions.
502.603 Assessment of civil penalties: Procedure; criteria for determining amount; limitations; relation to compromise.
502.604 Compromise of penalties: Relation to assessment proceedings.
502.605 Payment of penalty: Method; default.

Appendix A—Example of Compromise Agreement To Be Used Under 46 CFR 502.604

Subpart W—Compromise, Assessment, Mitigation, Settlement, and Collection of Civil Penalties

§ 502.601 Purpose and scope.

The purpose of this subpart is to implement the statutory provisions of section 32 of the Shipping Act, 1916, section 19 of the Merchant Marine Act, 1920, section 13 of the Shipping Act of 1984, and sections 2(c) and 3(c) of Public Law 89–777 by establishing rules and regulations governing the compromise, assessment, settlement and collection of civil penalties arising under certain designated provisions of the Shipping Act, 1916, the Merchant Marine Act, 1920, the Intercoastal Shipping Act, 1933, the Shipping Act of 1984, Public Law 89–777, and/or any order, rule or regulation (except for procedural rules and regulations contained in this part) issued or made by the Commission in the exercise of its powers, duties and functions under those statutes.

§ 502.602 Definitions.

For the purposes of this subpart;

(a) *Assessment* means the imposition of a civil penalty by order of the Commission after a formal docketed proceeding.

(b) *Commission* means the Federal Maritime Commission.

(c) *Compromise* means the process whereby a civil penalty for a violation is agreed upon by the respondent and the Commission outside of a formal, docketed proceeding.

(d) *Mitigation* means the reduction, in whole or in part, of the amount of a civil penalty.

(e) *Person* includes individuals, corporations, partnerships, and associations existing under or authorized by the laws of the United States or of a foreign country.

(f) *Respondent* means any person charged with a violation.

(g) *Settlement* means the process whereby a civil penalty or other disposition of the case for a violation is agreed to in a formal, docketed proceeding instituted by order of the Commission.

(h) *Violation* includes any violation of sections 14 through 21 (except section 16 First and Third) of the Shipping Act, 1916; sections 19(6)(d), 19(7)(d) and 19(11) of the Merchant Marine Act, 1920; section 2 of the Intercoastal Shipping Act, 1933; any provision of the Shipping Act of 1984; sections 2 and 3 of Public Law 89–777; and/or any order, rule or regulation (except for procedural rules and regulations contained in this part) issued or made by the Commission in the exercise of its powers, duties and functions under the Shipping Act, 1916, the Merchant Marine Act, 1920, the Intercoastal Shipping Act, 1933, the Shipping Act of 1984, or Public Law 89–777.

(i) Words in the plural form shall include the singular and vice versa; and words importing the masculine gender shall include the feminine and vice

versa. The terms "includes" and "including" do not exclude matters not listed but which are in the same general class. The word "and" includes "or", except where specifically stated or where the context requires otherwise.

§ 502.603 Assessment of civil penalties: Procedure; criteria for determining amount; limitations; relation to compromise.

(a) *Procedure for assessment of penalty.* The Commission may assess a civil penalty only after notice and opportunity for hearing. Civil penalty assessment proceedings, including settlement negotiations, shall be governed by the Commission's Rules of Practice and Procedure in this part. All settlements must be approved by the Presiding Officer. The full text of any settlement must be included in the final order of the Commission.

(b) *Criteria for determining amount of penalty.* In determining the amount of any penalties assessed, the Commission shall take into account the nature, circumstances, extent and gravity of the violation committed and the policies for deterrence and future compliance with the Commission's rules and regulations and the applicable statutes. The Commission shall also consider the respondent's degree of culpability, history of prior offenses, ability to pay and such other matters as justice requires.

(c) *Limitations; relation to compromise.* When the Commission, in its discretion, determines that policy, justice or other circumstances warrant, a civil penalty assessment proceeding may be instituted at any time for any violation which occurred within five years prior to the issuance of the order of investigation. Such proceeding may also be instituted at any time after the initiation of informal compromise procedures, except where a compromise agreement for the same violations under the compromise procedures has become effective under § 502.604(e).

§ 502.604 Compromise of penalties: Relation to assessment proceedings.

(a) *Scope.* Except in pending civil penalty assessment proceedings provided for in § 502.603 the Commission, when it has reason to believe a violation has occurred, may invoke the informal compromise procedures of this section.

(b) *Notice.* When the Commission considers it appropriate to afford an opportunity for the compromise of a civil penalty, it will, except when otherwise authorized by the Commission, or where circumstances render it unnecessary, send a registered or certified Notice and Demand Letter ("NDL") to the respondent. The NDL will describe specific violation(s) on which the claim is based, including the particular facts, dates and other elements necessary for the respondent to identify the specific conduct constituting the alleged violation; the amount of the penalty demanded; and the names of Commission personnel with whom the demand may be discussed, if the person desires to compromise the penalty. The NDL also will state the deadlines for the institution and completion of compromise negotiations and the consequences of failure to compromise.

(c) *Request for compromise.* Any person receiving an NDL provided for in paragraph (b) of this section may, within the time specified, deny the violation, or submit matters explaining, mitigating or showing extenuating circumstances, as well as make voluntary disclosures of information and documents.

(d) *Criteria for compromise.* In addition to the factors set forth in § 502.603(b), in compromising a penalty claim, the Commission may consider litigative probabilities, the cost of collecting the claim and enforcement policy.

(e) *Disposition of claims in compromise procedures.* (1) When a penalty is compromised and the respondent agrees to settle for that amount, a compromise agreement shall be executed. (One example of such compromise agreement is set forth as Appendix A to this subpart.) This agreement, after reciting the nature of the claim, will include a statement evidencing the respondent's agreement to the compromise of the Commission's penalty claim for the amount set forth in the agreement and will also embody an approval and acceptance provision which is to be signed by the appropriate Commission official. Upon compromise of the penalty in the agreed amount, a duplicate original of the executed agreement shall be furnished to the respondent.

(2) Upon completion of the compromise, the Commission may issue a public notice thereof, the terms and language of which are not subject to negotiation.

(f) *Relation to assessment proceedings.* Except by order of the Commission, no compromise procedure shall be initiated or continued after institution of a Commission assessment proceeding directed to the same violations. Any offer of compromise submitted by the respondent pursuant to this section shall be deemed to have been furnished by the respondent without prejudice and shall not be used against the respondent in any proceeding.

(g) *Delegation of compromise authority.* The compromise authority set forth in this subpart is delegated to the Director, Bureau of Hearing Counsel.

§ 502.605 Payment of penalty: Method; default.

(a) *Method.* Payment of penalties by the respondent is to be made as follows:

(1) By bank cashier's check or other instrument acceptable to the Commission;

(2) Upon execution of a promissory note containing a confess-judgment agreement, by periodic regular installments, with interest where appropriate, by bank cashier's check or other instrument acceptable to the Commission; or

(3) By combination of the above alternatives.

(b) All checks or other instruments submitted in payment of claims shall be made payable to the Federal Maritime Commission.

(c) *Default in payment.* Where a respondent fails or refuses to pay a penalty properly assessed under § 502.603, or compromised and agreed to under § 502.604, appropriate collection efforts will be made by the Commission, including, but not limited to, referral to the Department of Justice for collection. Where such defaulting respondent is a licensed freight forwarder, such default also may be grounds for revocation or suspension of the respondent's license, after notice and opportunity for hearing, unless such notice and hearing have been waived by the respondent in writing.

Appendix A to Subpart W—Example of Compromise Agreement

Compromise Agreement

FMC File No. _____

This Agreement is entered into between:

(1) The Federal Maritime Commission, hereinafter referred to as Commission, and

(2) _____, hereinafter referred to as Respondent.

Whereas, the Commission is considering the institution of an assessment proceeding against Respondent for the recovery of civil penalties provided under the [appropriate statute], for alleged violations of section _____;

Whereas, this course of action is the result of practices believed by the Commission to have been engaged in by Respondent, to wit: [General description of practices and dates or time period involved]

Whereas, the Commission has authority under the Shipping Act of 1984 and the Shipping Act, 1916, to compromise and collect civil penalties; and,

Whereas, Respondent has terminated the practices which are the basis for the allegations of violation set forth herein, and has instituted and indicated its willingness to maintain measures designed to eliminate these practices by Respondent, its officers, directors or employees.

Now Therefore, in consideration of the premises herein, and in compromise of all civil penalties arising from the alleged violations, Respondent and the Commission hereby agree upon the following terms and conditions of compromise and settlement:

1. Respondent shall make a monetary payment to the Commission herewith, by bank cashier's check, in the total amount of $_____.

2. Upon acceptance in writing of this Agreement by the Director of the Bureau of Hearing Counsel of the Commission, this instrument shall forever bar the commencement or institution of any assessment proceeding or other claim for recovery of civil penalties from the Respondent arising from the alleged violations set forth above.

3. It is expressly understood and agreed that this Agreement is not, and is not to be construed as, an admission by Respondent to the alleged violations set forth above.

(Respondent's Name) _____
By: _____
Title: _____
Date: _____

Approval and Acceptance

The above terms, conditions and consideration are hereby approved and accepted:

By the Federal Maritime Commission:

_____
Director, Bureau of Hearing Counsel
Date:

PART 510—LICENSING OF OCEAN FREIGHT FORWARDERS

18. The authority citation for part 510 continues to read as follows:

Authority: 5 U.S.C. 553, 46 U.S.C. app. 1702, 1707, 1709, 1710, 1712, 1714, 1716 and 1718; 21 U.S.C. 853a.

19. The references to "part 505" in §§ 510.15 and 510.16(a)(5) and (b) are revised to read "subpart W of part 502."

PART 540—SECURITY FOR THE PROTECTION OF THE PUBLIC

20. The authority citation for part 540 continues to read as follows:

Authority: 5 U.S.C. 552, 553; secs. 2 and 3, Public Law 89–777, 80 Stat. 1356–1358 (46 U.S.C. app. 817e, 817d); sec. 43 of the Shipping Act, 1916 (46 U.S.C. app. 841a); sec. 17 of the Shipping Act of 1984 (46 U.S.C. app. 1716).

21. The heading of Subpart C of Part 540 is revised to read:

Subpart C—General

22. Sections 540.30 through 540.36 and Appendices A and B to subpart C are removed.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 93–2693 Filed 2–4–93; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 15 and 76

[ET Docket No. 93–7; FCC 93–30]

Implementation of Section 17 of the Cable Television Consumer Protection and Competition Act of 1992; Compatibility Between Cable Systems and Consumer Electronics Equipment

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; Inquiry.

SUMMARY: The Commission seeks to obtain information regarding means of assuring compatibility between consumer electronics equipment and cable systems, as required by the section 17 of the Cable Television Consumer Protection and Competition Act of 1992. The information obtained through this inquiry will form the basis for a report to Congress and subsequent rule making to develop appropriate rules to implement the provisions of section 17.

DATES: Comments must be submitted on or before March 22, 1993, and reply comments on or before April 21, 1993.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Bruce Franca (202–632–7060) or Alan Stillwell (202–653–8162), Office of Engineering and Technology.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Inquiry in ET Docket No. 93–7, FCC 93–30, adopted January 14, 1993 and released January 29, 1993. The full text of this decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision also may be purchased from the Commission's duplicating contractor, International Transcription Service, 1990 M Street, NW., Washington, DC 20036, (202) 452–1422.

Summary of the Notice of Inquiry

1. Section 17 of the Cable Television Consumer Protection and Competition Act of 1992 (1992 Cable Act) requires that the Commission, in consultation with representatives of the cable and consumer electronics industries, report to Congress within one year of the enactment of the legislation, *e.g.* October 5, 1994, on means of assuring compatibility between consumer TV equipment and cable systems, consistent with the need to prevent theft of cable service. The legislation further provides that within 180 days of that report, the Commission must issue regulations to ensure compatibility between consumer equipment and cable systems. The goal of section 17 is to ensure that cable subscribers will be able to enjoy the full benefits and functions of their television receivers and VCRs when receiving cable service.

2. Problems between cable systems and consumer TV equipment generally tend to arise from conflicts between new features in consumer television equipment and the techniques used by cable systems to address security and other technical operating considerations. Examples of TV receiver features affected by cable operating methods and devices include functions that permit the subscriber:

—To watch a program on one channel while simultaneously recording a program on another channel;

—To record two programs that appear on different channels; or,

—To use advanced features such as picture in picture.

3. In this first phase of the Commission's implementation of section 17, the Notice of Inquiry (Notice) seeks information on the nature and extent of the compatibility problem between cable systems and consumer equipment. The Notice asks questions on the nature of the various features incorporated in consumer TV receivers and VCRs that can be affected by the manner in which cable service is delivered and the definition of a "cable ready" unit. It also seeks information on cable operating technologies and practices and cable devices such as converters and remote control units that can affect the operation of consumer equipment. In examining these issues, the Notice requests comment on alternative approaches available to cable operators for protecting against unauthorized reception of their service. It further seeks information and suggestions regarding possible alternative regulatory approaches for ensuring compatibility that will minimize costs for cable operators, consumer electronics manufacturers and consumers.

4. In addition to requesting information relating to the current situation, the Notice asks questions on likely future developments in consumer and cable system equipment that could affect compatibility. It also indicates that the Commission intends to consult with representatives of the cable and consumer electronics industries and will also consult with other parties, as appropriate, in developing this information.

5. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before March 22, 1993, and reply comments on or before April 21, 1993. All relevant and timely comments will be considered by the Commission before taking further action in this proceeding. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comment and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original and nine copies must be filed. Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (room 239) of the Federal Communications Commission, 1991 M Street, NW., Washington, DC 20554.

List of Subjects

47 CFR Part 15

Communications equipment, Television receivers, TV interface devices.

47 CFR Part 76

Cable television.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93-2681 Filed 2-4-93; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 92-66; Notice 2]

Federal Motor Vehicle Safety Standards; Fuel System Integrity

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Request for comments; notice to extend comment period.

SUMMARY: In response to a petition by Nissan, this notice extends the comment period for a notice requesting information about whether NHTSA should initiate rulemaking to upgrade Federal Motor Vehicle Safety Standard No. 301, Fuel System Integrity. NHTSA believes that commenters need more time to formulate their responses given that the agency has recently issued a series of important rulemaking notices that request comments within the same time period. An extension of the comment period will allow commenters more time to better address the areas covered in the notice. Accordingly, the agency has decided to extend the comment period from February 12, 1993 to March 5, 1993.

DATES: Comments on the request for comments, Docket 92-66, Notice 1, must be received on or before March 5, 1993.

ADDRESSES: Comments should refer to Docket No. 92-66, Notice 1 and be submitted to: Docket Section, NHTSA, 400 Seventh Street SW., Washington, DC 20590. Docket hours are 9:30 to 4 pm. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel Cohen, Office of Rulemaking, NHTSA, 400 Seventh Street SW., Washington, DC 20590 (202-366-2264).

SUPPLEMENTARY INFORMATION: On December 14, 1992, NHTSA published a notice in the **Federal Register** requesting comments about whether the agency should initiate rulemaking to upgrade Federal Motor Vehicle Safety Standard No. 301, Fuel System Integrity. (57 FR 59041) The notice discussed the development of Standard No. 301 and research about motor vehicle fires. The notice also requested answers to questions about Standard No. 301 and the dangers caused by fuel system related fires to assist NHTSA in developing specific proposals for possible amendments to the Standard. The agency specified that comments had to be submitted on or before February 12, 1992.

Nissan Research and Development, Inc., petitioned the agency to extend comment period on the request for comments an additional 15 working days. Nissan stated that several recent NHTSA notices requesting comments have resulted in a "resource allocation problem." Accordingly, it stated that an extension of the comment closing date would allow Nissan to more fully consider and address the issues set forth in the request for comments about upgrading Standard No. 301.

After reviewing the petition, NHTSA agrees with the petitioner that extending the comment closing date is desirable given that the agency has recently issued a series of important rulemaking notices that request comments within the same time period. An extension of the comment period will allow Nissan and other commenters more time to better address the areas covered in the notice requesting comments. Based on the above considerations, the agency believes that there is good cause to extend the comment period and this decision is consistent with the public interest.

Accordingly, the agency has decided to extend the comment period until March 5, 1993.

Issued on: February 2, 1993.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 93-2829 Filed 2-4-93; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 226

[Docket No. 920783-2183]

Designated Critical Habitat; Snake River Sockeye Salmon, Snake River Spring/Summer Chinook Salmon, and Snake River Fall Chinook Salmon

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

ACTION: Proposed rule; extension of comment period.

SUMMARY: NMFS is extending the public comment period on proposed regulations to designate critical habitat for the Snake River sockeye salmon (*Oncorhynchus nerka*), Snake River spring/summer chinook salmon (*Oncorhynchus tschawytscha*), and Snake River fall chinook salmon (*Oncorhynchus tschawytscha*). This proposal was made December 2, 1992 (57 FR 57051), under provisions of the Endangered Species Act. The proposed critical habitat for the Snake River sockeye salmon is: Alturas, Pettit, Redfish, Stanley, and Yellow Belly Lakes (including their inlet and outlet creeks); Alturas Lake Creek, and Valley Creek; the Salmon River from Alturas Lake Creek to its confluence with the Snake River; the Snake River from its confluence with the Salmon River to its confluence with the Columbia River; the Columbia River from its confluence with the Snake River to the Pacific

Ocean. The proposed critical habitat for Snake River spring/summer chinook salmon is: The Grande Ronde, Imnaha, Salmon, and Tucannon subbasins; Asotin, Granite, and Sheep Creeks; the Snake River from its confluence with Sheep Creek to its confluence with the Columbia River; the Columbia River from its confluence with the Snake River to the Pacific Ocean. The proposed critical habitat for Snake River fall chinook salmon is: The Snake River below Hells Canyon Dam; the lower reaches of the Clearwater, Grande Ronde, Imnaha, Salmon, and Tucannon Rivers; Asotin Creek; the Columbia River from its confluence with the Snake River to the Pacific Ocean.

DATES: Comments on the proposed rule will be accepted until March 2, 1993.

ADDRESSES: Send written comments to Dr. Michael F. Tillman, Acting Director, Office of Protected Resources, NMFS, 1335 East-West Highway, room 8268, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Marta Nammack at 301/713–2322, or Garth Griffin at 503/230–5430.

Dated: January 29, 1993.

Michael F. Tillman,

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

[FR Doc. 93–2711 Filed 2–4–93; 8:45 am]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 58, No. 23
Friday, February 5, 1993

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 92-199-1]

Availability of Environmental Assessment and Finding of No Significant Impact Relative to Issuance of Permit To Field Test Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that an environmental assessment and a finding of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the issuance of a permit to allow the field testing of genetically engineered organisms. The environmental assessment provides a basis for our conclusion that the field testing of the genetically engineered organisms will not present a risk of introducing or disseminating a plant pest and will not have a significant impact on the quality of the human environment. Based on its finding of no significant impact, the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

ADDRESSES: Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Foudin, Deputy Director, Biotechnology Permits, Biotechnology, Biologics, and Environmental Protection, APHIS, USDA, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7612. For copies of the environmental assessment and finding of no significant impact, write to Mr. Clayton Givens at the same address. Please refer to the permit number listed below when ordering documents.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340 (referred to below as the regulations) regulate the introduction (importation, interstate movement, and release into the environment) of genetically engineered organisms and products that are plant pests or that there is reason to believe are plant pests (regulated articles). A permit must be obtained before a regulated article may be introduced into the United States. The regulations set forth the procedures for obtaining a limited permit for the importation or interstate movement of a regulated article and for obtaining a permit for the release into the environment of a regulated article. The Animal and Plant Health Inspection Service (APHIS) has stated that it would prepare an environmental assessment and, when necessary, an environmental impact statement before issuing a permit for the release into the environment of a regulated article (see 52 FR 22906).

In the course of reviewing the permit application, APHIS assessed the impact on the environment that releasing the organisms under the conditions described in the permit application would have. APHIS has issued a permit for the field testing of the organisms listed below after concluding that the organisms will not present a risk of plant pest introduction or dissemination and will not have a significant impact on the quality of the human environment. The environmental assessment and finding of no significant impact, which are based on data submitted by the applicant and on a review of other relevant literature, provide the public with documentation of APHIS' review and analysis of the environmental impact associated with conducting the field tests.

An environmental assessment and finding of no significant impact have been prepared by APHIS relative to the issuance of a permit to allow the field testing of the following genetically engineered organisms:

Permit No.	Permittee	Date issued	Organisms	Field test location
92-232-01	Monsanto Agricultural Company.	12-17-92	Corn plants genetically engineered to express a gene from *Bacillus thuringiensis* subsp. *kurstaki* (Btk) for resistance to lepidopteran insects.	Puerto Rico.

The environmental assessment and finding of no significant impact have been prepared in accordance with:

(1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*),

(2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500-1508),

(3) USDA Regulations Implementing NEPA (7 CFR part 1b), and

(4) APHIS Guidelines Implementing NEPA (44 FR 50381-50384, August 28, 1979, and 44 FR 51272-51274, August 31, 1979).

Done in Washington, DC, this 1st day of February 1993.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 93-2747 Filed 2-4-93; 8:45 am]

BILLING CODE 3410-34-M

[Docket No. 93-001-1]

Receipt of Permit Applications for Release Into the Environment of Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that nine applications for permits to release genetically engineered organisms into the environment are

being reviewed by the Animal and Plant Health Inspection Service. The applications have been submitted in accordance with 7 CFR part 340, which regulates the introduction of certain genetically engineered organisms and products.

ADDRESSES: Copies of the applications referenced in this notice, with any confidential business information deleted, are available for public inspection in room 1141, South Building, U.S. Department of Agriculture, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. You may obtain copies of the documents by writing to the person listed under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Foudin, Deputy Director, Biotechnology Permits, Biotechnology, Biologics, and Environmental Protection, APHIS, USDA, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7612.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340, "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which are Plant Pests or Which There Is Reason to Believe Are Plant Pests," require a person to obtain a permit before introducing (importing, moving interstate, or releasing into the environment) into the United States certain genetically engineered organisms and products that are considered "regulated articles." The regulations set forth procedures for obtaining a permit for the release into the environment of a regulated article, and for obtaining a limited permit for the importation or interstate movement of a regulated article.

Pursuant to these regulations, the Animal and Plant Health Inspection Service has received and is reviewing the following applications for permits to release genetically engineered organisms into the environment:

Application No.	Applicant	Date received	Organisms	Field test location
92-365-01, renewal of permit 92-021-01, issued on 05-22-92.	U.S. Department of Agriculture, Agricultural Research Service.	12-31-92	Potato plants genetically engineered to express the coat protein of potato leaf roll virus.	Washington.
92-365-02	U.S. Department of Agriculture, Agricultural Research Service.	12-31-92	Potato plants genetically engineered to express the coat protein of potato leaf roll virus.	Washington.
92-365-03	U.S. Department of Agriculture, Agricultural Research Service.	12-31-92	Potato plants genetically engineered to express the coat protein of potato leaf roll virus.	Idaho.
92-365-04, renewal of permit 91-317-01, issued on 01-22-92.	Dekalb Plant Genetics	12-31-92	Corn plants genetically engineered to express a gene from *Streptomyces hygroscopicus*, for tolerance to the herbicide bialaphos.	Hawaii.
92-365-05	Pioneer Hi-Bred International, Incorporated.	12-31-92	Soybean plants genetically engineered to express a methionine rich seed storage protein gene.	Iowa, Illinois Indiana, Kansas Nebraska, Missouri Ohio.
92-365-06	Frito-Lay, Incorporated	12-31-92	Potato plants genetically engineered to express a chitinase and or a glucanase gene, for resistance to *Rhizoctonia solani*.	Alaska.
92-365-07	Cornell University	12-31-92	Apple rootstock genetically engineered to express a lytic protein attacin E gene, for resistance to Fire Blight disease.	New York.
93-004-01	Monsanto Agricultural Company.	01-04-93	Potato plants genetically engineered to express an insect resistance gene from *Bacillus thuringiensis* subsp. *tenebrionis* for resistance to Colorado potato beetle, a coat protein gene for resistance to Potato Virus Y (PVY), and a gene to increase the percentage of solid matter.	Wisconsin.
93-004-02, renewal of permit 90-351-01, issued on 03-15-91.	U.S. Department of Agriculture, Agricultural Research Service.	01-04-93	Walnut trees genetically engineered to express a delta-endotoxin protein from *Bacillus thuringiensis* subsp. *kurstaki* for resistance to lepidopteran insects.	California.

Done in Washington, DC, this 1st day of February 1993.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92-2748 Filed 2-4-92; 8:45 am]

BILLING CODE 3410-34-M

[Docket No. 92-198-1]

Receipt of Permit Applications for Release into the Environment of Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that 10 applications for permits to release genetically engineered organisms into the environment are being reviewed by the Animal and Plant Health Inspection Service. The applications have been submitted in accordance with 7 CFR part 340, which regulates the introduction of certain genetically engineered organisms and products.

ADDRESSES: Copies of the applications referenced in this notice, with any confidential business information deleted, are available for public inspection in room 1141, South Building, U.S. Department of Agriculture, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. You may obtain copies of the documents by writing to the person listed under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Foudin, Deputy Director, Biotechnology Permits, Biotechnology, Biologics, and Environmental Protection, APHIS, USDA, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7612.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340, "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests," require a person to obtain a permit before introducing (importing, moving interstate, or releasing into the environment) into the United States

certain genetically engineered organisms and products that are considered "regulated articles." The regulations set forth procedures for obtaining a permit for the release into the environment of a regulated article, and for obtaining a limited permit for the importation or interstate movement of a regulated article.

Pursuant to these regulations, the Animal and Plant Health Inspection Service has received and is reviewing the following applications for permits to release genetically engineered organisms into the environment:

Application No.	Applicant	Date received	Organism	Field test location
92-350-01, renewal of permit 92-041-01, issued on 05-05-92.	Monsanto Agricultural Company.	12-15-92	Soybean plants genetically engineered to express the enzyme 5-enol-pyruvyl shiki-mate-3-phosphate synthase (EPSPS) and a metabolizing enzyme for tolerance to the herbicide glyphosate.	Alabama, Arkansas, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Mississippi, Missouri, South Carolina, Tennessee.
92-351-01	Frito-Lay, Incorporated	12-16-92	Potato plants genetically engineered to express metabolic enzymes in order to increase levels of dry matter in potato tubers.	Wisconsin.
92-352-01, renewal of permit 92-049-03, issued on 04-15-92.	Petoseed Company, Incorporated.	12-17-92	Tomato plants genetically engineered to express antisense gene constructs of polygalacturonase (PG), pectinesterase (PE), and ethylene forming enzymes, to modify ripening.	California.
92-359-01	Monsanto Agricultural Company.	12-24-92	Soybean plants genetically engineered to express the enzyme 5-enol-pyruvyl shiki-mate-3-phosphate synthase (EPSPS) and a metabolizing enzyme for tolerance to the herbicide glyphosate.	Alabama, Illinois, Indiana, Iowa, Maryland, Michigan, Missouri, Ohio, South Dakota.
92-363-01, renewal of permit 91-346-01, issued on 04-16-92.	Calgene, Incorporated	12-28-92	Rapeseed plants genetically engineered to express a thioesterase gene and a marker gene, to increase the percentage of fatty acid laurate.	Michigan.
92-363-02, renewal of permit 91-352-01, issued on 04-13-92.	Calgene, Incorporated	12-28-92	Rapeseed plants genetically engineered to express an antisense desaturase gene and a marker gene for modification of oil profiles.	Michigan.
92-363-03, renewal of permit 91-333-03, issued on 04-20-92.	Calgene, Incorporated	12-28-92	Cotton plants genetically engineered to express a lepidopteran-specific gene from *Bacillus thuringiensis* subsp. *kurstaki* and a gene from *Klebsiella ozaenae*, which confers tolerance to the herbicide bromoxynil.	Mississippi.
92-363-04, renewal of permit 91-357-01, issued on 04-17-92.	Calgene, Incorporated	12-28-92	Cotton plants genetically engineered to express a lepidopteran-specific gene from *Bacillus thuringiensis* subsp. kurstaki and a gene from *Klebsiella ozaenae*, for tolerance to the herbicide bromoxynil.	Arizona, Mississippi, South Carolina.
92-363-05	Monsanto Agricultural Company.	12-28-92	Potato plants genetically engineered to express an insect-resistant gene from *Bacillus thuringiensis* var. *tenebrionis*, a coat protein gene for resistance to Potato Leaf Roll Virus (PLRV) and Potato Virus Y (PVY), and a quality improvement gene to increase the percentage of solid matter.	Colorado, Idaho, Maine, Maryland, Michigan, Montana, New York, North Dakota, Ohio, Oregon, Pennsylvania, Washington.
92-363-06	Dekalb Plant Genetics	12-28-92	Corn plants genetically engineered to express a hygromycin-B phospho-transferase gene (HPT), and an E.-coli beta-glucuronidase (GUS) gener and, modified storage protein genes.	Hawaii.

Done in Washington, DC this 1st day of February 1993.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 93-2796 Filed 2-4-93; 8:45 am]

BILLING CODE 3410-34-M

Forest Service

Big Mountain Ski and Summer Resort Expansion Flathead National Forest, Flathead County, MT.

AGENCY: Forest Service, USDA

ACTION: Notice; intent to prepare an environmental impact statement.

SUMMARY: This revises the January 24, 1992 notice in the **Federal Register** Volume 57, No. 16, pp. 2891-2892, that the Draft Environmental Impact Statement for the Big Mountain Ski and Summer Expansion will be released March, 1993 instead of the July, 1992. The proposal is to expand winter and summer recreation opportunities at the Big Mountain Ski and Summer Resort on the Tally Lake Ranger District. The Big Mountain is located approximately 6 miles north of Whitefish, Montana.

DATE: Comment period concerning the scope of the analysis was from January 24, 1992-March 15, 1992.

ADDRESSES: Bert Stout, District Ranger, Tally Lake Ranger District, 1335 Highway 93 North, Whitefish, Montana 59937.

FOR FURTHER INFORMATION CONTACT: Becky Smith, Big Mountain Expansion Interdisciplinary Team Leader, or Bert Stout, District Ranger.

SUPPLEMENTARY INFORMATION: The proposed action includes construction of 447 acres of low intermediate, intermediate and advanced ski terrain, two T-bars, three chairlifts, warming/eating hut, snow making, reservoir, well, summit house expansion and access road to summit. Proposed development will raise the skier capacity from 6862 skiers at one time to 12,280 skiers at one time. Completion of the proposed development will occur over a long period of time in response to market demand and financial capabilities of Winter Sports, Inc. Proposed summer activities include construction of a mountain bike trail, horse trail, hiking trail, and paragliding.

These management activities would occur in an area encompassing approximately 3600 acres of National Forest Lands located in Management Area 20, as delineated in the Flathead National Forest Land and Resource Management Plan (Forest Plan), approved 1-22-86. Included in the area of analysis are all or portions of the

following: Sections 19, 20, 29, 30, 31, and 32, T32N, R21W and in sections 14, 23, 24, 25, 26, 35, and 36, T32N, R22W, Principal Montana Meridian.

This EIS will tier to the Forest Plan which provided the overall guidance (Goals, Objectives, Standards and Guidelines, and Management Area direction) in achieving the desired future condition for this area. The Forest Plan allocates Management Area 20 as the Big Mountain Winter Sports Area (3,574 acres). Currently, about 3,036 acres are managed under a special use permit. The remainder of lands within Management Area 20 provides opportunities for Big Mountain expansion according to the Forest Plan.

The purpose and need for the proposed action are to:

(1) Consider approval of Winter Sports, Inc.'s updated Master Plan;

(2) Provide opportunity for year round economic viability by expanding summer recreation activities;

(3) Respond to ski area management and safety issues:

(a) Increase safety by expanding avalanche protection,

(b) Reduce skier congestion through expanding ski terrain, additional lifts and or management activities,

(c) Reduce numbers of lost skiers,

(d) Improve driving access to the summit by relocating a segment of road; and

The process used in preparing the Draft EIS will include:

1. Identification of potential issues.
2. Identification of issues to be analyzed in depth.
3. Elimination of insignificant issues or those which have been covered by a relevant previous environmental analysis.
4. Identification of additional reasonable alternatives.
5. Identification of potential environmental effects of the alternatives.
6. Determination of potential agencies and task assignments.

The agency has invited written comments and suggestions on the issues and management opportunities in the area being analyzed.

Issues identified from previous requests for comments on this proposal include but are not limited to:

(1) Threatened and Endangered Species, the grizzly bear and gray wolf;

(2) Water quality;

(3) Safety;

(4) Quality of life;

(5) Recreation opportunities.

A range of alternatives will be considered. One of these will be the "no-action" alternative, in which the ski area expansion or additional summer activities would not be implemented on National Forest Lands. Other alternatives will examine additional ski runs, lifts, trails, roads and summer activities in different locations and varied combinations to achieve the purpose of the proposed action.

The Forest will analyze and document the direct, indirect, and cumulative environmental effects of the alternatives. In addition, the EIS will disclose the analysis of site specific mitigation measures and their effectiveness.

Public participation is especially important at several points of the analysis. People may visit with Forest Service officials at any time during the analysis and prior to the decision. However, two periods of time are identified for the receipt of comments on the analysis. The two public comment periods are during the scoping process the first ended March 15, 1992 and the second review period will be the Draft EIS (March-April, 1993). The Forest Service has previously sent informational letters and news releases on this proposal to area newspapers, radio and television stations, organizations and interested citizens. An open house was held in November, 1991 to discuss issues and alternatives. At this time no additional public meetings will be held.

The Fish and Wildlife Service, Department of the Interior, will be informally consulted throughout the analysis. To meet the requirements of the Endangered Species Act, the Fish and Wildlife Service will review the EIS and biological evaluation and if necessary, render a formal Biological Opinion of the effects on the Threatened and Endangered Species including grizzly bear and gray wolf. An FG–124 permit may need to be issued by the State of Montana Department of Fish, Wildlife and Parks Department before any construction in and around streams can take place. Revision of the existing ski area permit will need to be completed if the proposed activities are allowed.

The draft environmental impact statement (DEIS) is expected to be available for public review in March, 1993. After a 45-day public comment period, the comments received will be analyzed and considered by the Forest Service in preparing the final environmental impact statement (FEIS). The FEIS is scheduled to be completed by September, 1993. The Forest Service will respond to the comments received in the FEIS. The Flathead Forest Supervisor who is responsible official for this EIS will make a decision regarding this proposal considering the comments and response, environmental consequences discussed in the FEIS, and applicable laws, regulations, and policies. The decision and reasons for the decision will be documented in a Record of Decision.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the Federal Register.

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statement must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *Wisconsin Heritages, Inc*, v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

Dated: January 29, 1993.

Bert Stout,

District Ranger.

[FR Doc. 93–2737 Filed 2–4–93; 8:45 am]

BILLING CODE 3410–11–M

Advisory Council Meeting; Allegheny Wild and Scenic River; Allegheny National Forest, Pennsylvania

AGENCY: Forest Service, USDA.

ACTION: Notice of meetings.

SUMMARY: The Northern Advisory Council for the Allegheny Wild and Scenic River will meet at 7:00 PM, Wednesday, February 24, 1993, at the Harmony Township Community Center in West Hickory, PA.

The Southern Advisory Council for the Allegheny Wild and Scenic River will meet at 7:00 PM, Thursday, February 25, 1993, at the Inn at Franklin in Franklin, PA.

The purpose of the meetings is to review and discuss draft interim guidelines for management of the wild and scenic river corridor.

Meetings are open to the public. A sign language interpreter will be provided if requested by February 16, 1993.

FOR FURTHER INFORMATION CONTACT: Lionel Lemery, Wild and Scenic River Coordinator, Allegheny National Forest, 222 Liberty Street, Warren, Pennsylvania 16365, 814/723–5150 (voice).

Dated: February 1, 1993.

John E. Palmer,

Forest Supervisor.

[FR Doc. 93–2714 Filed 2–4–93; 8:45 am]

BILLING CODE 3410–11–M

Newberry National Volcanic Monument Advisory Council Meeting

AGENCY: Forest Service, USDA.

ACTION: Newberry National Volcanic Monument Advisory Council meeting.

SUMMARY: The Newberry National Volcanic Monument Advisory Council will meet on February 25 at 7 a.m. at the American Legion Hall, La Pine, Oregon. The meeting will move to Paulina Lake Resort in the Monument that afternoon, and will continue at the resort through February 26. Agenda items to be covered include: issues and alternatives for management, public involvement, winter recreation needs and facilities, and desired future condition for the Monument.

Interested members of the public are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions about this meeting to Carolyn Wisdom, Project Coordinator, Fort Rock Ranger District USFS, 1230 NE. 3rd., Bend, OR 97701, (503) 383–4702.

Dated: January 28, 1993.

Sally Collins,

Deputy Forest Supervisor.

[FR Doc. 93–2740 Filed 2–4–93; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Initiation of Process of Revoke Export Trade Certificate of Review No. 85–00005.

SUMMARY: The Secretary of Commerce issued an export trade certificate of review to Opti-Copy, Inc. Because this certificate holder has failed to file an annual report as required by law, the Department is initiating proceedings to revoke the certificate. This notice summarizes the notification letter sent to Opti-Copy, Inc.

FOR FURTHER INFORMATION CONTACT: George Muller, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the Act") (15 U.S.C. 4011–21) authorized the Secretary of Commerce to issue export trade certificates of review. The regulations implementing title III ("the Regulations") are found at 15 CFR part 325. Pursuant to this authority, a certificate of review was issued on November 26, 1984 to Opti-Copy, Inc.

A certificate holder is required by law (Section 308 of the Act, 15 U.S.C. 4018) to submit to the Department of Commerce annual reports that update financial and other information relating to business activities covered by its certificate. The annual report is due within 45 days after the anniversary date of the issuance of the certificate of review (§§ 325.14 (a) and (b) of the Regulations). Failure to submit a complete annual report may be the basis for revocation. (§§ 325.10(a) and 325.14(c) of the Regulations].

An annual report was due from Opti-Copy, Inc. on January 10, 1992. No annual report was received. On February 10, 1992, the Department of Commerce contacted Opti-Copy, Inc. to remind it that the January 10, 1992 annual report was overdue, and an additional set of the annual report questions was sent by facsimile. On April 10, 1992, the Department of Commerce contacted Opti-Copy, Inc. again, and another set of the annual report questions was sent to it by facsimile. On November 10, 1992, the Department of Commerce contacted Opti-Copy, Inc. one more time to remind it that the Department still had not received its responses to the annual report questions.

On January 29, 1993, and in accordance with 325.10 (c)(2) of the Regulations, a letter was sent by certified mail to notify Opti-Copy, Inc. that the Department was formally initiating the process to revoke its certificate. The letter stated that this action is being taken for the certificate holder's failure to file an annual report.

In accordance with § 325.10(c)(2) of the Regulations, a certificate holder has thirty days from the day after its receipt of the notification letter in which to respond. The certificate holder is deemed to have received this letter as of the date on which this notice is published in the **Federal Register**. For good cause shown, the Department of Commerce can, at its discretion, grant a thirty-day extension for a response.

If the certificate holder decides to respond, it must specifically address the Department's statement in the notification letter that it has failed to file an annual report. It should state in detail why the facts, conduct, or circumstances described in the notification letter are not true, or if they are, why they do not warrant revoking the certificate. If the certificate holder does not respond within the specified period, it will be considered an admission of the statements contained in the notification letter (§ 325.10(c)(2) of the Regulations).

If the answer demonstrates that the material facts are in dispute, the Department of Commerce and the Department of Justice shall, upon request, meet informally with the certificate holder. Either Department may require the certificate holder to provide the documents or information that are necessary to support its contentions (§ 325.10(c)[3] of the Regulations).

The Department shall publish a notice in the **Federal Register** of the revocation or modification or a decision not to revoke or modify (§ 325.190(c)[4] of the Regulations). If there is a determination to revoke a certificate, any person aggrieved by such final decision may appeal to an appropriate U.S. district court within 30 days from the date on which the Department's final determination is published in the **Federal Register** (§§ 325.10(c)(4) and 325.11 of the Regulations).

Dated: January 29, 1993.

George Muller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 93-2653 Filed 2-4-93; 8:45 am]

BILLING CODE 3510-DR-M

National Oceanic and Atmospheric Administration

Endangered Species; Permits

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

ACTION: Notice of public hearing on an application for a permit for scientific research and to enhance the survival of an endangered species and extension of the comment period (P504B).

SUMMARY: On January 26, 1993, (58 FR 6116) NMFS announced the receipt of an application for scientific research and to enhance the survival of an endangered species from the U.S. Army Corps of Engineers (Corps), Walla Walla District. The applicant requests authorization to collect and transport juvenile Snake River sockeye salmon (*Oncorhynchus nerka*) and juvenile Snake River spring/summer and fall chinook salmon (*O. tshawytscha*) around mainstem dams and associated downstream reservoirs on the Snake and Columbia Rivers for the purpose of increasing their chances of survival over the alternative of in-river passage, given current in-river conditions. The Corps proposes to route the fish to raceways and then load them into trucks or barges for transportation and release below Bonneville Dam. Subsets of salmon collected for transportation and additional listed salmon will be used for smolt monitoring and research purposes. Collection and transportation of juvenile salmon is projected to occur March 25 through October 31 at Lower Granite, Little Goose, and Lower Monumental dams, and March 25 through December 31 at McNary Dam. The requested duration of the permit is March 25 through December 31, 1993.

NMFS has scheduled a public hearing on the application submitted by the Corps. Anyone wishing to make a presentation at the public hearing should register upon arrival and be prepared to provide a written copy of their testimony at the time of presentation. Depending on the number of persons wishing to speak, a time limit may be imposed.

DATES: The Public hearing is scheduled for February 25, 1993, from 6 p.m.—9:30 p.m., or until all comments have been heard, at the Federal Complex Auditorium, 911 Northeast 11th Ave, Portland, Oregon (1st floor—near entrance on 9th St.). The comment period on this application is extended to February 28, 1993, to allow commentors the opportunity to respond to concerns voiced at the public hearing.

ADDRESSES: Send written comments to Dr. Michael Tillman, Acting Director, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, suite 8268, Silver Spring, MD 20910.

Documents submitted in connection with the above application are available for review by interested persons in the following offices by appointment:

Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, suite 8268, Silver Spring, MD 20910 (301/713-2322); and

Environmental and Technical Services Division, National Marine Fisheries Service, 911 North East 11th Ave., room 620, Portland, OR 97232 (503/230-5400).

FOR FURTHER INFORMATION CONTACT: Robert C. Ziobro, Office of Protected Resources. Karen Holtz, Environmental and Technical Services Division.

Dated: January 29, 1993.

Michael F. Tillman,

Acting Director, Office of Protected Resources.

[FR Doc. 93-2712 Filed 2-4-93; 8:45 am]

BILLING CODE 3510-22-M

Endangered Species; Permits

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

ACTION: Application for scientific research permit (P521).

SUMMARY: Notice is hereby given that an applicant has applied in due form for a Scientific Research Permit to take an endangered species as authorized by the Endangered Species Act of 1973 (16 U.S.C. 1531-1543) and the NMFS regulations governing threatened and endangered fish and wildlife permits (50 CFR parts 217 and 222).

1. *Applicant:* James R. Spotila, Department of Bioscience and Biotechnology, College of Arts and Sciences, Drexel University, Philadelphia, PA. 19104.

2. *Type of Permit:* Scientific Research.

3. *Name and Number of Species:* Six Leatherback Sea Turtles, (*Dermochelys coriacea*).

4. *Type of Take:* The leatherback sea turtles will be captured incidentally by commercial fishermen using trapnets, also known as pound nets. Trapnets do not entangle the turtles but lead them into a net box by means of a leader and wings. The turtle is captured when the box is raised and is brought onboard the boat with a sling secured behind its front flippers in such a manner as to evenly distribute the turtle's weight and gently place it on deck. The turtle will be transported to the dock, experiments will be conducted, and the turtle will be released unharmed within 24 hours.

The applicant proposes to measure the tissue metabolic rates of the pectoral muscles, cloacal body temperatures, skin and muscle blood flow, and ventilation and respirator gas exchange, in an effort to determine the cellular, physiological and biophysical mechanisms that allow leatherback sea turtles to maintain body temperatures which are higher than their surrounding environment and to gain an understanding of this species metabolic rate, nutritional needs, and its energy levels.

5. *Location and Duration of Activity:* The applicant requests a permit for the period from June 1993 through June 1994. All of the research activities during this period will take place in the waters off New England and the mid-Atlantic states including Maryland, New Jersey, Rhode Island, and Massachusetts.

Written data or views, or requests for a public hearing on this application should be submitted to NMFS, 1335 East-West Highway, Silver Spring, Maryland 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such a hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this application are summaries of those of the applicant and do not necessarily reflect the views of the NMFS.

Documents submitted in connection with the above application are available for review by interested persons in the following offices: Office of Protected Resources, NOAA, NMFS, 1335 East-West Highway, SSMC#1, room 8268, Silver Spring, MD 20910, (301/713-2289); and Director, NMFS Northeast Region, One Blackburn Drive, Gloucester, MA 01930.

Dated: January 29, 1993.

Michael F. Tillman,

Acting Director, Office of Protected Resources, National Marine Fisheries Service, National Oceanic And Atmospheric Administration.

[FR Doc. 93-2713 Filed 2-4-93; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Permits

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

ACTION: Issuance of scientific research permit (P254C).

On November 20, 1992, notice was published in the **Federal Register** (57 FR 54771) that an application had been filed by The Pacific Whale Foundation, Kealia Beach Plaza, 101 N. Kihei Road, suite 21, Kihei, Maui, HI 96753–8833, to approach, up to five times each, up to 1000 humpback whales (*Megaptera novaeangliae*) annually in Hawaiian waters over a five-year period during the course of photo-identification, observational, and acoustic recording studies, and aerial surveys for purposes of scientific research.

Notice is hereby given that on January 29, 1993, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361–1407) and the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Service issued a permit to the above applicants to harass the species/numbers of marine mammals described above, subject to certain conditions set forth therein.

Issuance of this permit, as required by the Endangered Species Act of 1973, is based on the findings that the permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of the Permit; and (3) is consistent with the purposes and policies set forth in section 2 of the Act. This permit was also issued in accordance with and is subject to parts 220–222 of title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits.

The permit and associated documents are available for review, by appointment, in the following offices:

Office of Protected Resources, National Marine Fisheries Service, NOAA, 1335 East-West Hwy., room 7324, Silver Spring, MD 20910 (301/713–2289);

Director, Southwest Region, National Marine Fisheries Service, NOAA, 501 W. Ocean Blvd., suite 4200, Long Beach, CA 90801–4213 (310/980–4016; and

Coordinator, Pacific Area Office, Southwest Region, National Marine Fisheries Service, NOAA, 2570 Dole Street, Honolulu, HI 96822–2396 (808/955–8831).

Dated: January 29, 1993.

Michael F. Tillman,

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

[FR Doc. 93–2706 Filed 2–4–93; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals

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

ACTION: Issuance of Modification to Scientific Research Permit No. 807 (P171C).

On December 18, 1992, notice was published in the **Federal Register** (57 FR 60173) of a correction to the notice previously published on November 20, 1992 (57 FR 54771). This was necessary in order to include information that had inadvertently been omitted, concerning an application that had been filed by Deborah A. Glockner-Ferrari and Mark J. Ferrari, Center for Whale Studies, 39 Woodvine Court, Covington, LA 70433–4724, for authorization to approach small cetaceans on an opportunistic basis during the conduct of scientific research on humpback whales (*Megaptera novaeangliae*).

Notice is hereby given that on January 29, 1993, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361–1407) and the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Service issued a modification to Permit No. 807 to the above applicants to inadvertently harass the species/numbers of marine mammals described above, subject to certain conditions set forth therein.

The permit, modification and associated documents are available for review, by appointment, in the following offices:

Office of Protected Resources, National Marine Fisheries Service, NOAA, 1335 East-West Hwy., Silver Spring, MD 20910 (301/713–2289);

Director, Southwest Region, National Marine Fisheries Service, NOAA, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90801–4213 (310/980–4016); and

Coordinator, Pacific Area Office, Southwest Region, National Marine Fisheries Service, NOAA, 2570 Dole Street, Honolulu, HI 96822–2396 (808/955–8831).

Dated: January 29, 1993.

Michael F. Tillman,

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

[FR Doc. 93–2707 Filed 2–4–93; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

AGENCY: National Technical Information Service, Technology Administration, Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that the National Technical Information Service Advisory Board will meet Monday, February 22, 1993, from 9 a.m. to 4:30 p.m. and on Tuesday, February 23, 1993, from 9 a.m. to 4 p.m. The NTIS Advisory Board is composed of five members appointed by the Secretary of Commerce who are eminent in such fields as information resources management, information technology, and library and information services. The NTIS Advisory Board was established by statute (Pub. L. 100–519) on October 24, 1988, and received its charter on September 15, 1989.

AGENDA: The purpose of this meeting is to review and make recommendations regarding general policies and operations of NTIS, including policies in connection with fees and charges for its services. The agenda will include presentations on NTIS modernization, a review of fiscal data, an update on the proposed new facility, and a review of the progress with FedWorld.

DATES: The meeting will convene February 22, 1993, at 9 a.m. and will adjourn at 4 p.m. on February 23, 1993.

ADDRESSES: The meeting will be held in Room 1412, U.S. Department of Commerce, Herbert C. Hoover Building, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

PUBLIC PARTICIPATION: The meeting will be open to public participation. Approximately 30 minutes each day at the end of the session will be set aside for oral comments or questions as indicated in the agenda. Seats will be available for the public and for the media. Seats will be available on a first-come, first-served basis. Any member of the public may submit written comments concerning the Board's affairs at any time before and after the meeting. Copies of the minutes of the meeting will be available within 30 days from the address given below.

FOR FURTHER INFORMATION CONTACT: Barbara Hull, NTIS Advisory Board Secretary, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161. Telephone: 703–487–4612; by fax 703–487–4093.

Dated: February 1, 1993.

Ronald E. Lawson,

Acting Director.

[FR Doc. 93-2685 Filed 2-4-93; 8:45 am]

BILLING CODE 3610-04-M

COMMISSION ON AGRICULTURAL WORKERS

Report Presentation

AGENCY: Commission on Agricultural Workers.

ACTION: Announcement of report presentation.

SUMMARY: This notice announces the scheduled presentation of the Commission on Agricultural Workers' report to Congress. The Commission was established by the Immigration Reform and Control Act (IRCA) of 1986 under section 304.

On February 17, the Chairman of the Commission, Henry Voss, will present the Commission's report to Congress.

DATES: 10:30 a.m., February 17, 1993.

ADDRESSES: 2226 Rayburn House Office Building, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Beth Bickley, Telephone; (202) 673-5348.

Dated: January 29, 1993.

Aaron Bodin,

Executive Director.

[FR Doc. 93-2757 Filed 2-4-93; 8:45 am]

BILLING CODE 6820-62-M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to the Procurement List a service and commodities to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: March 8, 1993.

ADDRESSES: Committee for Purchase from People Who Are Blind or Severely Disabled, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202-3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman, (703) 603-7740.

SUPPLEMENTARY INFORMATION: On November 30 and December 18, 1992, the Committee for Purchase from People Who Are Blind or Severely Disabled published notices (57 FR 56569 and 60176) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the service and commodities, fair market price, and impact of the additions on the current or most recent contractors, the Committee has determined that the service and commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the service and commodities to the Government.

2. The action will not have a severe economic impact on current contractors for the service and commodities.

3. The action will result in authorizing small entities to furnish the service and commodities to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the service and commodities proposed for addition to the Procurement List.

Accordingly, the following service and commodities are hereby added to the Procurement List:

Commodities

Deployment Bag, Parachute
1670-01-235-0923

Drill, Twist
5133-00-988-5684
5133-00-988-5673
5133-00-988-5655
5133-00-065-0980
5133-00-065-0981
5133-00-051-5749

Service

Janitorial/Custodial
Andersonville National Historic Site
Route 1, Box 85
Andersonville, Georgia

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 93-2815 Filed 2-4-93; 8:45 am]

BILLING CODE 6820-33-M

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: March 8, 1993.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202-3461.

FOR FURTHER INFORMATION CONTACT: Beverely Milkman, (703) 603-7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and service to the Government.

2. The action does not appear to have a severe adverse impact on the current contractors for the commodities and service.

3. The action will result in authorizing small entities to furnish the commodities and service to the Government.

4. There are no known regulatory alternatives which would accomplish

the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48C) in connection with the commodities and service proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

It is proposed to add the following commodities and service to the Procurement List for production by the nonprofit agency listed:

Commodities

Congressional Record Microfiche 7690–00–NSH–0022
(Requirements for the U.S. Congress)
Nonprofit Agency: Alliance, Inc., Baltimore, Maryland

Gloves, Men's
8440–00–160–0770
8440–00–160–0874
8440–00–160–0875
(50% of the Government's Requirement)
Nonprofit Agency: Bi-County Services, Inc., Bluffton, Indiana

Service

Administrative Services
NASA, 4200 Complex
Marshall Space Flight Center, Alabama
Nonprofit Agency: Madison County Association for Retarded Citizens, Inc., Huntsville, Alabama

Beverly L. Milkman,
Executive Director.
[FR Doc. 93–2816 Filed 2–4–93; 8:45 am]
BILLING CODE 6820–33–M

DEPARTMENT OF DEFENSE

Office of the Secretary

DIA Advisory Board; Closed Meeting

AGENCY: Defense Intelligence Agency Advisory Board, DoD.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the provisions of sub section (d) of section 10 of Public Law 92–463, as amended by section 5 of Public Law 94–409, notice is hereby given that a closed meeting of the DIA Advisory Board has been scheduled as follows:

DATES: Tuesday and Wednesday, 9–10 February 1993 (9 a.m. to 5 p.m.).

ADDRESSES: The Pentagon, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. W.S. Williamson, Executive Secretary, DIA Scientific Advisory Board, Washington, DC 20340–1328 (202) 373–4930.

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in section 552b(c)(I), title 5 of the U.S. Code and therefore will be closed to the public. The Board will receive briefings on and discuss several current critical intelligence issues and advise the Director, DIA, on related scientific and technical intelligence matters.

Dated: February 2, 1993.

L.M. Bynum,
Alternate OSD Federal Register, Liaison Officer, Department of Defense.
[FR Doc. 93–2729 Filed 2–4–93; 8:45 am]
BILLING CODE 3810–01–M

DEPARTMENT OF EDUCATION

National Advisory Council on Educational Research and Improvement; Meeting

AGENCY: National Advisory Council on Educational Research and Improvement, Education.

ACTION: Full Council Meeting of the National Advisory Council on Educational Research and Improvement.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Educational Research and Improvement. This notice also describes the functions of the Council. Notice of this meeting is required section 10(a)(2) of the Federal Advisory Committee Act.

DATES AND TIMES: February 24, 1993, 9 a.m. to 5 p.m. Meeting will take place at the Houston Museum of Natural Science. Meeting site will be posted. February 25, 1993, 9:30 a.m. to 4:15 p.m. Meeting will convene at the Space Center Houston, Johnson Space Center. Meeting site will be posted. February 26, 1993, 8:30 a.m. Meeting will resume at the Doubletree Hotel at Post Oak and adjourn at approximately 3:30 p.m. Meeting site will be posted.

ADDRESSES: Houston Museum of Natural Science, One Herman Circle Drive, Houston, TX 77030–1799. Space Center Houston, Johnson Space Center, 1601 NASA Road 1 (One), Houston, TX 77058. Doubletree Hotel at Post Oak, 2001 Post Oak Boulevard, Houston, TX 77056.

FOR FURTHER INFORMATION CONTACT: Mary Grace Lucier, Executive Director, National Advisory Council on Educational Research and Improvement, 330 C Street, SW., Washington, DC 20202–7579, (202) 205–9004.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Educational Research and Improvement is established under section 405 of the 1972 Education Amendments, Public Law 92–318, as amended by the Higher Education Amendments of 1986, Public Law 99–498, (20 U.S.C. 1221e). The Council is established to advise the President, the Secretary of Education and the Congress on policies and activities carried out by the Office of Educational Research and Improvement (OERI). The meeting of the Council is open to the public. The proposed agenda for February 24 includes presentations on reforms in science curricula in elementary and secondary education as developed by the Houston Museum of Natural Science, the Houston Independent School District, Rice University, Baylor College of Medicine, and the Challenger Center for Space Science Education.

On February 25, the meeting will focus on outreach programs and pre-college education programs of the NASA Johnson Space Center. On February 26, members will discuss curriculum and evaluation standards in school mathematics, and formulate research recommendations pertaining to Goal Four (First in the World in Science and Mathematics) of the National Education Goals. The final agenda will be available from the Council office on February 12.

Records are kept of all Council Proceedings and are available for public inspection at the Office of the National Advisory Council on Educational Research and Improvement, 330 C Street, SW., suite 4076, Washington, DC 20202–7579, from 9 a.m. to 5 p.m. Monday through Friday.

Dated: February 1, 1993.

Mary Grace Lucier,
Executive Director.
[FR Doc. 93–2703 Filed 2–4–93; 8:45 am]
BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

San Francisco Field Office; Grant Award for Environmental Restoration Program for Technical Review and Services for Lawrence Livermore National Laboratory—Site 300; Noncompetitive Award

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of noncompetitive financial assistance award.

SUMMARY: Pursuant to the DOE Financial Assistance Rules, 10 CFR 600.7(b) the U.S. Department of Energy, San Francisco Field Office announces that it plans to make a noncompetitive

grant award for the technical review and services for the Environmental Restoration Program—Lawrence Livermore National Laboratory—Site 300. The term of the award will cover the period January 15, 1993 and end on September 30, 1993. The total grant award is $150,894.

ADDRESSES: U.S. Department of Energy, San Francisco Field Office, 1333 Broadway, Oakland, CA 94612.

FOR FURTHER INFORMATION CONTACT: Terrie Brown of the DOE San Francisco Field Office, Contracts Management Division, telephone (510) 273-4134.

SUPPLEMENTARY INFORMATION: The proposed grant award primarily supports the management and operation of the environmental restoration program at Lawrence Livermore National Laboratory—Site 300. The overall objectives and goals of the work are to perform timely technical reviews and substantive comments on reports and studies, identification and explanation of unique State requirements; field investigations and cleanup activities and support and assist DOE in conducting public participation activities.

Eligibility for this grant award is being limited to the State of California, Central Valley Regional Water Quality Control Board because LLNL—Site 300 is located in the State of California and the state has sole authority within its borders to perform the proposed review and services.

Issued in Oakland, CA, January 5, 1993.

Joan Macrusky,

Chief, ER/DP/EM Branch, Contracts Management Division.

[FR Doc. 93-2787 Filed 2-4-93; 8:45 am]

BILLING CODE 6450-01-M

Preparation of Nuclear Waste Management Plan Report; Request for Comments/Notice of Public Meeting

AGENCY: Department of Energy, Office of Civilian Radioactive Waste Management.

ACTION: Request for comments/Notice of public meeting.

SUMMARY: Pursuant to section 803 of the Energy Policy Act of 1992 (EPACT) (Pub. L. 102-486, Oct. 24, 1992) the Department of Energy (DOE) Office of Civilian Radioactive Waste Management (OCRWM) hereby requests the views and comments of the Nuclear Regulatory Commission (NRC), the Environmental Protection Agency (EPA), and other interested parties on whether current programs and plans for management of nuclear waste, as mandated by the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 *et seq.*) are adequate for management of any additional volumes or categories of nuclear waste that might be generated by any new nuclear power plants that might be constructed and licensed after the date of the enactment of EPACT. Views and comments received in accordance with the instructions given below will be used by OCRWM in the preparation of the Nuclear Waste Management Plan Report required under section 803 of EPACT. There will be a further request for comments and notice of public meeting following preparation of a draft Nuclear Waste Management Plan Report

To facilitate preparation of the required report and to present a forum for consultation with the NRC and the EPA and to allow members of the public an opportunity to provide information and comment, as required by EPACT, OCRWM gives notice of a public meeting to be held on the date and at the place indicated below.

DATES: Comments are to be submitted to OCRWM at the address below no later than April 6, 1993. The meeting will be held on February 17, 1993, beginning at 8:30 a.m., at the address given below.

ADDRESSES: Comments should be addressed to: Dwight E. Shelor, OCRWM, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585

The public meeting will be held at Loews L'Enfant Plaza Hotel in the Monet Room at 480 L'Enfant Plaza SW., Washington, DC (202) 484-1000. Accessible by metro on the green, yellow, orange and blue lines

SUPPLEMENTARY INFORMATION: Section 803 of EPACT states that the Secretary shall prepare the report for submission to the President and the Congress within 1 year after the date of the enactment of EPACT. The report shall examine any new relevant issues related to management of spent nuclear fuel and high-level radioactive waste that might be raised by the addition of new nuclear-generated electric capacity, including anticipated increased volumes of spent nuclear fuel or high-level radioactive waste, any need for additional interim storage capacity prior to final disposal, transportation of additional volumes of waste, and any need for additional repositories for deep geologic disposal.

FOR FURTHER INFORMATION: For information on substantive matters, please contact Dwight E. Shelor of the Office of Civilian Radioactive Waste Management, at (202) 586-3623.

Lake Barrett,

Acting Director, Office of Civilian Radioactive Waste Management.

[FR Doc. 93-2788 Filed 2-4-93; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Agency Information Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of request submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act (Pub. L. No. 96-511, 44 U.S.C. 3501 *et seq.*). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection; (2) Collection number(s); (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, e.g., new, revision, extension, or reinstatement; (6) Frequency of collection; (7) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) Affected public; (9) An estimate of the number of respondents per report period; (10) An estimate of the number of responses per respondent annually; (11) An estimate of the average hours per response; (12) The estimated total annual respondent burden; and (13) A brief abstract describing the proposed collection and the respondents.

DATES: Comments must be filed on or before March 8, 1993. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so, as soon as possible. The Desk Officer may be telephoned at (202) 395-3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer,

Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

FOR FURTHER INFORMATION AND COPIES OF RELEVANT MATERIALS CONTACT: Jay Casselberry, Office of Statistical Standards, (EI-73), Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Mr. Casselberry may be telephoned at (202) 254-5348.

SUPPLEMENTARY INFORMATION: The energy information collection submitted to OMB for review was:

1. Federal Energy Regulatory Commission.
2. FERC-519.
3. 1902-0082.
4. Disposition of Facilities, Mergers, and Acquisitions of Securities.
5. Extension.
6. On occasion.
7. Mandatory.
8. Businesses or other for-profit.
9. 30 respondents.
10. 1 response per respondent.
11. 80 hours per response.
12. 2,400 hours.
13. The Federal Power Act requires that public utilities file for approval of dispositions of jurisdictional facilities; mergers of such facilities with other such facilities owned by other parties; or acquisitions of securities of other public utilities. Supporting data is required to determine if transactions are consistent with public interest.

Statutory Authority: Sec. 3506 (a) and (c)(1), Paperwork Reduction Act of 1980, as amended (Pub. L. 96-511), 44 U.S.C. 3506 (a) and (c)(1).

Issued in Washington, DC, January 28, 1993.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 93-2789 Filed 2-4-93; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER92-330-000, et al.]

Lockhart Power Company, et al., Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. Lockhart Power Company

[Docket No. ER93-330-000]

January 27, 1993.

Take notice that on January 15, 1993, Lockhart Power Company filed with the Commission an Electric Service Agreement—Lockhart Power Company with the City of Union, South Carolina. The Agreement supersedes two service agreements between Union and Lockhart, for which agreements notices of termination have been filed. The rates to be charged Union are those already on file under Lockhart's FERC Electric Tariff, Original Volume No. 1 (Resale Service—Municipalities). The only changes to be made in the service to be provided are an additional delivery point and a change in the notice period for termination. Lockhart requests that the Commission made the notices of termination and the Agreement effective as of January 21, 1993, and has requested waiver of the Commission's notice requirements for good cause shown. Lockhart states that copies of the filing have been served on Union and on the Public Service Commission of South Carolina.

Comment date: February 10, 1993, in accordance with Standard Paragraph E at the end of this notice.

2. Orange and Rockland, Inc.

[Docket No. ER93-328-000]

January 27, 1993.

Take notice that on January 14, 1993, Orange and Rockland, Inc. (O&R) tendered for filing a Consent Settlement Agreement between O&R and the FERC Litigation Staff.

Comment date: February 10, 1993, in accordance with Standard Paragraph E at the end of this notice.

3. Indiana & Michigan Municipal Distributors Association, City of Auburn, Indiana v. Indiana Michigan Power Company

[Docket Nos. EL88-1-004; ER88-31-003 and ER88-32-003; ER90-270-003 and ER90-271-004

January 27, 1993.

Take notice that on January 14, 1993, Indiana Michigan Power Company (I&M) tendered a modified compliance filing in the above-referenced dockets, in compliance with the Commission's December 22, 1992 Opinion and Order on Initial Decision. The modified compliance filing amends a prior compliance filing made by I&M on July 15, 1992 in order to reflect the elimination of section 5.10 of Rate Schedule No. 70 and section 266 of Rate Schedule No. 74.

Copies of the modified filing were served upon Richmond Power & Light, the Indiana Municipal Power Agency and the Indiana Utility Regulatory Commission.

Comment date: February 10, 1993, in accordance with Standard Paragraph E at the end of this notice.

4. Pennsylvania Power & Light Company

[Docket No. ER93-268-000]

January 27, 1993.

Take notice that on January 11, 1993, Pennsylvania Power & Light Company (PP&L) tendered for filing an amendment to its original filing filed in this docket on December 8, 1992.

Comment date: February 10, 1993, in accordance with Standard Paragraph E at the end of this notice.

5. Maine Public Service Company

[Docket No. ER93-17-001]

January 27, 1993.

Take notice that on January 11, 1993, Maine Public Service Company tendered for filing its compliance filing in the above-referenced docket.

Comment date: February 11, 1993, in accordance with Standard Paragraph E at the end of this notice.

6. Puget Sound Power & Light Company

[Docket No. ER93-159-000]

January 28, 1993.

Take notice that on January 19, 1993, Puget Sound Power & Light Company (Puget) tendered for filing information relating to service under Rate Schedule FERC No. 16 or construction, relocation, operation, maintenance or ownership of facilities by Puget or Bonneville Power Administration (Bonneville). A copy of the filing was served upon Bonneville.

Comment date: February 12, 1993, in accordance with Standard Paragraph E at the end of this notice.

7. Iowa Electric Light and Power Company

[Docket No. ER93-262-000]

January 28, 1993.

Take notice that Iowa Electric Light and Power Company (Iowa Electric) on January 25, 1993, tendered for filing an Amendment to its December 7, 1992 filing in the above docket. The Amendment provides additional information relating to and justification for a change in the rates charged in Service Schedule C (Short Term Power) to the Interconnection Agreement between Iowa Electric and Central Illinois Public Service Company.

Copies of this filing have been sent to Central Illinois Public Service Company, the Iowa State Utilities Board, and the Illinois Commerce Commission.

Comment date: February 12, 1993, in accordance with Standard Paragraph E at the end of this notice.

8. Consolidated Edison Company of New York, Inc.

[Docket No. ER93-331-000]

January 28, 1993.

Take notice that on January 19, 1993, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing a Supplement to Con Edison Rate Schedule FERC No. 112 for transmission service for New York State Electric & Gas Corporation (NYSEG). The Supplement is an executed letter agreement substantially similar to, and superseding, an unsigned letter agreement, Supplement No. 1 to the Rate Schedule. Con Edison has requested waiver of notice requirements so that the Supplement can be made effective as of January 1, 1988.

Con Edison states that a copy of this filing has been served by mail upon NYSEG.

Comment date: February 12, 1993, in accordance with Standard Paragraph E at the end of this notice.

9. Kentucky Power Company

[Docket No. ER93-332-000]

January 28, 1993.

Take notice that on January 19, 1993, Kentucky Power Company tendered for filing a letter agreement between Kentucky Power and the City of Vanceburg, Kentucky which extends until March 1, 1993, the time for Vanceburg to enter into a service agreement for full-requirements service from Kentucky Power beginning January 1, 1994. Vanceburg agreed to purchase such service, beginning January 1, 1994, in a 1988 agreement with Kentucky Power accepted for filing by the Commission on July 20, 1988 in Docket No. ER88-408-000.

Comment date: February 12, 1993, in accordance with Standard Paragraph E at the end of this notice.

10. Florida Power & Light Company

[Docket No. ER93-228-000]

January 28, 1993.

Take notice that on January 14, 1993, Florida Power & Light Company (FPL) tendered for filing Supplemental Information to the Letter Agreement Regarding Construction and Reimbursement of Calusa-Lee No. 2 Line Terminal at Calusa between FPL and Lee County Electric Cooperative, Inc.

Comment date: February 12, 1993, in accordance with Standard Paragraph E at the end of this notice

11. Puget Sound Power & Light Company

[Docket No. ER93-168-000]

January 28, 1993.

Take notice that on January 19, 1993, Puget Sound Power & Light Company (Puget) tendered for filing information relating to service under Rate Schedule FERC No. 82 or construction, relocation, operation, maintenance or ownership of facilities by Puget or the United States Department of Navy (Navy). A copy of the filing was served upon the Navy.

Comment date: February 12, 1993, in accordance with Standard Paragraph E at the end of this notice.

12. Puget Sound Power & Light Company

[Docket No. ER93-171-000]

January 28, 1993.

Take notice that on January 19, 1993, Puget Sound Power & Light Company (Puget) tendered for filing information relating to construction, operation, maintenance, ownership or interconnection of facilities by Puget or Public Utility District No. 2 of the Grant County (District). A copy of the filing was served upon the District.

Comment date: February 12, 1993, in accordance with Standard Paragraph E at the end of this notice.

13. Puget Sound Power & Light Company

[Docket No. ER93-120-000]

January 28, 1993.

Take notice that on January 19, 1993, Puget Sound Power & Light Company (Puget) tendered for filing information relating to the Service Agreements Filed Under Western Systems Power Pool Agreement (Docket No. ER91-195-000).

Comment date: February 12, 1993, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-2809 Filed 2-4-93; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 10536-001; Washington]

Public Utility District No. 1 of Okanogan County; Availability of Environmental Assessment

February 1, 1993.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for license for the Enloe Dam Project, located near the town of Oroville on the Similkameen River, Okanogan County, Washington, and has prepared an Environmental Assessment (EA) for the project. In the EA, the Commission's staff has analyzed the environmental impacts of the project and has concluded that relicensing the project would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, room 3104, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 93-2808 Filed 2-4-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD93-03310T Texas-102]

State of Texas; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

February 1, 1993.

Take notice that on January 21, 1993, the Railroad Commission of Texas (Texas) submitted the above-referenced notice of determination pursuant to section 271.703(c)(3) of the Commission's regulations, that the Wilcox 1st Hinnant Formation underlying a portion of Jim Hogg County, Texas, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The designated area covers approximately 2,983.9 acres in Jim Hogg County and includes all or part of the following surveys:

Survey	Section	Acreage
H. Rodriguez, A-268	142	468.5
A.B. & M., A-26	143	80.0
San Felipe A.M. & I. Co., A-277	145	640.0
Wm. Key, A-200	269	1,084.7
Sam Honey, A-164	270	626.3
J.S. Williams, A-344	271	84.4

The notice of determination also contains Texas' findings that the referenced portion of the Wilcox 1st Hinnant Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203, and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 93-2811 Filed 2-4-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD93-03311T Texas-103]

State of Texas; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

February 1, 1993.

Take notice that on January 21, 1993, the Railroad Commission of Texas (Texas) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Wilcox Formation, Lower 1st Reagan Sand underlying a portion of Bee County, Texas, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The designated area, lying within Railroad Commission District 2, includes portions of the Thomas Duty Survey A-21 and the Jose Maria Uranga Survey A-68.

The notice of determination also contains Texas' findings that the referenced portion of the Wilcox Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 93-2812 Filed 2-4-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP93-167-000, et al.]

Williams Natural Gas Company, et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Williams Natural Gas Company

[Docket No. CP93-167-000]

Take notice that on January 21, 1993, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP92-167-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to abandon a firm sale of natural gas to Avant Utilities Authority (Avant) in Osage County, Oklahoma, under WNG's blank certificate issued in Docket No. CP82-479-000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

WNG proposes to abandon the sale in response to a request from Avant to terminate the sales agreement between WNG and Avant. It is stated that the sale was carried out under the terms of WNG's Rate Schedule F and was authorized by the Commission in Docket No. G-18991. It is explained that the peak day sales volume was 3,015 Dt equivalent. It is asserted that the sale is replaced by a firm transportation agreement, which went into effect January 1, 1993. It is further asserted that the transportation service utilizes the same facilities, and that no facilities are proposed for abandonment herein. It is stated that the proposed abandonment would have no impact on WNG's system or on its other customers.

Comment date: March 11, 1993, in accordance with Standard Paragraph G at the end of this notice.

2. Williston Basin Interstate Pipeline Company

[Docket No. CP93-163-000]

January 25, 1993.

Take notice that on January 21, 1993, Williston Basin Interstate Pipeline Company (Williston Basin), suite 300, 200 North Third Street, Bismarck, North Dakota 58501, filed in Docket No. CP93-163-000 a request pursuant to §§ 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216) for authorization to abandon a sales tap and appurtenant facilities under Williston Basin's blanket certificate issued in Docket No. CP82-487-000, *et al.*, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Williston Basin proposes to abandon a farm tap described as the Montana-Dakota sales tap station 896+64, located on its Cabin Creek-Bismarck Transmission Line in Wibaux County, Montana. It is stated that Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc., advised that service through the sales tap is no longer necessary, by consent statement dated December 10, 1992. Williston Basin states that the tap would be abandoned on its existing transmission right-of-way, and estimates the cost of removal would be $250.

Comment date: March 11, 1993, in accordance with Standard Paragraph G at the end of this notice.

3. Williams Natural Gas Company

[Docket No. CP93-168-000]

January 25, 1993.

Take notice that on January 21, 1993, Williams Natural Gas Company (Williams), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP93-168-000 a request pursuant to §§ 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216) for authorization to abandon sales service for Mannford Public Works Authority (Mannford) under its blanket certificate issued in Docket No. CP82-479-000, pursuant to section 7(b) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

It is indicated that Mannford by letter dated May 28, 1992, has requested that the July 1, 1988, sales service agreement with Williams be terminated as of January 1, 1993, to be replaced by a firm transportation service under Williams' Rate Schedule FTS. No abandonment of facilities is proposed.

Comment date: March 11, 1993, in accordance with Standard Paragraph G at the end of this notice.

4. Williams Natural Gas Company

[Docket No. CP93-169-00]

January 25, 1993.

Take notice that on January 21, 1993, Williams Natural Gas Company (WNG) P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP92-169-000 a request pursuant to § 157.205 of the

Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to abandon a firm sale of natural gas to the Town of Burlington (Burlington) in Alfalfa County, Oklahoma, under WNG's blanket certificate issued in Docket No. CP82-479-000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

WNG proposes to abandon the sale in response to a request from Burlington to terminate the sales agreement between Burlington and WNG. It is stated that the sale was carried out under the terms of WNG's Rate Schedule F and was authorized by the Commission in Docket No., CP63-51. It is explained that the peak day sales volume was 1,346 Dt equivalent. It is asserted that the sale is replaced by a firm transportation agreement, which went into effect January 1, 1993, as reported in Docket No. ST92-993. It is further asserted that the transportation service utilizes the same facilities, and that no facilities are proposed for abandonment herein. It is stated that the proposed abandonment would have no impact on WNG's system or on its other customers.

Comment date: March 11, 1993, in accordance with Standard Paragraph G at the end of this notice.

5. Florida Gas Transmission Company

[Docket No. CP93-165-000]

January 26, 1993.

Take notice that on January 21, 1993, Florida Gas Transmission Company, (FGT), 1400 Smith Street, Houston, Texas 77002, filed an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon an interruptible transportation service for Southern Natural Gas Company (SNG), under Rate Schedule X-15, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

FGT states that SNG, by letter dated December 20, 1991, requested termination of the relative agreement because the transportation service is no longer needed. FGT also indicates that the proposed abandonment will not result in the abandonment of facilities nor will it result in the abandonment of service to any other customers of FGT.

Comment date: February 16, 1993, in accordance with Standard Paragraph F at the end of this notice.

6. Transwestern Pipeline Company

[Docket No. CP93-166-000]

January 26, 1993.

Take notice that on January 21, 1993, Transwestern Pipeline Company, (Transwestern), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP93-166-000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to abandon a direct interruptible sale of natural gas to Climax Chemical Company (Climax) in Lea County, New Mexico, under Transwestern's blanket certificate issued in Docket No. CP82-534-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Transwestern states that, by order issued June 15, 1962, in Docket No. CP62-185, it was authorized to make direct interruptible sales of up to 2,000 Mcf of natural gas per day to Climax from its Monument Lateral in Lea County, New Mexico, pursuant to an interruptible sales agreement dated January 24, 1962.

Transwestern further states that, by order dated December 17, 1992, the United States Bankruptcy Court for the District of New Mexico approved an agreement between Transwestern and Climax for rejection of the gas sales agreement and termination of the automatic stay and authorized Transwestern to initiate abandonment proceedings.

Transwestern does not propose to abandon the related facilities, it is stated.

Comment date: March 12, 1993, in accordance with Standard Paragraph G at the end of this notice.

7. Colorado Interstate Gas Company

[Docket No. CP93-171-000]

January 27, 1993.

Take notice that on January 22, 1993, Colorado Interstate Gas Company (CIG), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP93-171-000 a request pursuant to § 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Policy Act (18 CFR 157.205 and 157.211) for authorization to construct and operate a new meter station pursuant to CIG's blanket certificate issued in Docket No. CP83-21-000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

CIG proposes to construct and operate the Fort Morgan SW Meter Station located in Morgan County, Colorado. CIG states that the meter station will be constructed pursuant to a request by the City of Fort Morgan dated August 12, 1992. It is also stated that the Fort Morgan SW Meter Station is not proposed to increase total peak day or firm volumes delivered to the City of Fort Morgan and the meter station will be designed with a maximum capacity of 4,000 Mcf per day.

Comment date: March 15, 1993, in accordance with Standard Paragraph G at the end of this notice.

8. Colorado Interstate Gas Company

[Docket No. CP93-162-000]

January 28, 1993.

Take notice that on January 15, 1993, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP93-162-000, a request pursuant to section 7(b) of the Natural Gas Act and section 157 of the Commission's Regulations for permission and approval to abandon two compressor units at the Spindle Compressor Station (Spindle) located in Weld County, Colorado, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

CIG states that the two 600-horsepower units certificated in 1979 have been determined to be in excess for the volumes being produced in the Spindle area of Colorado, and the remaining 1,096 horsepower of compression is sufficient to compress the Spindle volumes.

Comment date: February 18, 1993, in accordance with Standard Paragraph F at the end of this notice.

9. Williams Natural Gas Company

[Docket No. CP93-172-000]

January 28, 1993.

Take notice that on January 22, 1993, Williams Natural Gas Company (Williams), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP93-172-000, a request pursuant to §§ 157.205 and 157.216(b) of the Commission's Regulations under the Natural Gas Act, to abandon the sale of gas for resale to the Town of Freedom, Oklahoma (Freedom) in Woods County, Oklahoma, under Williams' blanket certificate authorization issued in Docket No. CP82-479-000, all as more fully set forth in the request on file with the Commission and open to public inspection.

Williams sold gas to Freedom under a sales agreement designated as Rate Schedule F. However, Freedom has requested cancellation of the firm sales agreement, effective January 1, 1993, or

as soon thereafter, because the service is no longer needed, as stated by Williams. Williams contends that Freedom has a firm transportation agreement in place, effective January 1, 1993, which would take the place of the resale sales agreement.

No abandonment of facilities is requested in this proposal, as Williams indicates the facilities will remain in place and be available for the delivery of transportation gas.

Comment date: March 15, 1993, in accordance with Standard Paragraph G at the end of this notice.

10. CNG Transmission Corporation

[Docket No. CP93–175–000]

January 28, 1993.

Take notice that on January 25, 1993, CNG Transmission Corporation (CNGT), 445 West Main Street, Clarksburg, West Virginia 26302–2450, filed in Docket No. CP93–175–000 a request pursuant to §§ 157.205, 157.211(a) and 157.216(b) of the Commission's Regulations under the Natural Gas Act for authorization to abandon certain sales and transportation taps and associated gas supply facilities, related rights-of-way and all other associated equipment, pipe and appliances connected therewith to Ardent Resources, Inc. (Ardent Resources), under its blanket certificate issued in Docket No. CP82–537–000, all as more fully set forth in the request on file with the Commission and open to public inspection.

CNGT states that the facilities it proposes to abandon are located in Erie, Seneca, Cayuaga, Livingston, Madison and Chatauqua Counties, New York, and in Potter and Tioga Counties, Pennsylvania. CNGT indicates that these facilities service wells under expired CNGT gas purchase contracts and company production, and that the gas related to these facilities has been removed from jurisdiction under the Natural Gas Act by virtue of the Wellhead Decontrol Act of 1989.

CNGT states that it currently makes sales to North Penn Gas Company (North Penn) and New York State Electric and Gas Corporation (NYSEG) through facilities CNGT proposes to abandon herein. According to CNGT, North Penn and NYSEG have agreed to the discontinuance of service by CNGT.

Comment date: March 15, 1993, in accordance with Standard Paragraph G at the end of this notice.

11. Williams Natural Gas Company

[Docket No. CP93–178–000]

January 28, 1993.

Take notice that on January 25, 1993, Williams Natural Gas Company (WNG), P. O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP93–178–000 a request pursuant to §§ 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to abandon the sale of gas for resale to Wakita Utilities Authority (Wakita) under WNG's blanket certificate issued in Docket No. CP82–479–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

WNG states that Wakita has requested cancellation of their firm sales agreement under WNG's Rate Schedule F. An existing firm transportation agreement will remain in effect. The facilities would be left in place for the delivery of transportation gas.

Comment date: March 15, 1993, in accordance with Standard Paragraph G at the end of this notice.

12. Williston Basin Interstate Pipeline Company

[Docket No. CP93–176–000]

January 28, 1993.

Take notice that on January 25, 1993, Williston Basin Interstate Pipeline Company (Williston Basin), 200 North Third Street, suite 300, Mismarck, North Dakota 58501, filed in Docket No. CP93–176–000 a request pursuant to § 157.205 of the Commission's Regulations to construct and operate a metering station for an interruptible transportation service for Duncan Energy Company (Duncan) in Billings County, North Dakota under Williston Basin's blanket certificate issued in Docket No. CP82–487–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Williston Basin proposes to construct and operate a metering station and appurtenant facilities on an existing right-of-way for the delivery of up to 225 Mcf per day of natural gas, on an interruptible basis, for use in oil field operations by Duncan in the Fryburg Field, Billings County, North Dakota at an estimated cost of $9,055, which would be reimbursed by Duncan. Williston Basin states that the transportation service would be provided under its Rate Schedule IT–1 and would have no significant effect on its peak day and annual requirements.

Comment date: March 15, 1993, in accordance with Standard Paragraph G at the end of this notice.

13. Texas Eastern Transmission Corporation and Transcontinental Gas Pipe Line Corporation

[Docket No. CP93–170–000]

January 28, 1993.

Take notice that on January 22, 1993, Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 1642, Houston, Texas 77251–1642 and Transcontinental Gas Pipe Line Corporation (TGPL), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP93–170–000, a joint application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a transportation and exchange service provided pursuant to Texas Eastern's Rate Schedule X–123 and TGPL's Rate Schedule X–202, effective July 1, 1990, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that by order issued May 23, 1979 (May 23, 1979 Order) in Docket No. CP79–79, TGPL was authorized to transport up to 17,400 Mcf of natural gas per day on a firm basis for Texas Eastern. It is further stated that the gas is transported through a segment of TGPL's system extending from Vermilion Block 331, offshore Louisiana, to South Marsh Island Block 66, offshore Louisiana. At South Marsh Island Block 66 the gas is considered to be exchanged with TGPL's gas which is delivered to Texas Eastern's offshore system at a point in Main Pass Area Block 7, offshore Louisiana.

Texas Eastern and TGPL state that the May 23, 1979 Order was amended by order issued June 22, 1984, in Docket No. CP79–79–002, authorizing the transportation and exchange of gas from an additional delivery point in Breton Sound Block 54, offshore Louisiana, where TGPL would deliver gas to Texas Eastern. It is stated that the source of supply for the gas delivered to the Breton Sound Block 54 delivery point was a commitment to TGPL of reserves in Breton Sound Blocks 54 and 55.

No facilities are proposed to be abandoned herein.

Comment date: February 18, 1993, in accordance with Standard paragraph F at the end of the notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and

385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 93–2810 Filed 2–4–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP92–229–000 and RP89–137–000, et al.]

Northwest Pipeline Corp.; Notice of Settlement Conference

February 1, 1993.

Pursuant to the Commission's order issued October 29, 1992 (61 FERC ¶61,126), an informal conference will be held to explore settlement of issues raised in Docket No. RP92–229–000. This is a continuation of the conferences held January 14 and 28, 1993. The conference may also involve discussion of issues in Northwest Pipeline Corporation Docket No. RP89–137–000, *et al. (See,* order issued September 24, 1992, 60 FERC ¶61,286). All parties should come prepared to discuss settlement, and the parties should be represented by principals who have the authority to commit to a settlement. The conference will be held on Wednesday, February 10, 1993, beginning at 9 a.m. in room 2402–A of the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

All interested persons and Staff are permitted to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 93–2813 Filed 2–4–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. TA91–1–17–000, TA91–1–17–003, TA91–1–17–005, and TM91–2–17–002]

Texas Eastern Transmission Corp.; Notice of Informal Technical Conference

February 1, 1993.

Pursuant to the Commission's order issued on October 22, 1992, an informal technical conference will be held to explore settlement of the issues raised in the above-captioned proceedings. All parties should come prepared to discuss settlement, and the parties should be represented by principals who have the authority to commit to a settlement. The conference will be held on Tuesday, February 9, 1993, at 10 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426.

All interested persons and Staff are permitted to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 93–2814 Filed 2–4–93; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

Cases Filed During the Week of January 8 Through January 15, 1993

During the week of January 8 through January 15, 1993, the appeals and applications for exception or other relief listed in the Appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: February 1, 1993.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of January 8 through January 15, 1993]

Date	Name and location of applicant	Case No.	Type of submission
1/8/93	Gulf/Hawthorne Gulf, Atlantic Beach, FL	RR300–222	Request for modification/rescission in the Gulf refund proceeding. If granted: The December 8, 1992 Dismissal Letter (Case No. RF300–16679) issued to Hawthorne Gulf would be modified regarding the firm's application for refund submitted in the Gulf refund proceeding.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of January 8 through January 15, 1993]

Date	Name and location of applicant	Case No.	Type of submission
1/11/93	Citizen's Action Committee, Piketon, OH	LFA-0262	Appeal of an information request denial. If granted: The December 17, 1992 Freedom of Information Request Denial issued by the Oak Ridge Field Office would be rescinded and the Citizen's Action Committee would receive access to certain DOE information concerning shipments of contaminated waste from Cincinnati's Fernald Plant and Miamisburg Mound Facility to the DOE Plant, Piketon, Ohio.
1/11/93	J. Garlin Commercial Furnishings, Denver, CO	LFA-0263	Appeal of an information request denial. If granted: The December 17, 1992 Freedom of Information Request Denial issued by Rocky Flats Office would be rescinded and J. Garlin Commercial Furnishings would receive access to certain information involving EG&G Rocky Flats Plant Purchase Order No. 226088TB.
1/11/93	Marlene R. Flor, Albuquerque, NM	LFA-0261	Appeal of an information request denial. If granted: The December 3, 1992 Freedom of Information Request Denial issued by the Albuquerque Operations Office would be rescinded, and Marlene R. Flor would receive access to her personnel security file.
1/11/93	Harbert Corporation, Birmingham, AL	LFA-0264	Appeal of an information request denial. If granted: The December 7, 1992 Freedom of Information Request Denial issued by the Office of Placement and Administration would be rescinded and Harbert Corporation would receive access to documents related to the Agrifuels Project.
1/12/93	Gulf/Goofys Gulf, Woodbridge, VA	RR300-223	Request for modification/rescission in the Gulf refund proceeding. If granted: The December 8, 1992 Dismissal Letter (Case No. RF300-16694) issued to Goofys Gulf would be modified regarding the firm's application for refund submitted in the Gulf refund proceeding.

REFUND APPLICATIONS RECEIVED

Date received	Name of refund proceeding/name of refund application	Case No.
9/10/91	Rushco Shell	RF315-10275
2/14/92	Benoit Distributing	RF321-19555
1/8/93 thru 1/15/93	Atlantic Richfield applications received	RF304-13509 thru RF304-13533
1/8/93 thru 1/15/93	Gulf Oil refund applications received	RF300-20823 thru RF300-20848
1/8/93 thru 1/15/93	Crude Oil refund applications received	RF272-94037 thru RF272-94051
1/11/93	Monk Brothers, Inc	RF321-19552
1/11/93	Joe's Texaco	RF321-19553
1/11/93	Finley & Sons Texaco	RF321-19554
1/11/93	Bay Pine Marina	RF309-1428
1/11/93	Gordon Olson Clark Super 10	RF342-314
1/14/93	Hydratane Gas Company, Inc	RF321-19556
1/14/93	Park Texaco Car Wash & Tire	RF321-19557

[FR Doc. 93-2790 Filed 2-4-93; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings, and Appeals During the Week of January 15 Through January 22, 1993

During the week of January 15 through January 22, 1993, the appeals and applications for exception or other relief listed in the Appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: February 1, 1993.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of January 15 through January 22, 1993]

Date	Name and location of applicant	Case No.	Type of submission
1/19/93	Milton L. Loeb, Albuquerque, NM	LFA-0265	Appeal of an information request denial. If granted: The December 1, 1992 Freedom of Information Request Denial issued by the Albuquerque Field Office would be rescinded, and Milton L. Loeb would receive access to a complete response to requested information pertaining to Contract No. DE-AC04-90AL57502.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of January 15 through January 22, 1993]

Date	Name and location of applicant	Case No.	Type of submission
1/19/93	Arco/Swann Oil, Inc., Memphis, TN	RR304-54	Request for modification/rescission in the Arco refund proceeding. If granted: The April 9, 1991 Decision and Order (Case No. RF304-11451) issued to Swann Oil, Inc. would be modified regarding the firm's application for refund submitted in the Arco refund proceeding.
1/21/93	Gulf/Pangles Store, Woodbridge, VA	RR300-224	Request for modification/rescission in the Gulf refund proceeding. If granted: The December 8, 1992 Dismissal Letter (RF300-16636) issued to Pangles Store would be modified regarding the firms' application for refund submitted in the Gulf refund proceeding.

REFUND APPLICATIONS RECEIVED

Date received	Name of refund proceeding/name of refund application	Case No.
1/15/93 thru 1/22/93	Gulf Oil refund applications received	RF300-20849 thru RF300-20854
1/15/93 thru 1/22/93	Texaco Oil refund applications received	RF321-19558 thru RF321-19566
1/19/93	Industrial Fuel & Asphalt Corp.	RF304-13534
1/21/93	Central Petroleum Company	RF272-94052
1/21/93	Waldenn Oil Company	RF304-13535
1/21/93	Thor Lieungh	RF304-13536
1/22/93	Dejong Service	RF272-94053
1/22/93	Buckeye Countrymark, Inc.	RF272-94054

[FR Doc. 93-2791 Filed 2-4-93; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4591-7]

Transfer of Data to Contractors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intended transfer of confidential business information to contractors.

SUMMARY: EPA intends to transfer confidential business information (CBI) collected from the pulp, paper and paperboard manufacturing industry to two contractors. Transfer of the information will allow the contractors to assist EPA in developing regulations under the Clean Water Act and the Clean Air Act for the pulp, paper, and paperboard manufacturing industry. The information being transferred was collected under authority of section 308 of the Clean Water Act, section 114 of the Clean Air Act, and section 3007 of the Resource Conservation and Recovery Act. Interested persons may submit comments on this intended transfer of information to the address shown below.

DATES: Comments on the transfer of data are due February 16, 1993.

ADDRESSES: Comments may be sent to Marion Thompson, Engineering and Analysis Division (WH-552), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Marion Thompson, Engineering and Analysis Division (WH-552), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260-7117.

SUPPLEMENTARY INFORMATION: EPA has previously transferred to a subcontractor, Eastern Research Group of Arlington, Massachusetts, information, including confidential business information (CBI), concerning the pulp, paper, and paperboard industry. The information was collected under authority of section 308 of the Clean Water Act, section 114 of the Clean Air Act, and section 3007 of the Resource Conversation and Recovery Act.

The information transferred includes questionnaire data requested by EPA in 1990 and provided in 1990, 1991, and 1992. The transferred data includes economic and financial information about the companies that EPA will analyze during development of revised regulations. EPA collected information on assets, liabilities, revenues, and expenses. EPA also collected information about individual product categories, including production quantities, shipments, and values. Many companies claimed that their responses should be considered confidential business information. EPA determined that this transfer was necessary to enable the subcontractor to perform their work under EPA Contract No. 68-C8-0084 by assisting EPA in developing economic impact analyses that support effluent limitations guidelines and standards and maximum achievable control technology standards for the pulp, paper, and paperboard industry. Notice to this effect was provided to the affected companies. This contract is scheduled to expire in the next few months.

Today, EPA is giving notice that it has entered into an additional contract, No. 68-C0-0080, with Abt Associates, Inc. of Cambridge, Massachusetts and Abt Associates has entered into an additional contract with its subcontractor, Eastern Research Group, to assist EPA in developing economic impact analysis. Abt Associates and Eastern Research Group will provide support for economic analysis and for questionnaire data analysis. EPA intends to maintain Eastern Research Group's access to information, including CBI, that has already been transferred. EPA also intends to transfer to Eastern Research Group information to be collected in the future to support the economic analysis for the regulations of the pulp, paper, and paperboard industry. Further, to the extent that Abt Associates must review information to perform their work as prime contractor, EPA intends to transfer information, including CBI, to Abt Associates.

In accordance with 40 CFR part 2, subpart B, the previously collected information and information that may be collected in the future to support development of regulations for the pulp, paper, and paperboard industry will be transferred to Abt Associates and its subcontractor, Eastern Research Group (if not already transferred for use by Eastern Research Group under the previous contract). The contractor and

subcontractor are given access only to the data that they need to perform their assignments under their contracts. EPA has determined that this transfer is necessary to enable the contractor and subcontractor to perform their work under EPA Contract No. 68–C0–0080 and the subcontract.

Dated: January 29, 1993.

James Hanlon,

Acting Director,

[FR Doc. 93–2781 Filed 2–4–93; 8:45 am]

BILLING CODE 6560–01–M

[ER–FRL–4591–6]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared January 18, 1993 through January 22, 1993 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260–5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 10, 1992 (57 FR 12499).

Draft EISs

ERP No. D–BLM–K02007–CA

Rating EC2, Hollister Oil and Gas Leasing, Land and Resource Management Plan Amendment, Implementation and Applications for Permits to Drill, Bakersfield District, Monterey, San Benito, Fresno, Madera and Merced Counties, CA.

Summary: EPA expressed environmental concerns with potential impacts to air quality, wildlife habitat, and threatened and endangered species including plant species. EPA requested that the Final EIS provide additional information on impacts to floodplains and wetlands, including section 404 of the Clean Water Act, and threatened and endangered species. EPA also asked that the FEIS address how the project will meet the conformity requirements of section 176 of the Clean Air Act.

ERP No. D–FHW–E50289–SC

Rating EC2, Cooper River Bridges Replacement Project, Grace Memorial/ Silas N. Pearman Bridges on US 17 over Cooper River and Town Creek, Funding, COE Section 10/404 Permits and CGD Permit, Charleston County, SC.

Summary: EPA found that additional information on wetland impacts and mitigation are needed to adequately evaluate project impacts to aquatic resources.

ERP No. D–SCS–J36044–ND

Rating EC2, Belfield Watershed Protection and Flood Prevention Plan, Funding and section 404 Permit, City of Belfield, Billings and Stark Counties, ND.

Summary: EPA had environmental concerns with the proposed project. Environmental impacts to aquatic resources were identified.

ERP No. D–SCS–J36045–WY

Rating EC2, Allison Draw Watershed Protection and Flood Control Plan, Implementation, Funding, section 404 Permit and Right-of-Way, Laramie County, WY.

Summary: EPA had environmental concerns with the proposed project. These concerns were for impacts to water quality and the lack of adequate analysis regarding reasonable alternatives.

Final EISs

ERP No. F–BOP–G81006–AR

Forrest City Federal Correctional Complex (FCC), Construction and Operation, St. Francis County, AR.

Summary: EPA had no objections to this project.

ERP No. F–NOA–A91058–00

Atlantic Ocean Sharks Fishery Management Plan (FMP), Implementation, Possible NPDES, COE and Coast Guard Permits, Exclusive Economic Zone (EEZ) the Gulf of Mexico, Atlantic Ocean and the Caribbean Sea.

Summary: EPA found that the FEIS addressed concerns with finning and over fishing in the U.S. EEZ. EPA encouraged treaties with foreign nations to conserve shark resources.

ERP No. F–UAF–H11002–MO

B–2 Advanced Technology Bomber, A/OA–10 Thunderbolt and T–38 Talon Jet Trainer Aircrafts Basing at Whiteman Airforce Base, Implementation, Johnson County, MO.

Summary: EPA had no objections to the proposed action.

ERP No. FS–UMC–E11019–NC

Cherry 1 Military Operating Areas (MOA), Craven, Beaufort, Hyde, Pamlico and Washington Counties and Core MOA, North Carolina Outer Banks/Cape Lookout National Seashore Establishments, Additional Mitigation Alternatives and Regional Cumulative Effects Analysis, NC.

Summary: EPA noted that the noise issues associated with the projects continue to be a matter of contention among the involved parties, and remain unresolved.

Dated: February 2, 1993.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 93–2822 Filed 2–4–93; 8:45 am]

BILLING CODE 6560–50–U

[ER–FRL–4591–5]

Environmental Impact Statements; Notice of Availability

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 260–5076 or (202) 260–5075.

Availability of Environmental Impact Statements, filed January 25, 1993 through January 29, 1993 pursuant to 40 CFR 1506.9.

EIS No. 930022, FINAL EIS, NOA, DE, Delaware National Estuarine Research Reserve Management Plan, St. Jones River and Blackbird Creek Designation Sites, Implementation and Funding, Kent and New Castle Counties, DE, Due: March 8, 1993, Contact: R. Randall Schneider (202) 606–4122.

EIS No. 930023, FINAL SUPPLEMENT, USN, CA, P–202 Naval Air Station Alameda and P–882 Naval Supply Center Oakland Dredging Projects, Additional Information, Site Designation, Implementation and Section 404 Permit, Alameda and Oakland Cities, San Francisco Bay, CA, Due: March 8, 1993, Contact: John Kennedy (415) 244–3713.

EIS No. 930024, FINAL EIS, SFW, CA, Tijuana Estuary Tidal Restoration Project, Implementation, Tijuana River National Estuarine Research Reserve, section 10 and 404 Permits and Special Use Permit, San Diego County, CA, Due: March 8, 1993, Contact: Mari Hoffmann-Nelson (619) 575–1290.

EIS No. 930025, DRAFT EIS, AFS, MT, Little Snowies Vegetative Management and Public Access, Fire and Timber Management Practices, Lewis and Clark National Forest, Musselshell Ranger District, City of Harlowton, Fergus and Golden Valley Counties, MT, Due: March 22, 1993, Contact: Dave Wanderaas (406) 632–4391.

EIS No. 930026, FINAL EIS, AFS, VA, WV, George Washington National Forest Land and Resource Management Plan and Alleghany Front Lease Area Oil and Natural Gas Leasing, several counties, WV and VA, Due: March 8, 1993, Contact: George W. Kelly (703) 433–2491.

EIS No. 930027, FINAL EIS, BLM, OR, Lower Deschutes Wild and Scenic River Management Plan, Implementation,

Addresses Alternatives for Access to Public Lands Upstream from the Deschutes Club Locked Gate, Wasco County, OR, Due: March 8, 1993, Contact: Jim Kenna (503) 447–4115.

EIS No. 930028, DRAFT EIS, AFS, CA, 1992 Cleveland Watershed Fire Recovery Project, EL Dorado National Forest, South Fork American River, EL Dorado, Alpine and Amador Counties, CA, Due: April 1, 1993, Contact: Duane Nelson (916) 644–2324.

EIS No. 930029, FINAL EIS, EPA, VA, Norfolk Offshore Ocean Dredged Material Disposal Site, Designation, Norfolk, VA, Due: March 8, 1993, Contact: William Muir (215) 597–2541.

Amended Notices

EIS No. 920492, DRAFT EIS, FRC, LA, MS, West-East Cross Interstate Natural Gas Pipeline Project, Construction and Operation, section 10 and 404 Permits, NPDES Permit and Right-of-Way Grant, several Parishes, LA and several counties, MS, Due: March 2, 1993, Contact: Laura Turner (202) 208–0916.

Published FR 12–18–92—Review period extended.

EIS No. 920499, DRAFT EIS, AFS, UT, Chevron Table Top Project Exploratory Oil and Gas Wells Drilling, Leasing and Permit, Wasatch-Cache National Forest, Evanston Ranger District, Summit County, UT, Due: February 19, 1993, Contact: Bernard Asay (307) 789–3194.

Published FR 12–18–92—Review period extended.

EIS No. 930011, FINAL EIS, AFS, UT, CO, Manti-La Sal National Forest Oil and Gas Leasing, Implementation, Sanpete, Utah, Juab, Sevier, Emery, Carbon, Grand and San Juan Counties, UT and Montrose and Mesa Counties, CO, Due: February 28, 1993, Contact: Carter E. Reed (801) 637–2817.

Published FR 01–22–93—Title Correction.

Dated: February 2, 1993.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 93–2823 Filed 2–4–93; 8:45 am]

BILLING CODE 6560–50–U

[FRL–4591–3]

Old Springfield Landfill Superfund Site, Springfield, VT; Proposed Administrative Settlement Under Section 122(g)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act; As Amended by the Superfund Amendments and Reauthorization Act

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice; Request for public comment.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is proposing to enter into a *de minimis* administrative settlement to resolve claims for recovery of costs incurred at the Old Springfield Landfill Superfund Site in Springfield Vermont, under the authority of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9601 *et seq.* Notice is being published to inform the public of the proposed settlement and of the opportunity to comment. The settlement is intended to resolve the past and potential future administrative and civil cost recovery liability of a *de minimis* landowner. The settlement requires the landowner to provide access to the EPA for the purposes of monitoring and remedial action.

For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the settlement. EPA's response to any comments received will be available for public inspection at the Springfield Town Library, Springfield, Vermont, and at the EPA Records Center at 90 Canal Street, Boston, Massachusetts.

DATES: Comments must be provided on or before March 8, 1993.

ADDRESSES: The proposed settlement is available for public inspection at the EPA Records Center at 90 Canal Street, Boston, Massachusetts, and the Springfield Town Library, Springfield, Vermont. A copy of the proposed settlement may be obtained from Diane Nye, U.S. Environmental Protection Agency, Region I, Office of Regional Counsel, Mailcode: RCV, JFK Federal Building, Boston, Massachusetts 02203–2211. Comments should be addressed to the Docket Clerk, U.S. Environmental Protection Agency, Region I, JFK Federal Building—RCG, Boston, Massachusetts 02203, and should refer to: "In the Matter of the Old Springfield Landfill Superfund Site, Springfield, Vermont," U.S. EPA Docket No. I–92–1111, for which comments are being submitted.

FOR FURTHER INFORMATION CONTACT: Diane Nye, U.S. Environmental Protection Agency, Region I, Office of Regional Counsel, RCV, J.F.K. Federal Building, Boston, Massachusetts 02203, (617) 565–3441.

NOTICE OF ADMINISTRATIVE SETTLEMENT: In accordance with section 122(i)(1) of CERCLA, 42 U.S.C. section 9622(i)(1), notice is hereby given of a proposed *de minimis* administrative settlement concerning the Old Springfield Landfill, Superfund Site. This settlement is made and entered into pursuant to the authority vested in the President of the United States by section 122(g) of CERCLA, 42 U.S.C. section 9622(g), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), Pub. L. 99–499, 100 Stat. 1613, 122(g) (1986), delegated to the Administrator of the United States Environmental Protection Agency on January 23, 1987 by Executive Order 12580, 52 FR 2923 and further delegated to the Regional Administrator by Delegation 14–14–E, September 13, 1987. The U.S. Department of Justice approved this settlement in writing on December 11, 1992. "In the Matter of The Old Springfield Landfill Superfund Site, Springfield, Vermont," U.S. EPA Docket No. I–92–1111: Under this settlement, the settling party listed below, who is an owner of the facility, will provide access to parcels 3, 4, and 5 of his property. The Settling Party is Mr. Harold Milley.

Dated: January 21, 1993.

Paul Keough,

Acting Regional Administrator.

[FR Doc. 93–2784 Filed 2–4–93; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Travel Reimbursement Program; October 1, 1992–December 31, 1992

Summary Report

Total Number of Sponsored Events: 18
Total Number of Sponsoring Organizations: 16
Total Number of Different Commissioners/Employees Attending: 20
Total Amount of Reimbursement Expected:

Transportation	$8,350.57
Subsistence	5,628.41
Other Expenses	1,072.27
Total	15,051.25

Individual Event Report

Sponsoring Organization:
United States Telephone Association, 900 19th Street, NW., Suite 800, Washington, DC 20006
Date of the Event:
October 1, 1992
Description of the Event:
USTA Seminar, San Diego, California
Commissioners Attending:
Andrew C. Barrett
Other Employees Attending:
None
Amount of Reimbursement:

Transportation	$.00

Subsistence	16.00
Other Expenses	26.00
Total	42.00

Sponsoring Organization:
Association of American Railroads, Operations & Maintenance Dept., Communications and Signal Division, 50 F Street, NW., Washington, DC 20001
Date of the Event:
October 28–30, 1992
Description of the Event:
Annual Technical Conference of Communication and Signal Division, Montreal, Quebec, Canada
Commissioners Attending:
None
Other Employees Attending:
Ralph A. Haller—Chief, Private Radio Bureau
Amount of Reimbursement:

Transportation	$285.32
Subsistence	189.57
Other Expenses	27.42
Total	502.31

Sponsoring Organization:
Arizona Broadcasting Association, 3101 North Central Avenue, Suite 560, Phoenix, Arizona 85012
Date of the Event:
November 5—6, 1992
Description of the Event:
40th Annual State Convention, Tucson, Arizona
Commissioners Attending:
None
Other Employees Attending:
Charles W. Kelley—Chief, Enforcement Division, Mass Media Bureau
Amount of Reimbursement:

Transportation	$518.00
Subsistence	185.00
Other Expenses	.00
Total	703.00

Sponsoring Organization:
American Mobile Telecommunications Association, 1835 K Street, NW., Suite 203, Washington, DC 20006
Date of the Event:
October 12—13, 1992
Description of the Event:
SMR/Private Carrier Management Conference, San Diego, California.
Commissioners Attending:
None
Other Employees Attending:
Ralph Haller—Chief, Private Radio Bureau
Amount of Reimbursement:

Transportation	$413.00
Subsistence	296.50
Other Expenses	.00
Total	709.50

Sponsoring Organization:
AT&T, 1120 20th Street, NW., Suite 1000, Washington, DC 20036
Date of the Event:
December 16—17, 1992
Description of the Event:
"A Global Business Symposium", Morristown, New Jersey
Commissioners Attending:
None
Other Employees Attending:
Kathleen Abernathy—Legal Advisor to Commissioner Marshall
Diane Cornell—Attorney Advisor for Common Carrier Bureau
Linda Oliver—Legal Advisor to Commissioner Duggan
Amount of Reimbursement:

Transportation	$660.00
Subsistence	346.10
Other Expenses	58.02
Total	1,064.12

Sponsoring Organization:
California Cable Television Association, 4341 Piedmont Avenue, P.O. Box 11080, Oakland, California 94611
Date of the Event:
December 2—4, 1992
Description of the Event:
Western Cable Show, Anaheim, California
Commissioners Attending:
None
Other Employees Attending:
Robert L. Corn-Revere—Legal Advisor to Commissioner James H. Quello
Ellen J. Schned—Attorney Advisor, Office of Legislative Affairs
Linda Townsend Solheim—Director, Legislative Affairs
Alexandra Wilson—Attorney Advisor, Office of the Chairman
Amount of Reimbursement:

Transportation	$1,906.00
Subsistence	1,782.82
Other Expenses	312.30
Total	4,001.12

Sponsoring Organization:
Financial Times, 102–108 Clerkenwell Road, London ECIM 5SA
Date of the Event:
December 1—2, 1992
Description of the Event:
Conference on "World Communications", London, England
Commissioners Attending:
None
Other Employees Attending:
Terry Haines—Chief of Staff, for the Chairman
Amount of Reimbursement:

Transportation	$.00
Subsistence	721.25
Other Expenses	.00
Total	721.25

Sponsoring Organization:
Forest Industries Telecommunications, 871 Country Club Road, Suite A, Eugene, Oregon 97401
Date of the Event:
October 10, 1992
Description of the Event:
Annual Membership Social and Luncheon, Clayton, Missouri
Commissioners Attending:
None
Other Employees Attending:
W. Riley Hollingsworth—Deputy Chief, Licensing Division, Private Radio Bureau
Amount of Reimbursement:

Transportation	$343.00
Subsistence	114.50
Other Expenses	67.34
Total	524.84

Sponsoring Organization:
IEEE, 445 Hoes Lane, P.O. Box 1331, Piscataway, New Jersey 08855
Date of the Event:
November 19–20, 1992
Description of the Event:
Methods of Measurement of Radio-Noise Emissions from Low Voltage Equipment, Sunnyvale, California
Commissioners Attending:
None
Other Employees Attending:
Leslie A. Wall—Chief, Sampling and Measurements Branch, Office of Engineering and Technology
Amount of Reimbursement:

Transportation	$582.25
Subsistence	307.30
Other Expenses	181.75
Total	1,071.30

Sponsoring Organization:
IEEE, AT&T Bell Laboratories, 1600 Osgood Street, Room 2A30, North Andover, MA 01845
Date of the Event:
October 30, 1992
Description of the Event:
WARC–92, Denver, Colorado
Commissioners Attending:
None
Other Employees Attending:
Thomas P. Stanley—Chief Engineer, Office of Engineering and Technology
Amount of Reimbursement:

Transportation	$239.00
Subsistence	179.18
Other Expenses	33.00
Total	451.18

Sponsoring Organization:
CSC Index, Five Cambridge Center, Cambridge, Massachusetts 02142
Date of the Event:
November 17, 1992

Description of the Event:
Index Vanguard Meeting, Boston, Massachusetts
Commissioners Attending:
None
Other Employees Attending:
Bruce Franca—Deputy Chief Engineer, Office of Engineering and Technology
Amount of Reimbursement:

Transportation	$224.00
Subsistence	34.00
Other Expenses	35.13
Total	293.13

Sponsoring Organization:
KY Broadcasters Association, Radio Station Road, P.O. Box 680, Lebanon, Kentucky 40033
Date of the Event:
October 16, 1992
Description of the Event:
KBA Convention, Louisville, Kentucky
Commissioners Attending:
Alfred C. Sikes
Other Employees Attending:
None
Amount of Reimbursement:

Transportation	$328.00
Subsistence	89.50
Other Expenses	9.50
Total	427.00

Sponsoring Organization:
KMB Associates Inc., 437 3rd Avenue N., Tierra Verde, Florida 33715
Date of the Event:
October 28–30, 1992
Description of the Event:
Eighth Video Journal, Tarpon Springs, Florida
Commissioners Attending:
None
Other Employees Attending:
Robert M. Pepper—Chief, Plans and Policy
Amount of Reimbursement:

Transportation	$328.00
Subsistence	82.00
Other expenses	47.00
Total	457.00

Sponsoring Organization:
New Jersey Broadcasters Association, 9 Davison Avenue, Jamesburg, New Jersey 08831
Date of the Event:
October 22, 1992
Description of the Event:
Annual Meeting, Hightstown, New Jersey
Commissioners Attending:
None
Other Employees Attending:
Terry L. Haines—Chief of Staff for the Chairman
Amount of Reimbursement:

Transportation	$71.00
Subsistence	19.50
Other expenses	14.00
Total	104.50

Sponsoring Organization:
PTIJ, Kubodera Building 1–1, Kudan-Minami 3-Chome, Chiyoda-Ku, Tokyo 102 Japan
Date of the Event:
December 7, 1992
Description of the Event:
International Satellite Communications Policy Meeting, Tokyo, Japan
Commissioners Attending:
None
Other Employees Attending:
Wendel R. Harris—Chief, International Common Carrier Bureau
Amount of Reimbursement:

Transportation	$1,192.00
Subsistence	768.00
Other expenses	126.22
Total	2,086.22

Sponsoring Organization:
Intertec Publishing Corporation, 55 East Jackson Boulevard, Chicago, Illinois 60604
Date of the Event:
October 28–30, 1992
Description of the Event:
"Person to Person: Building Your Personal Communications Future" Conference, Orlando, Florida
Commissioners Attending:
None
Other Employees Attending:
Thomas M. Walsh—Electronics Engineer, Office of International Communications
Amount of Reimbursement:

Transportation	$345.00
Subsistence	149.00
Other expenses	99.25
Total	593.25

Sponsoring Organization:
SIRSA Inc., 1110 North Glebe Road, Suite 500, Arlington, Virginia 22201
Date of the Event:
October 7–10, 1992
Description of the Event:
SIRSA Annual Meeting, Asheville, North Carolina
Commissioners Attending:
None
Other Employees Attending:
Ralph A. Haller—Chief, Private Radio Bureau
Amount of Reimbursement:

Transportation	$518.00
Subsistence:	124.69
Other Expenses	.00
Total	642.69

Sponsoring Organization:
United States Telephone Association, 900 19th Street, NW., Suite 800, Washington, DC 20006
Date of the Event:
October 5–8, 1992
Description of the Event:
95th Annual Convention, New Orleans, Louisiana
Commissioners Attending:
None
Other Employees Attending:
Elaine Lorentz—Confidential Assistant to the Chairman
Amount of Reimbursement:

Transportation	$398.00
Subsistence:	223.50
Other Expenses	35.34
Total	656.84

Federal Communications Commission.
Donna R. Searcy,
Secretary.
[FR Doc. 93–2684 Filed 2–4–93; 8:45 am]
BILLING CODE 6712–01–M

Hearing Designation Order and Notice of Apparent Liability

1. The Commission has before it the following applications:

Applicant, city and state	File No.	MM docket No.
A. Atkins Broadcasting, Station KRGN (FM); Amarillo, TX	BRH–900327UP	93–4
B. Caprock Educational Broadcasting Foundation, Noncommercial Educational Station KLMN (FM); Amarillo, TX	BRED–900327UQ	93–4
C. Caprock Educational Broadcasting Foundation, Noncommercial Educational Station KAMY (FM); Lubbock, TX	BMPED–890726IF, BLED–901210KD	93–4
D. Southwest Educational Media Foundation of Texas, Inc., Noncommercial Educational Station KENT; Odessa, TX	BRED–900327UO	93–4
E. Southwest Educational Media Foundation of Texas, Inc., Noncommercial Educational Station KENT–FM; Odessa, TX	BLED–910705KA	93–4
F. Southwest Educational Media Foundation of Texas, Inc., Noncommercial Educational FM Station on Channel 290A; Stanton, TX.	BPED–890313MD	93–4

Applicant, city and state	File No.	MM docket No.
G. Family Stations, Inc., Assignor (KBTT (FM)) and Southwest Educational Media Foundation of Texas, Inc., Assignee; Bridgeport, TX.	BAPED–891130HR	93-4
H. Southwest Educational Media Foundation Noncommercial Educational Station KOJO (FM); Lake Charles, LA	BLED–900226KA	93-4

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of some of the issues have been standardized and are set forth in their entirety under the corresponding headings at 51 FR 19347, published May 29, 1986. The letter shown before each applicant's name is used below to dignify whether the issue applies to that particular applicant.

Issue Heading and Applicant

1. To determine whether the applicant made misrepresentations of fact, lacked candor and/or violated § 73.1015 of the Commission's Rules—B, C, E
2. To determine whether the applicant violated sections 301 and 319(a) of the Communications Act of 1934, as amended, and §§ 73.277(b), 73.1560(b), 73.1620, 73.1635, and 73.1745 of the Commission's Rules—B, C, E
3. Ultimate—All

3. A copy of the complete Hearing Designation Order and Notice of Apparent Liability in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC 20554. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037 [Telephone (202) 857–3800].

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–2682 Filed 2–4–93; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL ELECTION COMMISSION

[Notice 1993–4]

Filing Dates for the Ohio Special Elections

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special elections.

SUMMARY: Ohio has scheduled special elections on March 16, 1993, and May 4, 1993, in the Second Congressional District to fill the seat of Representative Willis D. Gradison, Jr.

Committees required to file reports in connection with the Special Primary Election should file a 12-day Pre-Primary Report on March 4, 1993. Committees required to file reports in connection with both the Special Primary and Special General Election to be held on May 4, 1993, must file a 12-day Pre-Primary Report, a 12-day Pre-General Report on April 22, 1993, and a Post-General Report on June 3, 1993.

FOR FURTHER INFORMATION CONTACT: Ms. Bobby Werfel, Public Information Office, 999 E Street NW., Washington, DC 20463, Telephone: (202) 219–3420; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION: All principal campaign committees of candidates in the Special Primary and Special General Elections and all other political committees not filing monthly which support candidates in these elections shall file a 12-day Pre-Primary Report on March 4, 1993, with coverage dates from the close of the last report filed, or the date of the committee's first activity, whichever is later, through February 24, 1993, and a 12-day Pre-General Election Report on April 22, 1993, with coverage dates from February 25, 1993, through April 14, 1993, and a 30-day Post-General Election Report on June 3, 1993, with coverage dates from April 15, 1993, through May 24, 1993.

All principal campaign committees of candidates in the Special Primary Election only and all other political committees not filing monthly which support candidates in the Special Primary Election shall file a 12-day Pre-Primary Report on March 4, 1993, with coverage dates from the close of the last report filed, or the date of the committee's first activity, whichever is later, through February 24, 1993, and a Mid-Year Report on July 31, 1993, with coverage dates from February 25, 1993, through June 30, 1993.

All political committees not filing monthly which support candidates in the Special General only shall file a 12-day Pre-General Election Report on April 22, 1993, with coverage dates from the last report filed or the date of the committee's first activity, whichever is later, through May 24, 1993, and a 30-day Post-General Election Report on June 3, 1993, with coverage dates from April 15, 1993, through May 24, 1993. Such committees must also file a Mid-Year Report on July 31, 1993, with coverage dates from May 25, 1993, through June 30, 1993.

CALENDAR OF REPORTING DATES FOR OHIO SPECIAL ELECTIONS

Report	Period covered	Reg./cert. mailing date [1]	Filing date
I. All Committees Involved in the Special Primary (03/16) and Special General (05/04) Must File:			
Pre-Primary	[2] 01/01/93—02/24/93	03/01/93	03/04/93
Pre-General	02/25/93—04/14/93	04/19/93	04/22/93
Post-General	04/15/93—05/24/93	06/03/93	06/03/93
Mid-Year	05/25/93—06/30/93	07/31/93	07/31/93
II. All Committees Involved in the Special Primary (03/16) Only Must File:			
Pre-Primary	[2] 01/01/93—02/24/93	03/01/93	03/04/93
Mid-Year	02/25/93—06/30/93	07/31/93	07/31/93
III. All Committees Involved in the Special General (05/04) Only Must File:			
Pre-General	[2] 01/01/93—04/14/93	04/19/93	04/22/93
Post-General	04/15/93—05/24/93	06/03/93	06/03/93
Mid-Year	05/25/93—06/30/93	07/31/93	07/31/93

[1] Reports sent by registered or certified mail must be postmarked by the mailing date; otherwise, they must be received by the filing date.

[2] The period begins with the close of books of the last report filed by the committee. If the committee has filed no previous reports, the period begins with the date of the committee's first activity.

Dated: February 2, 1993.

Scott E. Thomas,

Chairman, Federal Election Commission.

[FR Doc. 93-2749 Filed 2-4-93; 8:45 am]

BILLING CODE 6715-01-M

FEDERAL RESERVE SYSTEM

First Community Financial Group, Inc., et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 25, 1993.

A. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. *First Community Financial Group, Inc.*, Lacey, Washington; to engage *de novo* through its subsidiary, First Community Mortgage, Inc., Lacey, Washington, in the origination and sale of single family residential mortgage loans pursuant to § 225.25(b)(1)(iii) of the Board's Regulation Y.

2. *First Community Financial Group, Inc.*, Lacey, Washington; to engage *de novo* through its subsidiary, Information Management Services, Inc., Lacey, Washington, in processing and transmission of financial, banking, and economic data for the Bank and other financial institutions pursuant to § 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 1, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-2721 Filed 2-4-93; 8:45 am]

BILLING CODE 6210-01-F

Kempton and Grace Spooner Revocable Trust; Change in Bank Control Notice

Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than February 25, 1993.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Kempton and Grace Spooner Revocable Trust*, Exeland, Wisconsin; to acquire 50 percent of the voting shares of Gilman Corporation, Exeland, Wisconsin, and thereby indirectly acquire State Bank of Gilman, Gilman, Wisconsin.

Board of Governors of the Federal Reserve System, February 1, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-2722 Filed 2-4-93; 8:45 am]

BILLING CODE 6210-01-F

Norwest Corporation, et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than February 25, 1993.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Norwest Corporation*, Minneapolis, Minnesota; to acquire the Insurance Agency Business of Merchants and Miners State Bank of Hibbing, Hibbing, Minnesota, and thereby engage in general insurance agency activities pursuant to § 225.25(b)(8)(vii) of the Board's Regulation Y. **Comments on this application must be received by February 19, 1993.**

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *American Bancorp of Edmond, Inc.*, Edmond, Oklahoma; to acquire American Capital Mortgage Company, Inc., Edmond, Oklahoma, and thereby engage in the origination and selling of residential loans pursuant § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 1, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–2723 Filed 2–4–93; 8:45 am]

BILLING CODE 6210–01–F

GENERAL ACCOUNTING OFFICE

Federal Accounting Standards Advisory Board; Meeting

AGENCY: General Accounting Office.

ACTION: Notice of February meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. No. 92–463), as amended, notice is hereby given that the monthly meeting of the Federal Accounting Standards Advisory Board will be held on Thursday, February 25, 1993 from 9 a.m. to 4 p.m. in room 7313 of the General Accounting Office, 441 G St., NW., Washington, DC.

The agenda for the meeting includes: Discussions of issues in (1) the Exposure Draft on Accounting for Liabilities, (2) the project on Accounting for Investment Expenditures, and (3) the Exposure Draft on Accounting for Direct Loans and Loan Guarantees.

Other items may be added to the agenda; interested parties should contact the Staff Director for more specific information and to confirm the date of the meeting.

Any interested person may attend the meeting as an observer. Board discussions and reviews are open to the public.

FOR FURTHER INFORMATION CONTACT: Ronald S. Young, Staff Director, 750 First St., NE., suite 1001, Washington, DC 20002, or call (202) 512–7350.

Authority: Federal Advisory Committee Act. Pub. L. No. 92–463, section 10(a)(2), 86 Stat. 770, 774 (1972) (current version at 5 U.S.C. app. section 10(a)(2) (1988); 41 CFR 101–6.1015 (1990).

Dated: February 2, 1993.

Ronald S. Young,

Executive Director.

[FR Doc. 93–2756 Filed 2–4–93; 8:45 am]

BILLING CODE 1610–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention (CDC)

Hanford Thyroid Morbidity Study Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting:

Name: Hanford Thyroid Morbidity Study Advisory Committee.

Times and Dates: 7 p.m.–9 p.m., February 22, 1993—9 a.m.–12 noon, February 23, 1993.

Place: Red Lion Inn, 2525 North 20th Street, Pasco, Washington 99301.

Status: Open to the public, limited only by the space available.

Purpose: This committee is charged with providing advice and guidance to the Director, CDC, regarding the scientific merit and direction of the Hanford Thyroid Morbidity Study. The committee will review development of the study protocol and recommend changes of scientific merit to CDC, advise on the conduct of the pilot study using the approved protocol, and assist in determining the feasibility of a full-scale epidemiologic study. If the full-scale epidemiologic study is carried out, the committee will advise CDC on the design and conduct of the study and analysis of the results.

Matters To Be Discussed: The Hanford Thyroid Morbidity Study Advisory Committee will meet to: (1) Conduct a public meeting for open discussion and inform the public of a pilot study being conducted by the Fred Hutchinson Cancer Research Center and, (2) discuss updates of the clinical component of the Hanford Thyroid Disease Study.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Nadine Dickerson, Program Analyst, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, National Center for Environmental Health, CDC, 4770 Buford Highway, NE, (F–35), Atlanta, Georgia 30341–3724, telephone 404/488–7040.

Dated: February 1, 1993.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93–2708 Filed 2–4–93; 8:45 am]

BILLING CODE 4160–18–M

National Committee on Vital and Health Statistics (NCVHS) Subcommittee on Long-Term Care Statistics; Meeting Pursuant to Public Law 92–463, the National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC), announces the following meeting:

Name: NCVHS Subcommittee on Long-Term Care Statistics.

Times and Dates: 9 a.m.–5 p.m., March 1, 1993—9 a.m.–2 p.m., March 2, 1993.

Place: Room 503A, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201.

Status: Open.

Purpose: The subcommittee will receive a briefing on several Federal national surveys which collect long-term care statistics in an effort to identify key research questions on the adequacy usefulness of the data being collected.

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, NCHS, room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone 301/436–7050.

Dated: February 2, 1993.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93–2709 Filed 2–4–93; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

MEETING: The following advisory committee meeting is announced:

Ophthalmic Devices Panel of the Medical Devices Advisory Committee

Date, time, and place. February 26, 1993, 9 a.m., First Floor Auditorium, Hubert H. Humphrey Bldg., 200 Independence Ave. SW., Washington, DC.

Type of meeting and contact person. Open public hearing, 9 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, 10 a.m. to 5 p.m.; Daniel W. C. Brown, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301–427–1080.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before February 10, 1993, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. Alan Andersen, Acting Director of the Office of Device Evaluation (ODE), will present an overview of ODE activities regarding clinical trials. The committee will discuss specific issues relating to class III surgical and diagnostic devices and intraocular lenses. For example, there will be an update presented to the panel on the revisions of the Multifocal Intraocular Lens guidance document and an open panel discussion on potential revisions of the Photorefractive Keratectomy (PRK) guidance document. An explanation of ODE's laser program will be given. Also, there will be updates presented on the following contact lens issues: extended wear contact lenses, disinfection of contact lenses, labeling, user information, and reclassification.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: January 25, 1993.

Jane E. Henney,

Deputy Commissioner for Operations.

[FR Doc. 93–2686 Filed 2–4–93; 8:45 am]

BILLING CODE 4160–01–F

Health Resources and Services Administration Advisory Council

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory bodies scheduled to meet during the month of March 1993:

Name: Advisory Commission on Childhood Vaccines

Date and Time: March 10, 1993, 10 a.m.–5 p.m.—March 11, 1993, 8:30 a.m.–12 p.m.

Place: Conference Rooms D & E, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

The meeting is open to the public.

Purpose: The Commission:

(1) Advises the Secretary on the implementation of the Program,

(2) On its own initiative or as the result of the filing of a petition, recommends changes in the Vaccine Injury Table,

(3) Advises the Secretary in implementing the Secretary's responsibilities under section 2127 regarding the need for childhood vaccination products that result in fewer or no significant adverse reactions,

(4) Surveys Federal, State, and local programs and activities relating to the gathering of information on injuries associated with the administration of childhood vaccines, including the adverse reaction reporting requirements of section 2125(b), and advises the Secretary on means to obtain, compile, publish, and use credible data related to the frequency and severity of adverse reactions associated with childhood vaccines, and

(5) Recommends to the Director of the National Vaccine Program research related to vaccine injuries which should be conducted to carry out the National Vaccine Injury Compensation Program.

Agenda: The first day of the meeting will consist of simultaneous meetings of the Commission's Working Subcommittees. The full commission will meet commencing at 10 a.m. until 2:45 p.m. and from 8:30 a.m. to 12 p.m. on Thursday, March 11. Agenda items will include, but not be limited to: The routine Program reports, reports from the National Vaccine Program and the National

Vaccine Advisory Committee (NVAC), reports from the ACCV Subcommittees.

Name: Scientific Review Subcommittee of the Advisory Commission on Childhood Vaccines

Date and Time: March 10, 1993, 3 p.m.–5 p.m.

Place: Conference Room D, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

The meeting is open to the public.

Purpose: This Subcommittee will review statistics from all sources (the Compensation System, Vaccine Adverse Events Reporting System (VAERS), the U.S. Claims Court, etc.) that can give any reason for any alterations (additions, subtractions, or revisions) in the Vaccine Injury Table. The Subcommittee will consider any applications for inclusion of additional vaccines and associated events to the table and make recommendations on these to the Commission. All recommendations by the Subcommittee will be considered by the full Commission and, if accepted, will be forwarded to the Secretary. This Subcommittee will also be the first line of study for all outside studies and literature reports with subjects affecting the Vaccine Injury Table.

Agenda: This Subcommittee will receive updates on the section 313 IOM study and on VAERS.

Name: Financial Review Subcommittee of the Advisory Commission on Childhood Vaccines

Date and Time: March 10, 1993, 3 p.m.–5:30 p.m.

Place: Conference Room E, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

The meeting is open to the public.

Purpose: The Subcommittee reviews quarterly with the administrative staff, the financing of the Vaccine Injury Compensation Trust Fund, the output of funds resulting from each vaccine and each adverse event, and the relationship of each vaccine and each adverse event to the rate of depletion of the Trust Fund. If these studies justify any increase or any decrease of surtax for each vaccine, these recommendations can be made to the full commission and if accepted, can be forwarded to the Secretary.

Agenda: The Subcommittee will discuss and review the status of funding and spending on pre-1988 awards and the status of the Trust Fund. Further, the Subcommittee will review the funding proposal presented to the Commission at its December 1992 meeting by the National Vaccine Information Center/Dissatisfied Parents Together.

Public comment will be permitted at the respective subcommittee meetings on March 10 before they adjourn in the evening; before noon and at the end of the full Commission meeting on March 10; and also before noon of the second day on March 11. Oral presentations will be limited to 5 minutes per public speaker. Persons interested in providing an oral presentation should submit a written request, along with a copy of their presentation to Mr. Matthew Barry, Division of Vaccine Injury Compensation, Bureau of Health Professions, Health Resources and Services Administration, room 702, 6001 Montrose Road, Rockville, Maryland 20852, Telephone (301) 443–6593.

Requests should contain the name, address, telephone number, and any business or professional affiliation of the person desiring to make an oral presentation. Groups having similar interests are requested to combine their comments and present them through a single representative. The allocation of time may be adjusted to accommodate the level of expressed interest. The Division of Vaccine Injury Compensation will notify each presenter by mail or telephone of their assigned presentation time. Persons who do not file an advance request for presentation, but desire to make an oral statement, may sign up in Conference Rooms D & E before 10 a.m. March 10 and 11. These persons will be allocated time as time permits.

Anyone requiring information regarding the subject Commission should contact Mr. Matthew Barry, Principal Staff Liaison, Division of Vaccine Injury Compensation, Bureau of Health Professions, room 7–02, 6001 Montrose Road, Rockville, Maryland 20852, Telephone (301) 443–6593.

Name: HRSA AIDS Advisory Committee

Time: March 17–19, 1993, 8:30 a.m.

Place: National Institutes of Health, Building 31, Conference Rm. 10, 9000 Rockville Pike, Bethesda, MD 20205.

The meeting is open to the public.

Purpose: The Committee advises the Secretary with respect to health professional education, patient care/health care delivery to HIV-infected individuals, and research relating to transmission, prevention and treatment of HIV infection.

Agenda: Discussions will be held concerning the status of Health Resources and Services Administration (HRSA) program activities, issues related to homeless programs, Information Dissemination and Health Reform.

Anyone requiring information regarding the subject Committee should contact Pearl Katz, Ph.D., AIDS Program Office, Health Resources and Services Administration, room 14A–21, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–4588.

Agenda items are subject to change as priorities dictate.

Dated: February 1, 1993.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 93–2735 Filed 2–4–93; 8:45 am]

BILLING CODE 4160–15–M

Social Security Administration

Agency Forms Submitted to the Office of Management and Budget for Clearance

Normally on Fridays, the Social Security Administration publishes a list of information collection packages that have been submitted to the Office of Management and Budget (OMB) for clearance in compliance with Public Law 96–511, The Paperwork Reduction Act. The following clearance packages have been submitted to OMB since the last list was published in the **Federal Register** on Friday, January 15, 1993. (Call Reports Clearance Officer on (410) 965–4142 for copies of package.)

1. Application for a Social Security Number Card—0960–0066. The information on form SS–5 is used by the Social Security Administration to assign correct Social Security numbers to applicants. The respondents are applicants for original or replacement Social Security number cards.

Number of Respondents: 15,000,000
Frequency of Response: 1
Average Burden Per Response: 8 minutes
Estimated Annual Burden: 2,000,000 hours

2. Application for U.S. Benefits Under the Canada-U.S. International Social Security Agreement—0960–0371. The information on form SSA–1294 is used by the Social Security Administration to determine a Canadian filer's eligibility to Social Security benefits. The respondents are people who live in Canada and file for U.S. Social Security benefits.

Number of Respondents: 600
Frequency of Response: 1
Average Burden Per Response: 15 minutes
Estimated Annual Burden: 150 hours

3. Questionnaire for Children Claiming SSI Benefits—0960–0499. The information obtained by form SSA–3881 concerns the evaluation of disability in children and is used by the Social Security Administration to comply with the requirements of the *Zebley* court case. The respondents are individuals who apply for Supplemental Security Income as a disabled child.

Number of Respondents: 276,000
Frequency of Response: 1
Average Burden Per Response: 20 minutes
Estimated Annual Burden: 92,000 hours

4. Government Pension Questionnaire—0960–0160. The information on form SSA–3885 is used by the Social Security Administration to determine if an individual's Social

Security benefit should be reduced because of his or her receipt of a Government pension. The respondents are claimants for Social Security benefits who receive, or are qualified to receive, a Government pension.

Number of Respondents: 76,000
Frequency of Response: 1
Average Burden Per Response: 12.5 minutes
Estimated Annual Burden: 15,833 hours

5. Letter to Landlord Requesting Rental Information—0960–0454. The information on form SSA–L5061 is used by the Social Security Administration to determine if a rental subsidy agreement exists between a landlord and an applicant for or recipient of Supplemental Security Income benefits. The affected public consists of landlords who may be subsidizing such a rental arrangement.

Number of Respondents: 49,000
Frequency of Response: 1
Average Burden Per Response: 10 minutes
Estimated Annual Burden: 8,167 hours

OMB Desk Officer: Laura Oliven

Written comments and recommendations regarding these information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, room 3208, Washington, DC 20503.

Dated: February 1, 1993.

Nicholas E. Tagliareni,

Acting Reports Clearance Officer, Social Security Administration.

[FR Doc. 93–2663 Filed 2–4–93; 8:45 am]

BILLING CODE 4190–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–92–1917; FR–3350–N–17]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

ADDRESSES: For further information, contact James N. Forsberg, room 7262, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–4300; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 56 FR 23789 (May 24, 1991) and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A–10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 56 FR 23789 (May 24, 1991).

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to James N. Forsberg at the address listed at the beginning of this notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this notice (i.e., acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *U.S Air Force:* John Carr, Realty Specialist, HQ–AFBDA/BDR, Pentagon, Washington, DC 20330–5130; (703) 614–9692; (This is not a toll-free number).

CORRECTION: Property #329220004, Land at Indiana Army Ammunition Plant, was inadvertently published as suitable/available. Since it is being transferred to the State, it is not available.

Dated: January 29, 1993.

Don I. Patch,

Acting Deputy Assistant Secretary for Grant Programs.

Title V, Federal Surplus Property Program Federal Register Report for 2/5/93

Arizona—Williams Air Force Base

Williams Air Force Base is located in Mesa, Arizona, 85240–5000. All the properties will be excess to the needs of the Air Force on or about September 30, 1993. Properties shown below as suitable/available will be available at that time. The Air Force has advised HUD that some properties may be available for interim lease for use to assist the homeless prior to that date.

The Base consists of approximately 4,072 acres, 179 Government-owned buildings and

700 residential buildings that have been reviewed by HUD for suitability for use to assist the homeless. The properties that HUD has determined suitable and which are available include various types of housing; office and administrative buildings; recreational, maintenance, and storage facilities; and other more specialized structures.

Suitable/Available Properties

Property Number: 199210096
Type Facility: Housing—700 units of military family housing; 1-story with 2 to 5 bedrooms.

Property Number: 199210097
Type Facility: Temporary Living Quarters—15 buildings; 1, 2, and 3-story structures including dorms and lodging.

Property Number: 199210098
Type Facility: Support and Service Facilities—5 buildings; one 3-story fire station, one 1-story brick chapel, a gate house, a post office and an education center.

Property Number: 199210099
Type Facility: Miscellaneous Facilities—24 buildings; 1 and 2-story structures including a library, bowling center, gym, child care, youth and recreation centers, theater, commissary and stores.

Property Numbers: 199210100–199210101
Type Facility: Recreation—20 facilities including golf club bldgs., bathhouses, swimming pools, baseball, softball and soccer fields, tennis courts, track, golf course, driving range and a camp.

Property Number: 199210102
Type Facility: Medical Facilities—6 buildings; 1-story block and concrete structures including a hospital, clinics and pharmacy.

Property Number: 199210103
Type Facility: Laboratories—9 buildings; eight 1-story and one 3-story metal and concrete/block structures.

Property Number: 199210104
Type Facility: Flight Training and Admin. Facilities—36 buildings; 1 to 3-story concrete block, wood and metal structures including law centers, offices, classrooms and flight training facilities.

Property Number: 199210105
Type Facility: Warehouse and Storage Facilities—12 buildings; 1-story concrete, wood and steel structures including warehouses and storage bldgs.

Property Number: 199210106
Type Facility: Base Support and Flight Facilities—52 buildings; 1-story concrete/steel, concrete/block and steel structures including hangars, maintenance and jet engine shops.

Property Number: 199210107
Type Facility: Hazardous and Explosive Storage—14 buildings; 1-story concrete and concrete/metal structures.

Arkansas—Eaker Air Force Base

Eaker Air Force Base is located in Blytheville, Arkansas 72317–5000. All the properties will be excess to the needs of the Air Force on or about December 15, 1992. Properties shown below as suitable/available will be available at that time. The Air Force has advised HUD that some properties may be available for interim lease for use to assist the homeless prior to that date.

The base covers 2,700 acres and contains 928 housing units and 199 government-owned buildings. The properties that HUD has determined suitable and which are available include various types of housing; office and administration buildings; indoor and outdoor recreational facilities; warehouses and multi-use buildings; child care centers; maintenance, storage and other more specialized structures.

Suitable/Available Properties

Property Numbers: 199210046–199210047
Type Facility: Recreation—20 outdoor areas which includes athletic fields (track, softball, baseball), swimming pools, golf courses, volleyball court, basketball courts, tennis court. Eight indoor facilities which includes gym, theatre, library, bowling, youth and recreation centers, hobby shop; concrete block, masonry or metal/brick construction.

Property Numbers: 199210048–199210055
Type Facility: Temporary living quarters and forms—8 buildings; 3,414 to 41,000 sq. ft.; one and two story; wood/brick veneer and brick masonry buildings.

Property Number: 199210073
Type Facility: Commissary—1 building; 38,575 sq. ft., one story concrete block/metal commissary.

Property Number: 199210075
Type Facility: Chapel—Building 525; 17,602 sq. ft.; one story frame with brick veneer.

Suitable/Unavailable

Property Numbers: 199210040–199210042
Type Facility: Housing—818 duplex units with two, three and four bedrooms; wood with brick veneer fronts; 10 single family houses with four and five bedrooms; and 25 four-unit buildings with two story four bedroom units; four playgrounds.

Property Number: 199210044
Type Facility: Security Related Facilities—13 buildings; 30 to 2400 sq. ft., 1 story; metal, concrete block or wood frame; includes traffic check houses, kennels, guard towers, alert shelters.

Property Number: 199210045
Type Facility: Office/administration—26 buildings; 188 to 49,000 sq. ft.; one and two story; concrete block, metal, shingle or masonry construction.

Property Number: 199210056
Type Facility: Warehouses/multi-use buildings—36; metal, concrete block, shingle, wood or plywood frame; one and two story; 64 to 45,960 sq. ft.; includes cold storage facilities, maintenance shops, traffic management facility, storage shed, thrift shops and other specialty type facilities.

Property Numbers: 199210057–199210059
Type Facility: Hospitals—3 buildings; one story concrete block; 1,084 sq. ft. animal clinic; 5,249 sq. ft. dental clinic; and 54,089 sq. ft. composite medical bldg.

Property Numbers: 199210060–199210062
Type Facility: Child care centers—3 buildings; 2,098 to 8,365 sq. ft.; brick, concrete block and hadite block construction.

Property Numbers: 199210063–199210065
Type Facility: Stores and services—3 buildings; 4,299 sq. ft. exchange service station; 32,925 sq. ft., one story concrete block exchange sales store; 3,370 sq. ft., one story wood frame packaging store.

Property Number: 199210066
Type Facility: Airfield related buildings—9; 96 to 49,000 sq. ft.; shingle, metal or concrete block structures, e.g. hangars, aircraft general purpose bldgs., jet engine maintenance shops, control centers.

Property Number: 199210068
Type Facility: Vehicle maintenance facilities—3; 2,032 to 29,350 sq. ft.; one story metal frame buildings.

Property Number: 199210069
Type Facility: Fuels/related storage facilities—33 buildings; steel, fiberglass and porcelain type; e.g. service stations, diesel storage, pump stations, jet fuel storage.

Property Number: 199210070
Type Facility: Hazardous storage buildings—4; 96 to 3,000 sq. ft.; one story metal structures.

Property Number: 199210071
Type Facility: Munitions facilities—10 buildings; 412 to 4,864 sq. ft.; concrete block; storage igloos and magazines.

Property Numbers: 199210076–199210077
Type Facility: Laboratories—2 buildings; 4,200 sq. ft. precision measurement equipment lab; and 3,775 sq. ft. audiovisual photo lab.

Property Number: 199210078
Type Facility: Bank; 2,367 sq. ft.; one story concrete block; lease restrictions.

Property Number: 199210079
Type Facility: Land; 1,962 acres; restrictive agricultural lease.

Property Number: 199210074
Type Facility: Fire Station—Building 100; 15,717 sq. ft.; concrete masonry/asbestos cement shingles frame.

Property Number: 199210072
Type Facility: Cold Storage—Building 435; 3,195 sq. ft., 1 story concrete block frame.

Unsuitable Properties

Property Number: 199210067
Type Facility: Detached latrines—3; 264 sq. ft. concrete block structures.

Property Number: 199210043
Type Facility: Housing—23 buildings; cracked foundations, therefore, structural deficiencies.

California—George Air Force Base

George Air Force Base is located in San Bernardino, California, 92394–5000. All the properties will be excess to the needs of the Air Force on or about December 31, 1992. The Air Force has advised HUD that some properties may be available for interim lease for use to assist the homeless prior to that date.

The Base covers 5,340 acres and contains 732 individual properties that have been reviewed by HUD for suitability for use to assist the homeless. The 668 properties that HUD has determined suitable include various

types of housing; office and administrative buildings; recreational, maintenance, and storage facilities; and other more specialized structures.

Extensive assistance, including maps, tours, and details on specific properties, is available for interested homeless assistance providers at the Base; interested parties should contact Lt. Col. Zernow at (619) 269-2020.

Suitable/Unavailable Properties

Property Numbers: 199120001–199120420
Type Facility: Housing—400 buildings with a total of 1,525 dwelling units; buildings have 1, 2, 3, 4, 6, or 8 units each; wood/stucco frame construction; possible asbestos.

Property Numbers: 199120506–199120547
Type Facility: Temporary living quarters, dorms, lodges, and ancillary sheds—42 buildings; 1 and 2 story wood, concrete, and concrete block structures; 4700 sq. ft. to 25000 sq. ft. for living quarters; 380 sq. ft. to 2400 sq. ft. for sheds; possible asbestos.

Property Numbers: 199120421–199120473
Type Facility: Office/administration—53 buildings ranging in size from 200 sq. ft. on 1 floor to 56,600 sq. ft. on 3 floors; wood or concrete block construction; several trailers; possible asbestos.

Property Numbers: 199120474–199120505
Type Facility: Recreation—22 buildings including theatre, recreation center, bowling center, gym, library, craft center, shop, youth center, golf course buildings, pools, bathhouses; 7 baseball, softball, and soccer fields; track; golf course; driving range; possible asbestos.

Property Numbers: 199120548–199120587
Type Facility: Aircraft and airport related facilities—40 structures including hangars, shops, tower, terminal, lab, docks, storage, control center, navigation station, runways; sizes up to 86,000 sq. ft.; possible asbestos.

Property Numbers: 199120588–199120608
Type Facility: Maintenance and engineering facilities—21 buildings; concrete and wood; 200 sq. ft. to 17,000 sq. ft.; possible asbestos.

Property Numbers: 199120609–199120618
Type Facility: Training facilities—10 buildings; education center and 9 classroom buildings; concrete and wood; 1200 sq. ft. to 16,800 sq. ft.; possible asbestos.

Property Numbers: 199120619–199120630
Type Facility: Stores and services—12 buildings; 10 stores and 2 gas stations; wood and concrete; 1800 sq. ft. to 30,700 sq. ft.; possible asbestos.

Property Numbers: 199120631–199120632
Type Facility: Chapels—2 buildings; 4800 sq. ft. wood; 24,100 sq. ft. concrete; possible asbestos.

Property Number: 199120633
Type Facility: Hospital—3 story, concrete block, 147,000 sq. ft.; possible asbestos.

Property Numbers: 199120634–199120635
Type Facility: Fire facilities—2 buildings; fire station and command center; possible asbestos.

Property Numbers: 199120636–199120638
Type Facility: Audio visual and photo lab—3 buildings; wood and concrete; 1800 sq. ft. to 2300 sq. ft.; possible asbestos.

Property Numbers: 199120639–199120645
Type Facility: Vehicle shops—7 buildings; concrete; 74 sq. ft. to 33,000 sq. ft.; possible asbestos.

Property Numbers: 199120646–199120655
Type Facility: Misc.—10 buildings; wood and concrete; 1 story; dining halls, mess halls, food service, child care centers; 1800 sq. ft. to 19,000 sq. ft.; possible asbestos.

Property Numbers: 199120656–199120666
Type Facility: Communications/electronic—11 buildings; concrete block and wood; 1 story shops and sheds; 108 sq. ft. to 10,200 sq. ft.; possible asbestos.

Property Numbers: 199120667–199120678
Type Facility: Warehouses—12 buildings; 1124 sq. ft. to 70,000 sq. ft.; wood, concrete, and concrete block; possible asbestos.

Unsuitable Properties

Property Number: 199120679
Type Facility: Small arms
Reason: Within 2000 ft. of flammable or explosive material.

Property Numbers: 199120680–199120687
Type Facility: Hazardous storage facilities—8 buildings.
Reason: Within 2000 ft. of flammable or explosive material.

Property Numbers: 199120688–199120713
Type Facility: Explosives and munitions facilities—26 buildings.
Reason: Within 2000 ft. of flammable or explosive materials.

Property Numbers: 199120714–199120732
Type Facility: Fuel facilities—19 structures.
Reason: Within 2000 ft. of flammable or explosive materials.

California—Mather Air Force Base

Mather Air Force Base is located in Sacramento County, California, 95655–5000. All the properties will be excess to the needs of the Air Force on or about September 30, 1993.

The Base consists of approximately 5715 acres, 315 Government-owned buildings and 1271 housing units that have been reviewed by HUD for suitability for use to assist the homeless. The properties that HUD has determined suitable include various types of housing; office and administrative buildings; recreational, maintenance, and storage facilities; and other more specialized structures.

Suitable/Unavailable Properties

Property Number: 199210022
Type Facility: Office/Administration—60 buildings; one, two and three story structures; presence of asbestos.

Property Number: 199210024
Type Facility: Aircraft and Airport Related Facilities—33 buildings; one to two story structures including hangars, storage facilities and maintenance shops; presence of asbestos.

Property Number: 199210025
Type Facility: Maintenance and Engineering Facilities—36 buildings; one story structures including storage, shop and maintenance buildings; presence of asbestos.

Property Number: 199210027
Type Facility: Stores and Services—7 buildings; one story structures including stores, service station exchange and cold storage building; presence of asbestos.

Property Number: 199210028
Type Facility: Chapels—2 buildings; one story concrete block and masonry concrete structures; presence of asbestos.

Property Number: 199210029
Type Facility: Fire Facilities—2 fire facilities and 2 fire stations; presence of asbestos.

Property Number: 199210030
Type Facility: Audio Visual—3 buildings; one story photo lab and training aid shops; presence of asbestos.

Property Numbers: 199210017–199210020
Type Facility: Housing—207 buildings/414 units Wherry duplexes (two to three bedrooms); 857 family houses (one to four bedrooms); buildings have reinforced concrete block, wood and stucco frame construction; presence of asbestos.

Property Number: 199210021
Type Facility: Temporary Living Quarters—18 buildings; one, two, and three story wood, concrete block and stucco structures; presence of asbestos.

Property Number: 199210023
Type Facility: Recreation—32 facilities including theater, gymnasium, library, bowling alley, recreation center, arts and crafts center, youth center, pools, bath houses, museum buildings; presence of asbestos.

Property Number: 199210026
Type Facility: Training Facilities—15 buildings; one to two story concrete, wood and metal classroom/education buildings; presence of asbestos.

Property Number: 199210031
Type Facility: Miscellaneous—6 buildings; one story child care centers, correction facility, dining and mess halls; presence of asbestos.

Property Number: 199210032
Type Facility: Storage Facilities—61 buildings; one story metal, steel, wood or concrete storage buildings or sheds; presence of asbestos.

Property Number: 199210033
Type Facility: Warehouses—7 buildings; one to two story structures; presence of asbestos.

Property Number: 199210034
Type Facility: Vehicle Shops—6 buildings; one story concrete block, wood, steel frame and metal shops; presence of asbestos.

Property Number: 199210035
Type Facility: Traffic Check House—1 building; two story concrete block structure.

Property Number: 199210036
Type Facility: Fuel Facilities—8 buildings; one story structures.

Property Number: 199210037
Type Facility: Explosives and Munitions Facilities—5 buildings; one story concrete or concrete block storage structures.

Property Number: 199210038

Type Facility: Hazardous Storage Facilities—11 buildings; one story metal storage structures.

Property Number: 199210039
Type Facility: Land—Recreation Areas and Airfield Properties including softball/football/soccer fields, running track, riding stables, golf course, taxiway and runways, (approximately 5716 acres).

Illinois—Chanute Air Force Base

Chanute Air Force Base is located in Champaign, Illinois, 61868. All the properties will be excess to the needs of the Air Force on or about September 30, 1993. Properties shown below as suitable/available will be available at that time. The Air Force has advised HUD that some properties may be available for interim lease for use to assist the homeless prior to that date.

The Base consists of approximately 2,174 acres, 164 Government-owned buildings and 585 residential buildings that have been reviewed by HUD for suitability for use to assist the homeless. The properties that HUD has determined suitable and which are available include various types of housing; office and administrative buildings; recreational, maintenance, and storage facilities; and other more specialized structures.

Suitable/Available Properties

Property Number: 199210139
Type Facility: Housing—585 houses including off-base Chapman Courts with 1 to 8 units, brick and wood structure, possible asbestos.

Property Number: 199210140
Type Facility: Temporary Living Quarters—24 buildings; 1 to 4-story dormitories and temporary living facilities, possible asbestos.

Property Number: 199210141
Type Facility: Medical Facilities—2 buildings; 4-story concrete hospital and a 1-story concrete dental clinic, possible asbestos.

Property Number: 199210142
Type Facility: Storage/Warehouse—28 buildings; concrete block, brick, metal and wood structures including supply and training bldgs., need repairs.

Property Number: 199210143
Type Facility: Maintenance Bldgs.—15 buildings; 1-story maintenance facilities and shops, possible asbestos.

Property Number: 199210144
Type Facility: Engine Test Cells/Warehouse—2 buildings; 1-story concrete storage/maintenance facilities, possible asbestos.

Property Number: 199210145
Type Facility: Gas Stations—2 buildings; 1-story gas stations.

Property Number: 199210146
Type Facility: Training Facilities—22 buildings; 1 to 4-story structures including training bldgs., classrooms, and labs, possible asbestos.

Property Number: 199210147
Type Facility: Retail Stores—5 buildings; 1-story brick and wood structures including 4 branch exchanges and 1 commissary, possible asbestos.

Property Number: 199210148
Type Facility: Chapel/Chapel Center—3 buildings; one 2-story brick chapel center and two 1-story wood chapels, possible asbestos.

Property Number: 199210149
Type Facility: Fire Station—1 building; 2-story brick fire station, possible asbestos.

Property Number: 199210150
Type Facility: Recreation—48 facilities; including gym, library, theater, golf bldgs., youth, child, bowling and recreation centers, track, softball fields, tennis courts, golf course and driving range.

Property Number: 199210152
Type Facility: Administration—26 facilities; wood, brick and concrete structures including a band center, an education center, admin. bldgs. and offices, needs rehab, possible asbestos.

Property Number: 199210153
Type Facility: Bldg. 386/Band Bldg.—31803 sq. ft., 2-story concrete block/wood band center, needs rehab.

Suitible/Unavailable Properties

Property Number: 189010232, 189010255, 189010259–189010260
Type Facility: Miscellaneous Bldgs.—4 buildings including training facility, jail, pump house and bath house.

Unsuitable Properties

Property Number: 189010227–189010231
Type Facility: Waste Treatment Facilities.

Louisiana—England Air Force Base

England Air Force Base is located in Alexandria, Louisiana 71311–5000. All the properties will be excess to the needs of the Air Force on or about December 15, 1992. Properties shown below as suitable/available will be available at that time. The Air Force has advised HUD that some properties may be available for interim lease for use to assist the homeless prior to that date.

The base covers 2,282 acres and contains 568 housing units and 193 government-owned buildings. The properties that HUD has determined suitable and which are available include one and two story family housing; office and administration buildings; recreational facilities and areas; educational, business and commercial buildings; maintenance, storage and other specialized structures.

Suitable/Available Properties

Property Numbers: 199210080–199210081
Type Facility: Housing—286 buildings with 568 dwelling units; one and two story; wood or masonry frame; 1,190 to 6,701 sq. ft.

Property Number: 199210082
Type Facility: Office and administration—28 buildings; 228 to 40,006 sq. ft.; one and two story; wood, brick, block or masonry frame; presence of asbestos in several structures.

Property Number: 199210094
Type Facility: Land, airfield, runways—parcels 10 to 398,099 square yards; concrete or asphalt.

Suitable/Unavailable Properties

Property Numbers: 199210083–199210084
Type Facility: Recreation—18 facilities and 10 parcels of land; i.e. swimming pools, gym, theatre, riding stables, bowling, library, golf course, arts and crafts center, baseball, soccer, and softball fields, track and tennis court; presence of asbestos in some structures.

Property Number: 199210085
Type Facility; Dorms and dining areas—14 buildings; 3,902 to 25,715 sq. ft.; brick or masonry frame; one, two, and three story; presence of asbestos in some structures; includes dorms, officers club, NCO club and dining hall.

Property Number: 199210086
Type Facility: Educational/training—14 buildings; 740 to 45,716 sq. ft.; wood or masonry frame; one and two story; presence of asbestos in a few structures; includes classrooms, child care center, school, education office and field training facility.

Property Number: 199210087
Type Facility: Hospitals—3 related buildings—medical storage, hospital and bio environment; metal or masonry frame; presence of asbestos in hospital.

Property Number: 199210088
Type Facility: Business and Commercial—6 buildings; 1,925 to 34,326 sq. ft.; masonry frame and possible asbestos in the commissary; other structures include mini mall, photo lab, post office, service station and base package store.

Property Number: 199210089
Type Facility: Storage/Warehouses—38 buildings including igloos, supply and equipment warehouses, records storage, commissary warehouse, retail exchange warehouse, cold storage and open storage facilities; 225 to 60,960 sq. ft.; one story; wood, block, metal, brick or concrete construction; presence of asbestos in several structures.

Property Number: 199210090
Type Facility: Maintenance shops—20 buildings; 228 to 34,176 sq. ft.; one story; block, metal or steel construction; presence of asbestos in several structures.

Property Number: 199210091
Type Facility: Airfield related facilities—36 buildings including vehicle fuel station, petroleum operations building, aircraft general purpose, control center, shop avionics, air freight terminal, etc.; 240 to 79,537 sq. ft.; block, metal, wood, concrete or masonry frame; presence of asbestos in some structures.

Property Number: 199210092
Type Facility: Fire facility—Building 500; 13,658 sq. ft.; one story masonry frame; presence of asbestos.

Property Number: 199210093
Type Facility: Chapel—Building 1801; 11,484 sq. ft.; one story masonry frame.

Unsuitable Properties

Property Number: 199210095
Type Facility: Fuel storage containers—14 hazardous storage containers.

Michigan—Wurtsmith Air Force Base

Wurtsmith Air Force Base is located in Oscoda, Michigan 48753. All the properties will be excess to the needs of the Air Force

on or about June 30, 1993. Properties shown below as suitable/available will be available at that time. The Air Force has advised HUD that some properties may be available for interim lease for use to assist the homeless prior to that date.

The base consists of approx. 5,221 acres with 62 government-owned buildings and 1,349 units of housing. The suitable/available properties include various types of housing; office buildings; recreational facilities; dining and child care facilities; stores; warehouses and other more specialized structures.

Suitable/Available Properties

Property Numbers: 199240001–199240005
Type Facility: Housing—1,349 units and 13 dormitories; 1, 2, 4, 6, 7 and 8 unit buildings; 1073 to 90501 sq. ft.

Property Numbers: 199240006–199240007, 199240015–199240018, 199240022–199240025
Type Facility: Recreational—18 facilities; includes swim bath house; recreation center; library; bowling alley; running track; softball, baseball, football, and soccer fields; theatre.

Property Number: 199240008
Type Facility: Dining—3 buildings; 13388 to 15062 sq. ft.; includes open mess.

Property Number: 199240009
Type Facility: Stores—4 buildings; 4208 to 40701 sq. ft.; includes sales store; service outlet exchange; exchange branch; and base package store.

Property Number: 199240010
Type Facility: Warehouses—4; 7856 to 104213 sq. ft.; includes commissary; supply and equipment base; and traffic facility.

Property Numbers: 199240011, 199240014, 199240021
Type Facility: Miscellaneous—11 buildings; includes storage facilities; vehicle maintenance shops; arts & crafts center; radar building.

Property Numbers: 199240012–199240013; 199240020
Type Facility: Offices—15 buildings; includes admin offices; child care centers; education facility; headquarters group; family housing management offices; environmental health.

Property Number: 199240019
Type Facility: Chapel—19977 sq. ft.; roof leaks.

Property Number: 199240026
Type Facility: Air Force Land—56 acres; portion located in airport runway area.

New Hampshire—Pease Air Force Base

Pease Air Force Base is located in Rockingham County, New Hampshire 03803. The Base consists of approximately 4,257 acres, numerous Government-owned buildings and residential buildings that have been reviewed by HUD for suitability for use to assist the homeless. The New Hampshire Air National Guard is expected to continue operations on a portion of the Base.

Suitable/Unavailable Properties

Property Number: 189040321–189040323
Type Facility: 2 open mess and 1 dining hall.

Property Number: 189040326
Type Facility: 1 bachelor quarters buildings.

Property Number: 189040327
Type Facility: Hospital heat plant.

Property Number: 189040328
Type Facility: Hospital.

Property Number: 189040329
Type Facility: Trailer (hospital office space).

Property Number: 189040330–198040332
Type Facility: 3 training facilities.

Property Number: 189040333–198040334
Type Facility: 2 child care facilities.

Property Number: 189040335
Type Facility: Fire station.

Property Number: 189040059–189040148, 189040304–189040319
Type Facility: 106 4-unit residences.

Property Number: 189040352
Type Facility: 1 chapel.

Property Number: 189040387–189040394
Type Facility: 8 dormitories.

Property Number: 189040395–189040404
Type Facility: 10 residences with detached garage.

Property Number: 189040405–189040467
Type Facility: 63 2-unit residences with detached garage.

Property Number: 189040468–189040471
Type Facility: 4 6-unit residences with attached garage.

Property Number: 189040472–189040561
Type Facility: 90 detached housing storage sheds.

Property Number: 189040737–189040740
Type Facility: 4 recreational facilities.

Property Number: 189040748
Type Facility: 1 small concrete munitions storage building.

Property Number: 189040763–189040768, 189040770–189040771
Type Facility: 9 administrative facilities.

Property Number: 189040774–189040775, 189040777–189040778, 189040787–189040790, 189040795–189040805
Type Facility: 17 miscellaneous buildings used for office, administrative, educational, laboratory, traffic check, storage, maintenance, and other purposes.

Property Number: 189010535
Type Facility: Temp. lodging facility, Bldg. 94, Rockingham Drive.

Unsuitable Properties

Property Number: 189040360
Type Facility: Golf course.
Reason: Within airport runway clear zone.

Property Number: 189010536
Type Facility: Vehicle fuel station
Reason: Within 2000 ft. of flammable or explosive material.

Property Numbers: 189010537, 189010538
Type Facility: Jet fuel pumphouses
Reason: Within 2000 ft. of flammable or explosive material.

Property Number: 189010539
Type Facility: Weapons storage area
Reason: Within 2000 ft. of flammable or explosive material.

Property Numbers: 189040354–189040359
Type Facility: Bldgs. 399–401, 403, 405, 407
Reason: Within airport runway clear zone.

Property Numbers: 189040361, 189040369, 189040373
Type Facility: Industrial facilities
Reason: Within 2000 ft. of flammable or explosive material.

Property Number: 189040717
Type Facility: Utility plant
Reason: Other.

Property Numbers: 189040772, 189040794
Type Facility: Bus shelters
Reason: Other.

Property Numbers: 189040806, 189040825–189040829
Type Facility: Sewage pump stations
Reason: Other.

Property Numbers: 189040820, 189040822–189040824
Type Facility: Pump stations
Reason: Other.

Property Numbers: 189040830–189040851
Type Facility: Power stations
Reason: Other.

South Carolina—Myrtle Beach Air Force Base

Myrtle Beach Air Force Base is located in Horry County, South Carolina 29579–5000. All the properties will be excess to the needs of the Air Force on or about March 31, 1993. Properties shown below as suitable/available will be available at that time. The Air Force has advised HUD that some properties may be available for interim lease for use to assist the homeless prior to that date.

The base covers approximately 3,800 acres, 190 Government-owned buildings and 448 residential buildings with 800 units of housing that have been reviewed by HUD for suitability for use to assist the homeless. The properties that HUD has determined suitable and which are available include various types of housing; office and administrative buildings; recreational, maintenance, and storage facilities; and other more specialized structures.

Suitable/Available Properties

Property Number: 199210001
Type Facility: Housing—448 buildings with a total of 800 dwelling units; two, three, and four bedrooms single family dwellings and duplexes with attached carports.

Property Number: 199210002
Type Facility: Dormitories/Quarters—13 buildings; two to three story masonry and block structures.

Property Number: 199210003
Type Facility: Miscellaneous—12 buildings; one to two story structures including a chapel, theater, recreation center, child care centers, retail sales stores and dining hall.

Property Number: 199210005
Type Facility: Office/Administration—44 buildings; one to two story modular, block, wood and brick structures.

Property Numbers: 199210006–199210007
Type Facility: Recreation—12 buildings and land including bath houses, bowling center, gymnasium, golf course buildings, three soccer fields, six tennis courts, three softball fields, four youth ball fields, track, campground (golf course bldgs. are unavailable—leased to local community).

Property Number: 199210009
Type Facility: Utility Type Facilities—36 buildings; one story structures including warehouses, shops and sheds.

Property Number: 199210010
Type Facility: Security—3 police buildings; one story masonry structures including a jail.

Property Number: 199210011
Type Facility: Storage—15 buildings; one story metal, concrete and masonry ammunition storage structures.

Property Numbers: 199210014–199210015
Type Facility: Land—approximately 17 acres used as a mobile home park and 1678 acres of forest.

Suitable/Unavailable Properties

Property Number: 199210004
Type Facility: Six one-story medical support buildings.

Property Number: 199210008
Type Facility: Golf course and driving range.

Property Numbers: 199210012–199210013
Type Facility: Airfield and Related Properties—15 support buildings and land including hangars, maintenance shops, fire station, eight-story control tower, runways, taxiways and aprons.

Unsuitable Properties

Property Number: 199210016
Type Facility: Small Arms Building
Reason: Extensive Deterioration.

Texas—Carswell Air Force Base

Carswell Air Force Base is located in Tarrant County, Texas 76127. All the properties will be excess to the needs of the Air Force on or about September 30, 1993. Properties shown below as suitable/available will be available at that time. The Air Force had advised HUD that some properties may be available for interim lease for use to assist the homeless prior to that date.

The Base consists of approximately 2,308 acres, 214 Government-owned buildings and 352 residential buildings that have been reviewed by HUD for suitability for use to assist the homeless. The properties that HUD has determined suitable and which are available include various types of housing; office and administrative buildings; recreational, maintenance, and storage facilities; and other more specialized structures.

Suitable/Available Properties

Property Numbers: 199210108–199210122
Type Facility: Housing—352 military family residences; 1- and 2-story wood frame, concrete and brick/wood buildings.

Property Number: 199210123
Type Facility: Dormitories—7 buildings; 3- and 4-story concrete block dorms.

Property Number: 199210124
Type Facility: Temporary Living Quarters—6 buildings; 1- and 2-story brick and frame lodging facilities.

Property Number: 199210125
Type Facility: Administration Facilities—45 buildings; 1- to 4-story concrete block, brick, metal and wood structures including education centers, child care, clinics and admin. bldgs.

Property Number: 199210126
Type Facility: Recreational Facilities—13 buildings; metal, concrete block, brick and wood structures including golf club equip. houses, bathhouse, gym, bowling, youth and recreation centers and NCO clubs.

Property Number: 199210127
Type Facility: Recreation Areas—14 areas; approximately 172 acres including golf course, riding stables, playground and picnic area, camps and tennis courts.

Property Number: 199210128–199210130
Type Facility: Miscellaneous Facilities—80 buildings; 1 story metal, concrete, block, wood, and brick structures including maintenance and storage bldgs., shops, warehouses, sheds and a commissary.

Property Number: 199210131
Type Facility: Facility 1506—24,000 sq ft., 1-story brick dining hall.

Property Number: 199210132
Type Facility: Facility 3000—345,186 sq. ft., 5-story concrete hospital.

Property Number: 199210133
Type Facility: Bank/Credit Union—2 buildings; a 1-story concrete bank and a 2-story brick credit union.

Property Number: 199210134
Type Facility: Facility 1838—8790 sq. ft., 1-story brick chapel.

Property Number: 199210135
Type Facility: Facility 1845—9967 sq. ft., 1-story brick theater.

Property Number: 199210136
Type Facility: Fuel Stations—2 buildings; 1-story metal and brick/metal vehicle fuel and exchange service stations.

Property Number: 199210137
Type Facility: Hazardous Storage and Igloos—40 buildings; 4 metal and concrete block hazardous storage bldgs. and 36 concrete igloo storage bldgs.

Property Number: 199210138
Type Facility: Airport Related Areas—26 areas; approximately 205 acres including runways, aprons, taxiways and pads.

Suitable/Unavailable Properties

Property Number: 189120235
Type Facility: #237

Unsuitable Properties

Property Number: 189030043–189030218
Type Facility: Kings Branch Housing
Reason: Extensive deterioration

Maine—Loring Air Force Base

Suitable/Available Properties

Buildings

Bldgs. 1–16
Family Housing Annex, Loring Air Force Base
U. S. Route #1
Caswell, ME, Aroostook, Zip: 04750–
Federal Register Notice Date: 02/05/93
Property Numbers: 189010590–189010605
Status: Excess
Comment: 1116 sq. ft. each; 1 story frame residence; no utilities; asbestos and radon tests pending; fuel tanks removed; sewage line needs repair.

Colorado—Lowry Air Force Base

Suitable/Available Properties

Land

NTMU—Partial Area
Lowry Air Force Base
Denver, CO, Denver, Zip: 80230–5000
Federal Register Notice Date: 02/05/93
Property Number: 189010254
Status: Excess
Location: West of Aspen Terr. housing area and South of (AFAFC) along the base boundary
Comment: Approximately 20 acres; sloping parts in the area.

[FR Doc. 93–2514 Filed 2–4–93; 8:45 am]
BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Application Notice Establishing the Closing Date for Transmittal of Applications Under the National Earthquake Hazards Reduction Program (NEHRP) for Fiscal Year (FY) 1994

AGENCY: U.S. Geological Survey.
ACTION: Notice.

SUMMARY: Applications are invited for research projects under the NEHRP.

Authority for this program is contained in the Earthquake Hazards Reduction Act of 1977, Public Law 95–124 (42 U.S.C. 7701, *et seq.*).

The purpose of this program is to support research in earthquake hazards prediction to provide earth-science data and information essential to mitigate earthquake damage.

Applications may be submitted by educational institutions, private firms, private foundations, individuals, and agencies of State and local governments.

The NEHRP supports research related to the following general areas of interest: I. Understanding the earthquake source: Determine the physical properties and mechanical behavior of active crustal fault zones and their surroundings; and develop quantitative models of the physics of earthquake processes. II. Evaluating earthquake potential: Determine the geological and geophysical setting and characteristics of seismically active regions; determine the occurrence, distribution and source properties of earthquakes, and relate seismicity to geologic structures and tectonic processes; determine the nature and rates of crustal deformation; characterize the earthquake potential of the United States on a regional and national basis; identify active faults, define their geometry, and determine the characteristics and dates of past earthquakes; conduct research to facilitate long-term probabilistic forecasts of the likelihood of large earthquakes on active fault; conduct intensified monitoring experiments in selected regions of high seismic

potential; and develop and evaluate short- and intermediate-term earthquake prediction methods. III. Predicting the effects of earthquakes: Acquire data needed for the prediction of ground shaking, ground failure, and response of engineered structures; predict strong ground shaking at local, regional and national scales; predict ground failure at local and regional scales; and evaluate earthquake risk and losses. IV. Applying and utilizing research results: Application of research results; transference of hazards and risk information and assessment methods to users.

ADDRESSES: The program announcement is expected to be available on or about February 1, 1993. You may obtain a copy of Announcement 7964 by writing to Mary Burkett, U.S. Geological Survey, Office of Procurement and Contracts—Mail Stop 205C, 12201 Sunrise Valley Drive, Reston, Virginia 22092. Organizations that applied for a FY 1993 award, and organizations that requested to be retained on the mailing list since the last announcement will be mailed a copy of Announcement.

DATES: Applications must be received on or before April 29, 1993.

FOR FURTHER INFORMATION CONTACT: William Phelps, Office of Earthquakes, Volcanoes, and Engineering—U.S. Geological Survey, Mail Stop 905, 12201 Sunrise Valley Drive, Reston, Virginia 22092. Telephone: (703) 648–6701.

Jack J. Stassi,

Assistant Director for Administration.

[FR Doc. 93–2792 Filed 2–4–93; 8:45 am]

BILLING CODE 4310–31–M

Bureau of Land Management

[WO 220–93–4320–03]

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's Clearance Officer at the phone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget, Paperwork Reduction Project (1004–0047), Washington, DC 20503, Telephone 202–395–7340.

Title: Grazing Application—Preference Summary and Supplemental Information OMB Approval Number, 1004–0047

Abstract: The combined application is submitted by individuals requesting recognition of changes from previous named individuals for grazing privileges. It is used to verify qualifications and maintain records on legal permittees.

Bureau Form Numbers: 4130–1a and 4130–1b

Frequency: On Occasion

Description of Respondents: Individuals stating qualifications for livestock grazing permits

Estimated Completion Time: 15 minutes

Annual Responses: 3,400

Annual Burden Hours: 850

Bureau Clearance Officer (Alternate): Gerri Jenkins 202–653–6105

Dated: November 17, 1992.

Henry Noldan,

Acting Assistant Director, Land and Renewable Resources.

[FR Doc. 93–2677 Filed 2–4–93; 8:45 am]

BILLING CODE 4310–84–M

[MT–922–4110–03; M 53323]

Record of Decision for Final Environmental Impact Statement for Fina Oil and Chemical Co. Exploratory Oil/Gas Well; Lewis and Clark National Forest, Glacier County, MT

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of availability, record of decision.

SUMMARY: Notice is hereby given that the Bureau of Land Management (BLM) has issued a second Record of Decision (ROD) dated January 14, 1993, that approves that Application for Permit to Drill (APD) submitted by Fina Oil and Chemical Company on its lease on the Rock Mountain Ranger District, Lewis and Clark National Forest, Glacier County, Montana. A decision concerning the Chevron APD, also addressed in the Final Environmental Impact Statement (FEIS), will be made separately.

On March 8, 1991, notice was published in **Federal Register** (56 FR 9935) that a joint decision, dated February 19, 1991, was made by the Lewis and Clark Forest Service Supervisor and the BLM Great Falls Resource Area Manager to approve the APD submitted by Fina Oil and Chemical Company on its lease on the Rocky Mountain Ranger District, Lewis and Clark National Forest, Glacier County, Montana. The decision was based on the FEIS for Exploratory Oil and Gas Wells—Proposed Oil and Gas Drilling near Badger Creek and Hall Creek.

That decision stated that the BLM's approval was only on the Drilling Plan and Hydrogen Sulfide Contingency Plan and also stated that appeals on surface-related issues must be appealed to the Forest Service. The BLM subsequently received four requests for State Director Review of the Area Manager's decision that claimed the BLM was responsible for reviewing surface effects on national forest land. In response, the Area Manager's decision was rescinded and the BLM conducted further analysis and an independent review of the surface-related issues addressed in the FEIS to determine if compliance with all applicable laws had been accomplished. The results of that review have led to the issuance of this, a second ROD, by the BLM Area Manager. This decision, with concurrence from Interior's assistant secretary for land and minerals, constitutes final agency action for the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Richard Hopkins; Great Falls Resource Area Manager, 812 14th Street North, Great Falls, Montana 59401; Phone: (406) 727–0503. Copies of this ROD are available upon request from the Great Falls Resource Area, 812 14th Street North, Great Falls, Montana 59401. Additional copies of the February 19, 1991, joint ROD and the associated FEIS are available for viewing at several Forest Service and BLM offices in Montana. Please contact the Lewis and Clark National Forest, P.O. Box 869, Great Falls, MT 59403, for a complete list of viewing locations.

SUPPLEMENTARY INFORMATION: The decision allows Fina to build approximately 4.5 miles of access road on National Forest Land to drill a single exploratory well to determine if geologic structures contain oil and/or natural gas. If the well is try, the access road and well pad will be reclaimed. Should the well encounter commercial quantities of oil and/or gas, additional environmental analysis will be conducted. The approval of the Surface Use and Operating Plan includes a strict set of mitigation measures that will minimize the impacts of the project on other surface resources and Forest users.

Dated: January 21, 1993.

Robert H. Lawton,

State Director.

[FR Doc. 93–2064 Filed 2–4–93; 8:45 am]

BILLING CODE 4310–DN–M

[WY-030-93-4111-16]

Availability of Final Environmental Impact Statement; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of the Final Environmental Impact Statement on the MetFuel Hanna Basin Coalbed Methane Project in central Carbon County, Wyoming.

SUMMARY: This Final Environmental Impact Statement assesses the environmental consequences of a methane gas development project in the Hanna Basin of northeast central Carbon County, approximately 7 miles north of Hanna, Wyoming. The proposed project entails the drilling, testing, operation, abandonment, and reclamation of a coalbed methane gas production operation in the Hanna Basin by MetFuels, Inc.

DATES: The public comment period will begin on or about February 12, 1993, and will end on or about March 15, 1993. To ensure that comments will be considered in the Record of Decision, they should be received no later than close of business, March 15, 1993 at the address listed below.

ADDRESSES: Comments or concerns should be addressed to Area Manager, Great Divide Resource Area, Bureau of Land Management, P.O. Box 670, Rawlins, Wyoming 82301.

FOR FURTHER INFORMATION CONTACT: Bob Tigner, Rawlins District Office (phone 307-324-7171), or contact the address listed above.

SUPPLEMENTARY INFORMATION: The proposed project addressed in this FEIS involves the drilling and development of a maximum of 123 coalbed methane wells on a 160-acre spacing within the project area. The proposed project would disturb approximately 1,021 acres on or adjacent to the 28,044-acre project area from the construction of pipelines, well pads, roads, powerlines, and compressor stations. It is anticipated that full field development would require several years, with approximately 32 wells being drilled in 1993 and the remainder drilled in 1994, 1995, and 1996.

Dated: January 28, 1993.

Ray Brubaker,

State Director.

[FR Doc. 93-2718 Filed 2-4-93; 8:45 am]

BILLING CODE 4310-22-M

[ID-942-03-4730-02]

Filing of Plats of Survey; Idaho

The plat of survey of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9 a.m., January 26, 1993.

The plat representing the dependent resurvey of portions of the east boundary, and subdivisional lines, the subdivision of certain sections, and the survey of Tracts 37 and 38, Township 5 South, Range 6 East, Boise Meridian, Idaho, Group No. 835, was accepted January 20, 1993.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

All inquiries concerning the survey of the above-described land must be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706.

Dated: January 26, 1993.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 93-2716 Filed 2-4-93; 8:45 am]

BILLING CODE 4310-66-M

[ID-942-03-4730-02]

Filing of Plats of Survey; Idaho

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9 a.m., January 26, 1993.

The supplemental plat prepared to show the subdivision of original Lot 2 in section 19, Township 45 North, Range 4 East, Boise Meridian, Idaho, was accepted January 20, 1993.

This plat was prepared to meet certain administrative needs of the Bureau of Land Management.

All inquiries concerning the survey of the above-described land must be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706.

Dated: January 26, 1993.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 93-2717 Filed 2-4-93; 8:45 am]

BILLING CODE 4310-GG-M

Bureau of Reclamation

Implementation of Section 3409 of the Central Valley Project Improvement Act, Title 34 of Public Law 102-575

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to prepare a programmatic environmental impact statement and notice of scoping meetings.

SUMMARY: Pursuant to section 3409 of the Central Valley Project Improvement Act (Act) and section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Bureau of Reclamation (Reclamation) proposes to prepare a programmatic environmental impact statement (EIS) to analyze the direct and indirect impacts and benefits of implementing this Act, including all fish, wildlife, and habitat restoration actions and the potential renewal of all existing Central Valley Project (CVP) water contracts.

It is anticipated that the "No Action" alternative in the EIS will reflect the administration of the CVP in accordance with Federal Reclamation law in effect prior to enactment of the Act on October 30, 1992. In addition, it is envisioned that there will be a reasonable range of action alternatives which reflect implementation of all provisions of the Act.

DATES AND ADDRESSES: Reclamation will seek public input on alternatives, concerns, and issues to be addressed in the EIS through a series of scoping meetings. The schedule and locations of the scoping meetings are as follows:

March 22, 1993, 1-4:30 p.m., Sacramento Inn-Comstock I & II, 1401 Arden Way, Sacramento, California 95815.

March 23, 1993, 6-9:30 p.m., Red Lion—Redding Sierra Room, 1830 Hilltop Drive, Redding, California 96002.

March 24, 1993, 1-4:30 p.m., Franco's, 610 S. Tehama, Willows, California 95988.

March 25, 1993, 6-9:30 p.m., Sheraton Smugglers Inn—Crystal Room I & II, 3737 North Blackstone, Fresno, California 93720.

March 26, 1993, 1-4:30 p.m., Holiday Inn—Ponce de Leon Room, 13070 S. Highway 33 & I-5, Santa Nella, California 95322.

March 30, 1993, 1-4:30 p.m., Burbank Hilton, 2500 Hollywood Way, Burbank, California 91505.

March 31, 1993, 6-9:30 p.m., Kona Kai Resort, 1551 Shelter Island Drive, San Diego, California 92106.

April 1, 1993, 6–9:30 p.m., Westin Hotel, 5101 Great American Parkway, Santa Clara, California 95054.

FOR FURTHER INFORMATION CONTACT: Mr. Kirk Rodgers, Manager, Office of Water Policy and Allocation, Bureau of Reclamation (Code: MP–180), Federal Building, 2800 Cottage Way, Sacramento, CA 95825; telephone: (916) 978–4981.

SUPPLEMENTARY INFORMATION: The draft programmatic EIS will focus on the impacts and benefits common to all methods of implementing the provisions of the Act. It will contain a general analysis of the physical, biological, social, and economic impacts arising from the implementation of the Act. In addition, it will address the cumulative impacts of implementation of the Act as a whole and in conjunction with other relevant past, present, and reasonably foreseeable actions. A proposed approach for this analysis is being developed and will be available to individuals before public meetings are held by calling the contact shown above.

The programmatic EIS is intended to serve as an analytical overview document that will precede the completion of subsequent NEPA documents (environmental impact statements or assessments) on specific activities or groups of activities addressed in the Act, including the renewal of existing CVP water service contracts. When a specific method of implementing an activity or activities specified in the Act is proposed, a subsequent NEPA document will be prepared which addresses the specific physical, biological, social, and economic impacts arising from that method of implementing the activity. In addition, the subsequent NEPA documents will present a summary of the issues addressed in the programmatic EIS and, as appropriate, incorporate by reference the analyses presented in the programmatic EIS.

Reclamation envisions the preparation of separate site-specific NEPA documents relating to the renewal of existing CVP water service contracts in each of the units of the CVP. It is expected that the preparation of these documents will be initiated prior to completion of the programmatic EIS.

The Act includes a wide range of environmental improvements and measures. Several of the major provisions which are intended to benefit the environment include:

(1) Expanding purposes of the CVP to include fish and wildlife mitigation, protection, and restoration;

(2) Establishing a restoration fund to cover a portion of the costs of fish, wildlife, and habitat restoration programs and projects;

(3) Requiring the increase of anadromous fish populations in Central Valley streams except for the San Joaquin River between Friant Dam and the Mendota Pool;

(4) Dedicating, on an annual basis, 800,000 acre-feet of CVP water to fish, wildlife, and habitat restoration;

(5) Requiring the development and implementation of a comprehensive plan to address fish, wildlife, and habitat concerns on the San Joaquin River;

(6) Promoting water conservation and water conservation projects;

(7) Acquiring land and associated water rights from CVP contractors;

(8) Developing a plan to increase the yield of the CVP;

(9) Directing the Secretary to provide firm water supplies to certain wetlands in the Central Valley; and

(10) Directing that CVP power used for fish and wildlife purposes be, in certain situations, repaid at the lowest price paid by CVP contractors.

Major provisions of the Act which are related to water service contracts include:

(1) Requiring the fulfillment of specific conditions before entering into new or renewed water service contracts;

(2) Establishing limitations on the duration of long-term water contracts;

(3) Authorizing CVP contractors to transfer their water, subject to certain conditions, to other users;

(4) Requiring CVP contractors to install water measuring equipment;

(5) Establishing a tiered pricing system for CVP water subject to contracts longer than 3 years;

(6) Contracting with a variety of entities to store and deliver CVP and non-CVP water for all beneficial uses; and

(7) Authorization for CVP contractors to use project facilities to bank water.

Dated: January 29, 1993.

Joe D. Hall,

Deputy Commissioner.

[FR Doc. 93–2731 Filed 2–4–93; 8:45 am]

BILLING CODE 4310–09–M

River Maintenance Program for the Rio Grande-Velarde to Caballo Dam, Rio Grande and Middle Rio Grande Projects, NM

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of public hearing on the draft supplement to the final environmental impact statement (DSFEIS) DES–93–02.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Bureau of Reclamation (Reclamation) has prepared a draft supplement to the 1977 final environmental impact statement (DSFEIS) on a reformulated river maintenance program within the Rio Grande floodway. The DSFEIS (DES–93–02) was made available to the public on January 8, 1993. Public hearings will be held to receive comments from interested organizations and individuals on the environmental impacts of the project.

DATES: The public hearings are scheduled for March 9, 1993, at 7 p.m., in Espanola, New Mexico; March 10, 1993, at 2 p.m., in Albuquerque, New Mexico; and March 11, 1993, at 6 p.m., in Socorro, New Mexico.

ADDRESSES: The hearings will be held at the following locations:

March 9—Española NM—Park Inn, 920 North Riverside Drive, North Highway 68, Española NM 87532.

March 10—Albuquerque NM—Hyatt Regency Hotel, 330 Tijeras Avenue NW., Albuquerque NM 87102.

March 11—Socorro NM—Macy Center, New Mexico Tech University, Socorro NM 87801.

Addresses for Comments, Requests to Testify, and Further Information

Projects Manager, Bureau of Reclamation, Albuquerque Projects Office, 505 Marquette NW., Suite 1313, Albuquerque, New Mexico 87102–2162; telephone: (505) 766–3381.

FOR FURTHER INFORMATION CONTACT: Mr. William E. Burleigh (Activity Manager, Albuquerque Projects Office); telephone: (505) 766–2518.

SUPPLEMENTARY INFORMATION: Organizations and individuals wishing to present statements at the hearing should contact the Bureau of Reclamation, Albuquerque Projects Office, at the above address, to announce their intention to participate. Requests for scheduled presentations will be accepted through 4 p.m. on March 5, 1993.

Oral comments at the hearing will be limited to 10 minutes. The hearing officer may allow any speaker to provide additional oral comments after all persons wishing to comment have been heard. Whenever possible, speakers will be schedule according to the time preference mentioned in their letter or telephone requests. Speakers not present when called will lose their

privilege in the scheduled order and will be recalled at the end of the scheduled speakers.

Written comments from those unable to attend or those wishing to supplement their oral presentations at the hearing should be received by Reclamation's Albuquerque Projects Office at the above address by March 15, 1993, for inclusion in the hearing record.

Dated: January 29, 1993.

Joe D. Hall,

Deputy Commissioner.

[FR Doc. 93–2734 Filed 2–4–93; 8:45 am]

BILLING CODE 4310–09–M

National Park Service

Lakeshore Road Reconstruction, Lake Mead National Recreation Area; Notice of Availability of Final Environmental Impact Statement

SUMMARY: In accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, Public Law 91–190, the National Park Service has prepared a Final Environmental Impact Statement (FEIS) on the proposed improvement of Lakeshore Road, Lake Mead National Recreation Area, Clark County, Nevada.

The Draft Environmental impact Statement (DEIS) for this project was circulated for public review between November 29, 1991 and January 30, 1992 (56 FR 61047). Both the FEIS and DEIS describe and evaluate three alternatives. Alternative A, no action, would make no improvements to the roadway except for routine maintenance. Alternative B, the proposal, would rehabilitate 8.8 miles of the existing road, relocate a 4.3-mile middle segment of the road closer to the lakeshore, construct six additional lake access roads and overlooks, redesign/channelize intersections and provide bicycle/pedestrian paths. Alternative C would also provide for rehabilitation of 8.8 miles of existing road, but would reconstruct a 3.6-mile section of the middle segment on the existing alignment. It would also provide for one additional lake access road and overlook, and similar to Alternative B, provide for redesign and channelization of intersections and for bicycle/pedestrian paths.

The 30 day no action period on the FEIS will end March 15, 1993. Requests for additional information and/or copies of the FEIS should be directed to: Superintendent, Lake Mead National Recreation Area, 601 Nevada Highway, Boulder City, Nevada 89005, telephone number (702) 293–8920.

Copies of the FEIS are available at the park headquarters and at libraries located in the park's vicinity. Copies also are available for inspection at the following address: Western Regional Office, National Park Service, Division of Planning, Grants and Environmental Quality, 600 Harrison St. suite 600, San Francisco, CA 94107–1372.

Dated: January 11, 1993.

Lewis Albert,

Acting Regional Director.

[FR Doc. 93–2825 Filed 2–4–93; 8:45 am]

BILLING CODE 4310–70–M

Delta Region Preservation Commission; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Delta Region Preservation Commission will be held at 7 p.m., on Wednesday, March 3, 1993, at the Ducros Museum, 1345 Bayou Road, St. Bernard, Louisiana.

The Delta Region Preservation Commission was established pursuant to section 907 of Public Law 95–625 (16 U.S.C. 230f), as amended, to advise the Secretary of the Interior in the selection of sites for inclusion in Jean Lafitte National Historical Park and Preserve, and in the implementation and development of a general management plan and of a comprehensive interpretive program of the natural, historic, and cultural resources of the Region.

The matters to be discussed at this meeting include:

—1993 programs and activities
—General Management Plan update
—New facilities
—Old Business
—New Business

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come-first-served basis. Any member of the public may file a written statement concerning the matters to be discussed with the Superintendent, Jean Lafitte National Historical Park and Preserve.

Persons wishing further information concerning this meeting, or who wish to submit written statements may contact Robert Belous, Superintendent, Jean Lafitte National Historical Park and Preserve, U.S. Customs House, 423 Canal Street, room 210, New Orleans, Louisiana 70130–2341, Telephone 504/589–3882. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of Jean Lafitte National Historical Park and Preserve.

Dated: January 26, 1993.

John E. Cook,

Regional Director, Southwest Region.

[FR Doc. 93–2826 Filed 2–4–93; 8:45 am]

BILLING CODE 4310–70–M

Advisory Commission of the San Francisco Maritime National Historical Park

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Advisory Commission of the San Francisco Maritime National Historical Park will be held from 10:15 a.m. to 12 noon and 1 p.m. to 4 p.m. (PST) on Thursday, February 18, 1993 in Building f (Firehouse), Fort Mason, San Francisco, California. The Advisory Commission was established for a period of ten years by Public Law 100–348 to provide advice on the management and development of the park.

The main agenda item at this public meeting will be a complete report on the Park finances. The Western Regional Office, National Maritime Museum Association, Associates of the National Maritime Museum Library, and Golden Gate National Park Association will explain their respective roles in providing assistance and funding to the San Francisco Maritime National Historical Park.

The meeting is open to the public. It will be recorded for documentation and transcribed for dissemination. Minutes of the meeting will be available to the public after approval by the Commission. Upon approval, a transcript will be available by contacting the Superintendent, San Francisco Maritime National Historical Park, Fort Mason, Building E, Second Floor, San Francisco, California 94123.

Dated: January 26, 1993.

B.J. Griffin,

Acting Regional Director, Western Region.

Agenda for the February 18, 1993 Meeting

Executive Session—Fort Mason, Building F (Firehouse) 9 a.m.–10 a.m.

9 a.m.—Introductory remarks from the Chair
Remarks from the Superintendent
Discussion of Goals from November 19, 1992 meeting
9:30 a.m.—Committee Reports
10 a.m.—Break

Public Meeting—Fort Mason, Building F (Firehouse) 10:15 a.m.–4 p.m.

10:15 a.m.—Welcome—Superintendent, William G. Thomas
Opening Remarks—Chairman, Patrick Flanagan
Old Business

Approval of Minutes
10:45 a.m.—Report on Park Finances
National Park Service Funding Sources, Patricia Neubacher, Budget Officer, Western Regional Office
Public questions and comments
12 p.m.—Lunch
1 p.m.—New Business
Report on San Francisco Maritime NHP Park Finances
Budget Needs
William G. Thomas, Superintendent SAFR, Jeanne Haugh, Administrative Officer SAFR
Public Questions and Comments
2 p.m.—Park Support Groups
—National Maritime Museum Association, Joseph Hoeghteling, President, Kathy Lohan, Executive Director
—Associates of the National Maritime Museum Library, Graydon S. Staring, President
—Golden Gate National Park Association, Greg Moore, Executive Director
Public questions and comments.
3:30 p.m.—Goals for next meeting
Commission questions and comments.
Public questions and comments.
4 p.m.—Adjournment

[FR Doc. 93–2827 Filed 2–4–93; 8:45 am]

BILLING CODE 4310–70–M

Mining Plan of Operation; Wrangell-St. Elias National Park and Preserve

AGENCY: National Park Service, Interior.

ACTION: Notice of availability.

SUMMARY: Notice is hereby given that pursuant to the provisions of section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR 9A, James Moody has filed a supplement to his currently approved plan of operations for Bonanza Nos. 4 through 6 located within Wrangell-St. Elias National Park and Preserve. This supplement proposes that Bonanza Nos. 2 and 3 placer claims be included within the approved plan of operations. If approved, the revised plan of operations will expire at the end of the 1993 mining season.

ADDRESSES: This supplemental plan of operations is available for inspection during normal business hours at the following locations:

Alaska Regional Office—Minerals Management Division, National Park Service, 2525 Gambell Street, Anchorage, Alaska 99503–2892

Superintendent, Wrangell-St. Elias National Park and Preserve, P.O. Box 29, Glennallen, Alaska 99588

FOR FURTHER INFORMATION CONTACT: Floyd Sharrock of the National Park Service, Minerals Management Division at the address given above; telephone (907) 257–2626.

John M. Morehead,
Regional Director.

[FR Doc. 93–2828 Filed 2–4–93; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–469 (Remand)]

Certain High-Information Content Flat Panel Displays and Subassemblies Thereof from Japan; Remand Proceeding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that the U.S. Court of International Trade (CIT) has remanded to the Commission its affirmative final determination in the above-captioned investigation. Written briefs concerning those issues that are the subject of the remand may be submitted by persons who were parties to the Commission's investigation in Certain High-Information Content Flat Panel Displays and Subassemblies Thereof from Japan, Inv. No. 731–TA–469 (Final), to the Commission no later than Friday, February 12, 1993. The deadline for the Commission to report its remand determination to the CIT is March 1, 1993.

ADDRESSES: Briefs should be addressed to Paul R. Bardos, Acting Secretary, and sent to the U.S. International Trade Commission, 500 E Street SW., room 112, Washington, DC 20436.

FOR FURTHER INFORMATION CONTACT: Paul R. Bardos, U.S. International Trade Commission, telephone 202–205–2000. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission issued an affirmative determination in the above-captioned investigation on August 26, 1991. On December 29, 1992, the CIT issued a decision remanding that determination. The CIT directed the Commission to make two separate determinations corresponding to the two classes or kinds of imported merchandise found by Commerce to be dumped, i.e., active matrix liquid crystal high-information content flat panel displays and electroluminescent high-information content flat panel displays.

On January 15, 1993, respondents Apple Computer, Inc., COMPAQ Computer Corp., and IBM Corp. filed a request for permission to file briefs before the Commission makes its remand determination. Among the reasons provided by the requesting parties for their request was the statement that they wished to discuss the effect of certain scope determinations issued by the Department of Commerce on the Commission's remand determination. Petitioners the Advanced Display Manufacturers of America filed on January 21, 1993, an opposition to respondents' request. On January 22, 1993, certain Japanese respondents joined in the request for permission to file briefs. On January 26, 1993, respondent Tandy Corp. also joined in the request.

Persons who were parties to the original Commission final investigation, and only such persons, may file briefs in this remand proceeding no later than Friday, February 12, 1993. Any such briefs should be filed in accordance with Commission rule 201.8, 19 CFR 201.8, and may not exceed twenty (20) double-spaced, typewritten pages. Only two (2) such briefs will be accepted: (1) one brief from parties in support of the imposition of antidumping duties, and (2) one brief from parties in opposition to the imposition of antidumping duties. Briefs must be accompanied by a certificate of service indicating that copies of the briefs were served on all parties of record in accordance with Commission rule 201.16(b), 19 CFR 201.16(b). If a brief contains business proprietary information, the business proprietary version should be served on all parties subject to the judicial protective order issued by the CIT, and a public version with all business proprietary information deleted should be served on all other parties.

Briefs may address (1) the issues raised by the CIT remand order, (2) whether the Commission can and should reopen the record to include Commerce's scope determinations, and (3) what impact, if any, Commerce's scope determinations should have on the Commission's remand determination. Briefs may not address other aspects of the Commission's final determination, and may not include information not contained in the administrative record compiled in the original investigation, other than information concerning Commerce's scope determinations.

By order of the Commission.

Issued: February 1, 1993.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–2758 Filed 2–4–93; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–342]

Certain Circuit Board Testers; Commission Determination To Designate Temporary Relief Proceedings More Complicated; Setting of Administrative Deadline

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to designate the temporary relief proceedings in the above-captioned investigation "more complicated," thereby extending the statutory deadline for determining whether to issue temporary relief by 60 days, *i.e.*, until April 1, 1993. The Commission has set an administrative deadline of March 10, 1993, for issuing its determination on temporary relief under 19 U.S.C. 1337(e). The Commission has determined to declare the temporary relief phase of this investigation more complicated because the presiding administrative law judge's initial determination (ID) on temporary relief contains insufficient factual findings to support a denial of relief under *Pretty Punch Shoppettes Inc.* v. *Hauk*, 844 F.2d 782 (Fed. Cir. 1988). Moreover, the ID contains incomplete and/or erroneous legal analyses to support several of its legal conclusions. In view of these deficiencies, the ID presents complex issues for review. Consequently, the Commission requires more time to supplement the ID's factual findings and to provide complete legal analysis of the issues presented.

ADDRESSES: Copies of the nonconfidential version of the presiding administrative law judge's ID denying temporary relief and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000.

FOR FURTHER INFORMATION CONTACT: Jean Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–3104. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: On September 25, 1992, Integri-Test, Corp. (Integri-Test) filed a complaint and a motion for temporary relief with the Commission alleging violations of section 337 of the Tariff Act of 1930 in the importation and sale of certain circuit board testers allegedly covered by certain claims of Integri-Test's U.S. Letters Patent 4,565,966. The notice of investigation instituting an investigation on the basis of Integri-Test's complaint was published in the **Federal Register** on November 2, 1992. 57 FR 49490. Bath Scientific Ltd. of the United Kingdom and BSL North America of Massachusetts were named as respondents. Pursuant to Commission interim rule 210.24(e)(8) (19 CFR 210.24(e)(8)), the Commission also provisionally accepted Integri-Test's motion for temporary relief.

The presiding administrative law judge held an evidentiary hearing on temporary relief from December 7–11, 1992. On January 4, 1993, all parties filed written submissions on the issues of remedy, the public interest, and respondents' bond, as provided for in Commission interim rule 210.24(e)(18)(ii) (19 CFR 210.24(e)(18)(ii)). On January 11, 1993, the administrative law judge issued an ID denying complainant's motion for temporary relief. On January 19, 1993, the parties filed written comments concerning the ID. The deadline for filing of reply comments was extended by the Chairman until January 25, 1993. All parties filed reply comments, but no government agency comments were filed.

This action is taken under authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and section 210.24(e)(11) of the Commission's interim rules (19 CFR 210.24(e)(11)).

Issued: February 1, 1993.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–2755 Filed 2–4–93; 8:45 am]

BILLING CODE 7020–02–M

JUDICIAL CONFERENCE OF THE UNITED STATES

Hearing and Meeting of the Judicial Conference Advisory Committee on Appellate Rules; Correction

AGENCY: Advisory Committee on Appellate Rules, Judicial Conference of the United States.

ACTION: Notice of open hearing and meeting.

Correction

SUMMARY: The two-day meeting of the Advisory Committee on Federal Rules of Appellate Procedure scheduled for April 20–21, 1993 will begin each day at 8:30 a.m., instead of 9 a.m. as published in the January 22, 1993 issue of the **Federal Register**. The meeting will be held at the Federal Judiciary Building, Agency Conference Room, 4th Floor, One Columbus Circle, NE., Washington, DC.

For additional information contact John K. Rabiej, Chief, Rules Committee Support Office, at (202) 273–1820.

Dated: January 29, 1993.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 93–2830 Filed 2–4–93; 8:45 am]

BILLING CODE 2210–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 92–24]

William L. Alford, Jr., M.D.; Denial of Application for Registration

On December 13, 1991, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to William L. Alford, Jr., M.D. (Respondent) of Norfolk, Virginia proposing to deny his application, executed on October 14, 1990, for registration as a practitioner under the Controlled Substances Act. 21 U.S.C. 823(f). The basis for the Order to Show Cause was that Respondent's registration would be inconsistent with the public interest. As grounds, the DEA alleged that (1) Respondent, as a medical student in 1976, unlawfully diverted the Schedule II controlled substance morphine for his personal use and by 1983 had established a pattern of unlawful abuse in quantities up to 700 milligrams per day; (2) on December 15, 1983, he was convicted in the Circuit Court of the City of Chesapeake of the felonies of possession of morphine with intent to distribute and

of conspiracy to distribute morphine; (3) on April 13, 1984, he was convicted by the Circuit Court of the County of Henrico of six felonies including possession of marijuana with intent to distribute, and possession of Demerol, Quaalude, dextroamphetamine, and Preludin, all Schedule II controlled substances, with intent to distribute; and (4) on July 20, 1984, the Commonwealth of Virginia Board of Medicine revoked his license to practice medicine. On December 6, 1989, the Virginia Board reinstated Respondent's medical license on indefinite probation with terms and conditions which included a prohibition from handling controlled substances.

Respondent, by counsel, requested a hearing. The matter was docketed before Administrative Law Judge Mary Ellen Bittner and a hearing was scheduled for September 9, 1992. On August 31, 1992, the Government presented a motion for summary disposition alleging that Respondent did not possess a current license from the Commonwealth of Virginia to permit him to handle controlled substances. On September 4, 1992, the Respondent replied to the government's motion and requested a continuance until the Virginia Board of Medicine met and ruled on Respondent's state licensure status. Respondent did not deny that he is currently without authority from the Commonwealth of Virginia to handle controlled substances.

On September 18, 1992, Judge Bittner issued an Opinion and Recommended Decision of the Administrative Law Judge which granted the Government's motion for summary disposition and recommended that the Respondent's application for registration be denied. No exceptions were filed, and on October 19, 1992, the administrative law judge transmitted the record of the proceedings to the Administrator.

The Administrator has considered the record in its entirety and, under the provision of 21 CFR 1316.67, enters his final order in this matter, based on findings of fact and conclusions of law as hereinafter set forth.

Judge Bittner determined that the Respondent is not licensed to prescribe or dispense controlled substances in the State of Virginia, the jurisdiction in which he seeks registration with the DEA. Judge Bittner also concluded that the Respondent is not entitled to possess a DEA Certificate of Registration, and that DEA has no authority to grant him a registration. Accordingly, the administrative law judge recommended that his application for registration should be denied.

The DEA has consistently held that it does not have statutory authority under the Controlled Substances Act to register a practitioner unless that practitioner is authorized by the state to dispense controlled substances. 21 U.S.C. 802(21), and 823(f). See, e.g., Bobby Watts, M.D., Docket No. 87–71, 53 FR 11920 (1988); Wingfield Drugs, Inc., Docket No. 87–13, 52 FR 27070 (1987); and Robert F. Witek, D.D.S., Docket No. 87–54, 52 FR 47770 (1987).

The Administrator adopts the opinion and recommended decision of the administrative law judge in its entirety. Based on the foregoing, the Administrator concludes that Dr. Alford's application for registration must be denied. 21 U.S.C. 823(f). Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that the application for registration, executed by William L. Alford, Jr., M.D. on November 6, 1990, be, and it hereby is, denied. This order is effective February 5, 1993.

Dated: January 27, 1993.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 93–2751 Filed 2–4–93; 8:45 am]

BILLING CODE 4410–09–M

Romulo Robleda Gamad, Jr., M.D.; Revocation of Registration

On October 15, 1992, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Romulo Robleda Gamad, Jr., M.D. (Dr. Gamad) of 2953 Beal Street, Warren, Ohio 44485, proposing to revoke his DEA Certificate of Registration, AG5934080, and to deny any pending applications for registration as a practitioner under 21 U.S.C. 823(f). The proposed action was predicated on Dr. Gamad's lack of authorization to handle controlled substances in the State of Ohio. 21 U.S.C. 823(f). The Order to Show Cause also alleged that Dr. Gamad had been convicted in the Court of Common Pleas, State of Ohio, of selling or offering to sell controlled substances on November 13, 1991, and that such convictions were felonies relating to controlled substances under applicable State law as that term is used in 21 U.S.C. 824(a)(2).

The Order to Show Cause was sent to Dr. Gamad by registered mail. More than thirty days have passed since the Order to Show Cause was received by Dr. Gamad and the Drug Enforcement Administration has received no response thereto. Pursuant to 21 CFR 1301.54(a) and 1301.54(d), Romulo Robleda Gamad Jr., M.D., is deemed to have waived his opportunity for a hearing. Accordingly, the Administrator now enters his final order in this matter without a hearing and based on the investigative file. 21 CFR 1301.57.

The Administrator finds that Dr. Gamad's medical license was permanently revoked on June 18, 1992, by the State Medical Board of Ohio. The revocation was based upon the aforementioned controlled substance convictions. Consequently, Dr. Gamad is no longer authorized to handle controlled substances in any schedule in the State of Ohio.

Therefore, the Administrator concludes that the DEA does not have the statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without State authority to handle controlled substances. See 21 U.S.C. 823(f). The Administrator and his predecessors have consistently so held. See Howard J. Reuben, M.D., 52 FR 8375 (1987); Ramon Pla, M.D., Docket No. 86–54, 51 FR 41168 (1986); Dale D. Shahan, D.D.S., Docket No. 85–57, 51 FR 23481 (1986); and cases cited therein.

Since Dr. Gamad lacks State authorization to handle controlled substances, it is not necessary for the Administrator to decide the issue of whether Dr. Gamad's State felony convictions may be the basis to revoke his registration. No evidence of explanation or mitigating circumstances has been offered by Dr. Gamad.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration, AG5934080, previously issued to Romulo Robleda Gamad, Jr., M.D., be, and it hereby is, revoked, and any pending applications for the renewal of such registration, be, and they hereby are, denied. This order is effective February 5, 1993.

Dated: January 29, 1993.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 93–2754 Filed 2–4–93; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 92–41]

Arunkumar J. Shah, M.D.; Denial of Application for Registration

On February 26, 1992, the Deputy Assistant Administrator, Office of

Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Arunkumar J. Shah, M.D. (Respondent) of Houston, Texas, proposing to deny his application, executed on November 6, 1990, for registration as a practitioner under the Controlled Substances Act. 21 U.S.C. 823(f). The basis for the Order to Show Cause was that respondent's registration would be inconsistent with the public interest. As grounds, the DEA alleged that the Respondent wrote prescriptions to undercover officers without a valid medical indication on three occasions, that he had surrendered his Texas medical license and controlled substance registration, and that his DEA Certificate of Registration had been previously revoked.

Respondent, by counsel, requested a hearing. The matter was docketed before Administrative Law Judge Paul A. Tenney. A hearing was held in Houston, Texas on July 28, 1992. Based on new information acquired on that date, the Government presented a motion for summary disposition alleging that Respondent did not possess a current license from the Texas Department of Public Safety to permit him to handle controlled substances. The administrative law judge deferred ruling on the Government's motion to allow Respondent to file a response. Judge Tenney proceeded with the scheduled hearing and received evidence on the merits of the issues raised by the Order to Show Cause. On September 9, 1992, the Respondent, in reply to the Government's motion, did not deny that he is currently unauthorized by the State of Texas to handle controlled substances, but asked that the administrative law judge make a finding on the public interest issue.

On September 11, 1992, Judge Tenney issued an opinion and recommended decision of the administrative law judge which granted the Government's motion for summary disposition and recommended that the Respondent's application for registration be denied. No exceptions were filed, and on October 8, 1992, the administrative law judge transmitted the record of the proceedings to the Administrator.

The Administrator has considered the record in its entirety and, under the provision of 21 CFR 1316.67, enters his final order in this matter, based on findings, of fact and conclusions of law as hereinafter set forth.

Judge Tenney found that the Respondent is not licensed to prescribe or dispense controlled substances in the State of Texas, the jurisdiction in which he seeks registration with the DEA.

The DEA has consistently held that it does not have statutory authority under the Controlled Substances Act to register a practitioner unless that practitioner is authorized by the State to dispense controlled substances. 21 U.S.C. 802(21), and 823(f). A lack of a state license to handle controlled substances requires that DEA revoke the registrant's DEA Certificate of Registration or deny an application for registration. See, Bobby Watts, M.D., Docket No. 87–71, 53 FR 11920 (1988); Wingfield Drugs, Inc., Docket No. 87–13, 52 FR 27070 (1987); and Robert F. Witek, D.D.S., Docket No. 87–54, 52 FR 47770 (1987). Accordingly, the administrative law judge concluded that the Respondent's application for registration should be denied.

The administrative law judge also concluded that the Respondent, by his request for a finding on the merits of the public interest question, was asking that the Administrator enter a declaratory order pursuant to 5 U.S.C.A. 554(e). The Administrator, in his discretion, is permitted to enter a declaratory order if such an order is issued to terminate a controversy or remove an uncertainty. In this case, the administrative law judge found that the potential benefit of judicial economy gained by ruling on the public interest question was outweighed by the dynamic nature of the public interest determinations. The administrative law judge concluded that a declaratory order is inappropriate when there is a possibility that a subsequent event could alter the critical facts. Since the State of Texas has not made a final decision on Respondent's ability to handle controlled substances, the information regarding the Respondent and the public interest is yet incomplete.

The Administrator adopts the opinion and recommended decision of the administrative law judge in its entirety. Based on the foregoing, the Administrator declines to enter a declaratory order on the public interest issue and concludes that the Respondent's application for registration must be denied. 5 U.S.C.A. 554(e) and 21 U.S.C. 823(f).

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824, and 28 CFR 0.100(b), hereby orders that the application for registration, executed by Arunkumar J. Shah, M.D. on November 6, 1990, be, and it hereby is, denied. This order is effective February 5, 1993.

Dated: January 26, 1993.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 93–2750 Filed 2–4–93; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 92–35]

James C. Womack, M.D.; Denial of Application

On January 27, 1992, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to James C. Womack, M.D., 1300 Cedar, Bandera, Texas 78003, (Respondent), proposing to deny his application for DEA registration as a practitioner under 21 U.S.C. 823(f). The Order to Show Cause was issued based on allegations that the Respondent's registration would be inconsistent with the public interest.

By letter dated February 28, 1992, Respondent, through counsel, requested a hearing on the issues raised by the Order to Show Cause and the matter was docketed before Administrative Law Judge Paul A. Tenney. Following prehearing procedures, a hearing was held before Judge Tenney in San Antonio, Texas on July 30, 1992. On October 19, 1992, the administrative law judge issued his opinion and recommended ruling, findings of fact, conclusions of law and decision. On November 12, 1992, the Respondent filed exceptions to the ruling of the administrative law judge. On November 20, 1992, the administrative law judge transmitted the record of these proceedings to the Administrator. The Administrator has considered the record in its entirety and pursuant to 21 CFR 1316.67 hereby adopts the findings, conclusions and recommendations of the administrative law judge and issues his final order in this matter.

The administrative law judge found that the Respondent had surrendered his DEA Certificate of Registration on December 16, 1991, based upon his personal abuse of controlled substances. The administrative law judge further found that, following the surrender of his own DEA registration, the Respondent continued to prescribe controlled substances using his father's DEA Certificate of Registration, issuing more than 700 controlled substances prescriptions. The administrative law judge correctly found from the evidence presented that the Respondent was fully aware that he had no authority to prescribe or otherwise handle controlled substances, yet continued to prescribe such controlled substances using his

father's DEA number. These facts are not disputed in the record.

The administrative law judge found that the Respondent offered little explanation or justification for his misconduct, nor did he actually acknowledge any wrongdoing. While it is true that the Respondent demonstrated rehabilitation from substance abuse, the record indicates that the Respondent failed to demonstrate that his behavior was in any way justified or that such behavior was not likely to recur. The facts bear out the administrative law judge's findings.

In evaluating whether the issuance of a DEA registration to Respondent would be inconsistent with the public interest, the Administrator considers the factors enumerated in 21 U.S.C. 823(f). They are as follows:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

In determining whether an applicant's registration would be inconsistent with the public interest, the Administrator is not required to make findings with respect to each of the factors listed above. Instead, the Administrator has the discretion to give each factor the weight he deems appropriate, depending upon the facts and circumstances of each case. See David E. Trawick, D.D.S., Docket No. 88–69, 53 FR 5326 (1988).

The administrative law judge found that the Government made a prima facie showing of 21 U.S.C. 823(f)(4) and (5), and found that the Government established conduct by the Respondent that would threaten the public health and safety. The Administrator takes particular note of the administrative law judge's finding that, although the Respondent initially acted lawfully in having patients, his behavior deteriorated to the point of completely ignoring the significance of a DEA Certificate of Registration.

The Administrator finds that not only was a showing made of Respondent's illegal behavior, but that the behavior of the Respondent indeed posed a threat to the public health and safety. The Respondent clearly is uncertain of, and even oblivious to, the laws and regulations under which he must function as a DEA registrant. The Administrator has considered the exceptions filed by the Respondent and, given the evidence in the record, finds them to be without merit. The Administrator determines that the Respondent's application for a DEA Certificate of Registration must be denied at this time. However, in accordance with the administrative law judge's recommendation, and pursuant to the evidence in the record regarding the Respondent's rehabilitation from substance abuse and his contribution in a medically underserved area, the Administrator finds that any application subsequently made by the Respondent to DEA for registration as a practitioner after one year will be favorably considered, provided there is no additional evidence of wrongdoing by the Respondent.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him under the provisions of 21 U.S.C. 823(f) and 28 CFR 0.100(b), hereby orders that the Respondent's pending application for a DEA Certificate of Registration be, and it hereby is, denied.

This order is effective February 5, 1993.

Dated: January 27, 1993.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 93–2752 Filed 2–4–93; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–27,960]

Pennzoil Sulphur Co., Galveston, TX; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Correction

This notice corrects the notice on petition TA–W–27,960 which was published in the **Federal Register** on January 13, 1993 (58 FR 4186) in FR Document 93–751. A printing error appears on page 4186 in the 5th line of the second column under TA–W–27,960. The line should read "26, 1991" instead of "26, 1992".

The sentence should read "A certification was issued covering all workers separated on or after October 26, 1991." Signed in Washington, DC, this 22nd day of January, 1993.

Violet Thompson,

Deputy Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–2782 Filed 2–4–93; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–27,801]

Spaulding Composites Co., Inc., Tonawanda, NY; Negative Determination Regarding Application for Reconsideration

By an application dated January 11, 1993, the company requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on November 27, 1992 and was published in the **Federal Register** on December 15, 1992 (57 FR 59359).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The Department's denial was based on the fact that the decreased sales or production criterion and the "contributed importantly" test of the Group Eligibility Requirements of the Trade Act were not met during the relevant periods.

The investigation findings show that the company produced fibre tube, high pressure laminates and fibre sheet.

In order for workers to obtain a worker group certification, all three of the Group Eligibility Requirements of the Trade Act including the "contributed importantly" test must be met. The criteria are (1) a significant decrease in employment; (2) an absolute decrease in sales or production and (3) increased imports of like or directly competitive articles which "contributed importantly" to declines in sales or production and employment at the firm or appropriate subdivision.

The Department agrees with the company that the decreased production or sales criterion has since been met since all production ceased at Tonawanda by November 1992. However, the "contributed importantly" test has not been met. This test is

generally demonstrated through a survey of the workers' firm's customers. The Department's survey showed that none of the major declining customers reported increasing their purchases of imports while decreasing their purchases from Spaulding during the period applicable to the petition.

Section 223(b)(1) of the Trade Act limits the Department's earliest certification of workers to only one year prior to the petition or postmarked date. Accordingly, worker separations and declines in sales or production in the early or mid-1980s would not form a basis for a worker group certification.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 28th day of January 1993.

Robert O. Deslongchamps,

Director, Office of Legislation & Actuarial Service, Unemployment Insurance Service.

[FR Doc. 93-2783 Filed 2-4-93; 8:45 am]

BILLING CODE 4510-30-M

Employment Standards Administration

Wage and Hour Division; Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., room S-3014, Washington, DC 20210.

Supersedeas Decisions to General Wage Determination Decisions

The number of the decisions being superseded and their date of notice in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the number of decisions being superseded.

Volume I

Pennsylvania:
- PA91-4 (Feb. 22, 1991) p. All. (PA93-4).
- PA91-23 (Feb. 22, 1991) p. All. (PA93-23).

Virginia:
- VA91-15 (Feb. 22, 1991) p. All. (VA93-15).
- VA91-17 (Feb. 22, 1991) p. All. (VA93-17).
- VA91-50 (Feb. 22, 1991) p. All. (VA93-50).
- VA91-78 (Sept. 4, 1992) p. All. (VA93-78).
- VA91-79 (Sept. 4, 1992) p. All. (VA93-79).
- VA91-80 (Sept. 4, 1992) p. All. (VA93-80).
- VA91-81 (Sept. 4, 1992) p. All. (VA93-81).

Volume II

Iowa:
- IA91-14 (Feb. 22, 1991) p. All. (IA93-14).

Volume III

Washington:
- WA91-1 (Feb. 22, 1991) p. All. WA93-1).

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 29th day of January 1993.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 93-2526 Filed 2-4-93; 8:45 am]

BILLING CODE 4510-27-M

Pension and Welfare Benefits Administration

[Application No. D-9061, et al.]

Proposed Exemptions; Elk Promotions, Inc.; Pension Plan, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restriction of the Employee Retirement income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and request for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, room N-5649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington DC 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, room N-5507, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

ELK Promotions, Inc., Pension Plan (the Plan), Located in Worthington, OH

[Exemption Application No. D-9061]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed sale by the Plan of its interests in certain notes (collectively, the Notes) to Fred N. Egelhoff, Jr. (Egelhoff), party in interest with respect to the Plan, provided that: (a) The Plan receives a price equal to the greater of the outstanding balance of the Notes plus any accrued interest, or the fair market value of the Notes as determined by an independent, qualified appraiser; (b) the sale will be a one-time sale for cash; and (c) the Plan will pay no fees in connection with the sale.

Summary of Facts and Representations

1. ELK Promotions, Inc. (the Employer), located in Worthington, Ohio, is engaged in the business of providing promotional items to companies and individuals.

2. The Plan is a defined benefit pension plan which, prior to March 1, 1992, had twenty-seven (27) participants and beneficiaries and total assets of $475,559. In March of 1992, the Plan filed a notice of intent to terminate under section 4041 of the Act and has, as of March 1, 1992, distributed the majority of the Plan's assets to the participants and beneficiaries of the Plan. As of April 15, 1992 the Plan had two participants and beneficiaries and total assets of $68,909. The two remaining participants in the Plan are Fred N. Egelhoff, Jr. and Larry L. Dill, both of whom are trustees (the Trustees) of the Plan.

3. The Plan acquired its interests in the Notes by entering into two loan participation agreements; one on May 18, 1989 and one on June 30, 1989. On May 18, 1989, the Plan and the ELK Promotions, Inc. Employees Profit Sharing Plan entered into a cognovit promissory note with Wood Financial Services, Inc. (the Wood Note), an Ohio corporation which is an unrelated party. The Wood Note is secured by a second mortgage on one four family unit and one three family unit located in Franklin County, Ohio. The Plan participates in the Wood Note to the extent of $10,000 of the $50,000 face amount. The monthly payments under the Wood Note include interest at a rate of twelve percent (12%) compounded per annum and principal amortized over a thirty year period, with a five year maturity. The outstanding balance and any accrued interest on the Wood Note are due on June 1, 1994.

On June 30, 1989, the Plan entered into a loan agreement, in conjunction with several unrelated parties, with Cedar Wood Apartments of Belpre II, Ltd. (the Cedar Note), also an unrelated party. The Cedar Note is secured by a first mortgage on a thirty-four unit apartment facility, Cedarwood Apartments of Belpre II, Ltd., located at 431 East Broad St., Columbus, Ohio. The Plan participated in the Cedar Note to the extent of $25,000 of the $575,000 face amount. The monthly payments under the Cedar Note include interest at a rate of ten percent (10%) per annum and principal amortized over a thirty year period, with a five year maturity. The outstanding balance and any

accrued interest on the Cedar Note are due at maturity on June 1, 1994.

The applicant represents that the payments to the Plan under the Notes are current.

4. The applicant states that in order to complete the termination of the Plan, the Plan must have sufficient cash to pay the accrued benefit balances to the remaining two participants. Because the Notes represent a significant amount of the Plan's assets, it is essential to liquidate the Notes in order to pay the remaining two participants their accrued balances.

5. The applicant represents that the Notes are not publicly-traded or freely transferable and, therefore, are fairly illiquid. The Trustees believe that the Plan could incur substantial losses, as well as commissions and other related expenses, if the Plan attempted to sell the Notes to an unrelated party or parties. Accordingly, the Trustees propose the sale of the Notes, by the Plan to Egelhoff, at a price equal to the greater of the outstanding balance of the Notes plus an accrued interest, or the fair market value of each of the Notes as determined by an independent qualified appraiser at the time of the sale. The Plan would not pay any commissions or other expenses with respect to the sale.

6. BancOhio National Bank-Trust Group (BNB) has appraised the fair market value of the Notes. BNB has extensive experience evaluating both equity and debt instruments and provides valuation services for use in personal financial planning, Employee Stock Ownership Plans, estate and gift taxes and corporate restructuring. It is represented that BancOhio National Bank derives less than 1% of its income in the aggregate from the Trustees and the Employer. In addition, none of the Notes held by the Plan were purchased through BancOhio National Bank.

The fair market value of the Notes has declined since the Plan acquired them. BNB has concluded that the total fair market value of the Notes was $30,900 as of June 15, 1992. The appraisal indicates that the fair market value of the Notes is approximately the outstanding balance of the Notes discounted to yield an extra 200 basis points which reflects the risks associated with: The illiquid nature of the Notes; the "balloon" payment schedule of the Notes; and the impact of the economic recession of the value of the real estate in the area where the underlying collateral is located.

BNB states that the depressed real estate markets where the collateral (the Properties) underlying the Notes is located would cause serious difficulties in refinancing the Properties at the time the balloon payments are due, including: The provision of additional unrelated collateral to secure refinancing; or the Note holders may become the providers of permanent financing. In addition, foreclosing on the respective Properties appears unlikely to produce net proceeds sufficient to cover the outstanding balance of the Notes.

7. It is proposed that the Plan will receive the greater of the current fair market value of the Notes, as determined by BNB, or the outstanding balance of the Notes. The applicant states that BNB will update its appraisal of the Notes as of the date of the sale to obtain the most current fair market value of the Notes.

8. In summary, the applicant represents that the proposed transaction will satisfy the statutory criteria of section 408(a) of the Act because: (a) The Plan will receive a price which equal to the greater of the fair market value of each of the Notes, as determined by an independent appraiser, or the outstanding balance of each of the Notes plus any accrued interest; (b) the sale will be a one-time sale for cash; and (c) the Plan will not pay any commissions or other expenses with respect to the sale.

FOR FURTHER INFORMATION CONTACT: Mr. Eric Berger of the Department, telephone (202) 219–8971. (This is not a toll-free number.)

The Retirement Income Plan for Employees of the Colonial Williamsburg Foundation (the Plan), Located in Williamsburg, VA

[Application No. D–9055]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975 (c)(2) of the Code and in accordance with the procedures set forth in 29 CFR PART 2570, Subpart b (55 FR 32836, 32847, August 10, 1990). If the Exemption is granted the restriction of sections 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed cash sale (the Sale) by the Plan of certain parcels of real property (the Property, to the Colonial Williamsburg Foundation (the employer), a party in interest with respect to the Plan, provided that (a) the Plan receives not less than the fair market value of the Property as determined by a qualified, independent appraiser on the date of the Sale, and (b) the Plan will not incur any expenses incident to the Sale.

Summary of Facts and Representations.

1. The Employer, which sponsors the Plan, was formed in 1926 and is a non-profit, non-stock Virginia corporation. It was established to restore and preserve areas of the historic City of Williamsburg, Virginia, which had been the Colonial capital of Virginia. The Employer provides visitors to Williamsburg an opportunity to tour original and accurately reproduced 18th century buildings, and furnishings, and to experience interpretations of life in 18th century Williamsburg. Also, the Employer has a for-profit subsidiary, Colonial Williamsburg Hotel Properties, Inc., which operates various hotels, restaurants, and facilities in Williamsburg for the sole purpose of supporting its museum and other facilities.

The Employer is managed by a 26 member Board of Trustees that is composed of a diversified group of professional and executive personages that includes a Supreme Court Justice, an editor, an agriculturist, educators, lawyers, consultants, and executives of financial, manufacturing, merchandising, and service organizations from various parts of the country. The Board of Trustees appoints the various officers of the Employer to manage its daily operations, and the Board of Trustees also selects from its members a seven member Investment Committee that is responsible for the management of the Endowment Funds of the Employer.

2. The Plan is a qualified non-contributory defined benefit pension plan with 2,359 participants who are actively employed by the Employer, 1,122 retired participants or their beneficiaries, and 315 terminated employees with vested benefits, as of December 31, 1991. The total assets of the Plan were $78,598,933, as of December 31, 1991. The Plan is funded through the Retirement Income Trust Fund (the Trust) which is qualified and tax exempt under the Code, and its fiduciaries are empowered to hold, manage, and invest funds to be used for providing benefits under the Plan.

The custodial trustee (the Trustee) of the assets in the Trust is State Bank and Trust Company of Boston, Massachusetts, pursuant to a trust agreement, dated October 1, 1985, between the Employer and the Trustee.

Prior to October 1985, the custodial trustee was the Crestar Bank (Crestar), a wholly owned subsidiary of Crestar Financial Corporation, located in Richmond, Virginia, and successor to

United Virginia Bank, which had become custodial trustee of the assets of the trust pursuant to a trust agreement on May 2, 1976.

After October 1, 1985, Crestar continued to serve the Trust only with respect to the Property, as Custodial Sub-trustee.

The seven member Investment Committee (the Committee), which manages the Employer's Endowment Fund, also manages the Plan and its Trust. The Committee is responsible for the investment policy of the plan and the retention, monitoring, and discharge of its investment managers. Three of the seven members of the committee are the chairman of the Board of the Trustees of the Employer, the President of the Employer, and the Chairman of the Budget and Finance Committee of the Employer. The other four members of the Committee are the Chairman and Managing Partner of Beck, Mack & Oliver of New York, N.Y.; the Managing Partner of Geddy, Harris & Geddy of Williamsburg, Virginia; the Chairman of Putnam Management Company, Inc. of Boston Massachusetts; and the Managing Partner of Middlegreen Associates of Boston, Massachusetts.

3. The Property is located in York County, Virginia in the Vicinity of the City of Williamsburg. It is identified in the records of the York Assessor as Parcel A, Section 6/Lot 2A, containing approximately 123.11 Acres and Parcel B, Section 6/Lot 2B, containing approximately 214.29 acres. The Property is densely wooded with marshy areas, steep ravines, and rolling terrain of which approximately 139 acres is usable for building purposes.

4. The Plan now proposes to sell the Property to the Employer for the fair market value of the Property as determined by two qualified, independent appraisers, and in accordance with the determinations and approval of a qualified, independent fiduciary. The Plan's Investment Committee, acting in its fiduciary capacity for the Plan, determined that the proposed Sale of the Property to the Employer would allow the Plan to realize substantial appreciation on its investment in the Property; the Sale would improve the liquidity of the portfolio of the Plan by allowing the proceeds from the Sale to be invested in other assets of a more liquid nature; and would relieve the Plan for management functions inherent in ownership of land, such as, protecting the Property from vandalism and the potential liabilities from accidents occurring upon the Property. The applicant represents that the Sale of the Property to the Employer would allow the Plan to realize the fair market value of the Property while not incurring any expenses from the transaction, such as, sales commissions or legal fees.

After obtaining additional information regarding the Property and its proposed Sale, the Investment Committee engaged Paine Webber Properties, Incorporated, a Delaware Corporation (PWPI) on August 13, 1991, as its qualified, independent fiduciary in order to evaluate the terms of the Sale and determine whether the Sale was in the best interests of the Plan and its participants and beneficiaries. PWPI contracted with Dominion Realty Advisors, Inc., MAI, a successor to Drucker & Falk (Dominion), to update its earlier appraisal of the Property on February 9, 1990. Dominion determined the Property to have a fair market value of $2.9 million, as of February 25, 1992. In addition, PWPI hired LandVest of Boston, Massachusetts, MAI, to determine the fair market value of the Property. LandVest determined the fair market value of the Property to be $2.7 million, as of February 20, 1992. Based upon these two appraisals, PWPI, as a qualified independent fiduciary for the Plan with respect to the proposed Sale, determined, as of April 3, 1992, that the fair market value of the Property was $2.8 million; and furthermore determined that it was in the best interests of the Plan and its participants and beneficiaries to sell the Property at this time to the Employer. PWPI found that, due to economic changes in the area and the declining market values of real property, owning the Property does not serve the interests of the Plan. PWPI concluded in its representations that the potential for growth in the area has declined, especially, because of the change in tourism and military expenditures in the area. PWPI determined that the economy of the area where the Property is located principally depends upon tourism, the retail sales industry, lodging facilities, the military, and the ship building industry. All the above items are represented by PWPI to be experiencing a decline in opportunity for growth and profitability since the latter part of the 1980s from their highs of the mid-1980s. The applicant, citing a report by ZHA, Inc. of Annapolis, Maryland, a real estate consulting firm, represents that the potential for commercial development of the Property will not ripen for another 5 to 15 years.

5. In summary, the applicant represents that the proposed Sale will satisfy the criteria of section 408(a) of the Act because (a) the Sale of the Property involves a one-time transaction; (b) the Plan will not incur any expenses incident to the Sale; (c) the Sales price will be determined from appraisals of the Property prepared by qualified, independent appraisers; (d) the Sale was determined by a qualified, independent Plan fiduciary to be in the best interests of the Plan and its participants and beneficiaries and protective of the interests of the participants and beneficiaries of the Plan; (e) the Sale will permit the Plan to realize and reinvest the appreciated return from the Sale of the Property in more liquid assets; and (f) the Plan will not have to invest any of its assets in the development of the Property.

FOR FURTHER INFORMATION CONTACT: Mr. C.E. Beaver of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Metropolitan Life Insurance Company (Metropolitan), Located in New York, New York

[Application No. D–8469]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code shall not apply, effective February 20, 1984, to the past and continued leasing by Metropolitan's Separate Account RE (Account RE), a pooled separate account sponsored by Metropolitan in which employee benefit plans (Plans) invest, of office space in Commerce Plaza, a commercial development located in Oakbrook, Illinois, to Metropolitan, provided that the terms and conditions of the transaction were and remain at least as favorable to Account RE as those available in similar transactions between unrelated parties.

Effective date: If this proposed exemption is granted, the effective date will be February 20, 1984.

Summary of Facts and Representations

1. Metropolitan is a mutual life insurance company organized under the laws of the state of New York. Metropolitan has under management, in its general account (the General Account) and all of its separate accounts, a portfolio of mortgage loans and real estate equities of approximately $22.1 billion.

2. Metropolitan organized Account RE in 1972 as a separate account within the contemplation of section 3(17) of the

Act, under which income and gains and losses, whether or not realized, from assets allocated to the Account are credited to or charged against the Account without regard to other income, gains, or losses of Metropolitan. Account RE is open-ended with respect to investments and participation. Participation in Account RE is effected pursuant to group annuity contracts issued to participating plans (or Plan sponsors) which provide, among other things, that amounts received under the contracts are applied to Account RE and that the investment experience of the Account will be credited or charged, as the case may be, to the participating contracts proportionately to the relative interests of such contracts in the assets held in the Account. Account RE invests in equity and debt interests in real estate. The value of the real estate interests held in Account RE as of June 30, 1987 was approximately $322 million and 27 Plans were then participating in the Account. Metropolitan has been designated as an investment manager within the contemplation of section 3(38) of the Act with respect to each Plan participating in Account RE.

3. Commerce Plaza is comprised of three buildings, two of which were formerly owned by a joint venture known as Commerce Plaza North, and one of which was formerly owned by a joint venture known as Commerce Plaza South. Commerce Plaza South was formed on February 7, 1973 in connection with the purchase of an improved property as a joint venture comprised of three general partners: Metropolitan—owning a 50% interest in the venture; Arthur Rubloff & Co.—owning a 25% interest; and Mr. Lee Miglin—owning a 25% interest.[1] In accordance with its standard acquisition procedures as then in effect for Account RE, 90% of Metropolitan's joint venture interest in Commerce Plaza South was acquired for the General Account and 10% for Account RE. The Property is encumbered by two mortgages to the Equitable Life Assurance Society of the United States. Metropolitan, acting on behalf of the General Account and Account RE, acquired a 100% interest in all three buildings on May 25, 1982 in the same proportions as above, at which time the joint ventures were dissolved, and the three buildings consolidated into a single property.[2]

4. On May 11, 1973, Commerce Plaza South entered into a lease (the Primary Lease) for office space with Metropolitan. The Primary Lease was for a term of sixty months for an area of 10,020 square feet. Metropolitan reserved the right to renew the Primary Lease on the same terms and conditions for an additional sixty months.

On July 26, 1977, a supplement to the Primary lease (First Supplementary Lease) was executed under which Commerce Plaza South leased to Metropolitan additional space of approximately 1,661 square feet.

By letter agreement date August 30, 1977, the Primary Lease and the First Supplementary Lease were renewed for a term commencing June 1, 1978 and extending through may 31, 1983. Further supplemental leases were executed for storage and additional office space in 1981. Such supplemental leases also expired with the Primary Lease on May 31, 1983.[3]

5. Upon the expiration of the Primary Lease, First Supplementary Lease and the other supplementary leases, Metropolitan entered into a new lease, effective June 1, 1983, which was supplemented on July 10, 1984, effective August 1, 1984, for a term to expire on July 31, 1989, for office space known as Suite 300. Additional space (known as Suite 440) was leased on July 20, 1984, effective August 1, 1984, for a term to expire on September 30, 1989 (together, the Second Leases). Under the Second Leases, Metropolitan leases approximately 22,000 square feet, or 4.9% of the available leasable space in Commerce Plaza, for $18.00 per square foot. Upon the expiration of the Second Leases, Metropolitan continued to occupy the two suites on a month-to-month holdover basis under the terms of the Second Leases. This holdover lasted until November 30, 1989. The applicant represents that, consistent with the landlord's normal policies in respect of similarly situated tenants in Commerce Plaza, the holdover was treated by the landlord as a renewal which the applicant further represents was permissible under the Second Leases.

6. On August 4, 1989, Metropolitan entered into a lease for space known as Suite 400, which was amended on October 19, 1989 (the Current Lease). The Current Lease commenced on December 1, 1989 and continues to November 30, 1994. Under the Current Lease, Metropolitan is leasing 14,823 square feet for a rental of $1,761,556.49 for the five year term of the Lease, for an annual rental of $23.77 per square foot.

7. In January, 1984, Mr. Richard A. Rauch was appointed independent fiduciary for Account RE with respect to the lease of space to Metropolitan. Mr. Rauch is the owner and president of Rauch and Associates, an independent real estate investment and consulting firm in Chicago. As the fiduciary for Account RE with respect to the Second and Current Leases, Mr. Rauch reviewed the determination that a renewed lease

[1] The applicant represents that Commerce Plaza South would have constituted a "real estate operating company", as defined in the Department's "plan asset" regulation, 29 CFR 2510.3–101, if that regulation had been in effect during the pre-May 25, 1982 period when the building was owned and operated by Commerce Plaza South, and that, therefore, the assets of Account RE included only its investment in the joint venture and not any of the underlying assets thereof. The Department expresses no opinion whether Commerce Plaza South was a "real estate operating company."

[2] In this notice the applicant has not requested exemptive relief for the initial allocation of the shared investment in Commerce Plaza between Account RE and Metropolitan. In this regard, it is the view of the Department that the mere investment of the assets of a plan on identical terms with a fiduciary's investment for his or her own account in the equity interests of a shared real estate investment would not, in itself, cause the fiduciary to have an interest in the transaction that may affect his or her best judgment as a fiduciary. Therefore, such an investment would not in itself, violate section 406(b)(1) which states that a fiduciary may not deal with the assets of a plan for his or her own interest or account. In addition, such shared investment, pursuant to reasonable procedures established by the fiduciary, would not cause the fiduciary to act on behalf of (or represent) a party whose interests are adverse to those of the plan. Therefore, such an investment would not, in itself, violate section 406(b)(2) which states that a fiduciary may not act in any capacity in a transaction involving the plan on behalf of a party whose interests are adverse to the interests of the plan.

With respect to section 406(a)(1)(D) of the Act, which prohibits the transfer to, or use by or for the benefit of, a party in interest (including a fiduciary) of the assets of a plan, it is the opinion of the Department that a party interest does not violate that section merely because he or she derived some incidental benefit from a transaction involving plan assets. The Department assumes, for this analysis, that the fiduciary does not rely upon, and is not otherwise dependent upon, the participation of the plan in order to undertake its share of the investment.

Thus, with respect to the investment of plans assets in shared equity investments which are made simultaneously with investments by a fiduciary for its own account on identical terms it is the view of the Department that any benefit that the party in interest/fiduciary might derive from such investment under these circumstances is incidental and would not violate section 406(a)(1)(D) of the Act.

We further note that the investment needs of a plan may change over a period of time and, in the case of shared investments, the needs and objectives of other investors may become different from one another. At this point conflicts of interest may develop. We express no opinion as to possible prohibited transactions which may occur during the course of the joint ownership in Commerce Plaza.

For a more complete discussion of these issues, see the Notice of Proposed Exemption for Certain Transactions Involving the Equitable Life Assurance Society of the United States, 52 FR 30965, 30973, August 18, 1987.

[3] The applicant represents that Arthur Rubloff & Co. was the managing venturer of the Commerce Plaza South property and that Metropolitan did not have the authority to make unilateral decisions concerning the leasing of space in the Commerce Plaza South property, and that, therefore, Metropolitan could not unilaterally cause the joint venture to enter into the Leases with Metropolitan.

constitutes a desirable and appropriate transaction and investment for Account RE, and negotiated the terms and conditions of such lease. Mr. Rauch also has monitored Metropolitan's performance under the Leases and has enforced and will continue to enforce the terms of the Leases, if necessary, on behalf of Account RE.

8. Mr. Rauch made his findings with respect to the Second Leases on February 20, 1984,[4] which he supplemented on March 7, 1986. Mr. Rauch opined on the Current Lease on July 21, 1989. Mr. Rauch found, based on examination of the premises and lease agreements, as well as comparable leases at Commerce Plaza and similar properties in the Chicago marketplace, and his personal knowledge of the Chicago office building market since 1959, that the investment by Account RE in Commerce Plaza is a high quality investment, that Metropolitan is a tenant in good standing and that Metropolitan's leasing of space on Commerce Plaza under both the Second and Current Leases has been at fair market terms and conditions, including the rental rate.

9. In summary, the applicant represents that the transaction satisfies the criteria of section 408(a) because: (a) Mr. Rauch, as independent fiduciary for Account RE, has reviewed and approved the terms and conditions of the Leases and monitors and enforces the terms of the Leases; (b) Metropolitan has paid and continues to pay no less than fair market rental value for the Leases as determined by Mr. Rauch and (c) Mr. Rauch has determined that the Leases have been and continue to be appropriate and in the best interests of the Plans which have invested in Account RE.

FOR FURTHER INFORMATION CONTACT: Mr. David Lurie of the Department, telephone (202) 523-7901. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction in subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 29th day of January 1993.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 93-2676 Filed 2-4-93; 8:45 am]

BILLING CODE 4510-29-M

[4] Metropolitan represents that it will file a Form 5330 and pay all applicable excise taxes for the leasing of space to Metropolitan for the period of May 25, 1982 (the date on which Metropolitan acquired the entire equity interest in Commerce Plaza) to February 20, 1984 within 60 days of the date of a grant of this proposed exemption.

[Prohibited Transaction Exemption 93-6; Exemption Application No. D-9169, et al.]

Grant of Individual Exemptions; Union Labor Life Insurance Company (ULLICO), et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.Q02

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Union Labor Life Insurance Company (ULLICO), Located in Washington, DC

[Prohibited Transaction Exemption 93-6; Exemption Application No. D-9169]

Exemption

I. Transactions

A. The restrictions of sections 406(a) and 407(a) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4976(c)(1) (A) through (D) of the Code shall not apply to the following transactions

involving trusts and certificates evidencing interests therein:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and an employee benefit plan when the sponsor, servicer, trustee or insurer of a trust, the underwriter of the certificates representing an interest in the trust, or an obligor is a party in interest with respect to such plan;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates; and

(3) The continued holding of certificates acquired by a plan pursuant to subsection I.A. (1) or (2).

Notwithstanding the foregoing, section I.A. does not provide an exemption from the restrictions of sections 406(a)(1)(E), 406(a)(2) and 407 for the acquisition or holding of a certificate on behalf of an Excluded Plan by any person who has discretionary authority or renders investment advice with respect to the assets of that Excluded Plan.[1]

B. The restrictions of sections 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4976(c)(1)(E) of the Code shall not apply to:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and a plan when the person who has discretionary authority or renders investment advice with respect to the investment of plan assets in the certificates is (a) an obligor with respect to 5 percent or less of the fair market value of obligations or receivables contained in the trust, or (b) an affiliate of a person described in (a); if:

(i) The plan is not an Excluded Plan;

(ii) Solely in the case of an acquisition of certificates in connection with the initial issuance of the certificates, at least 50 percent of each class of certificates in which plans have invested is acquired by persons independent of the members of the Restricted Group and at least 50 percent of the aggregate interest in the trust is acquired by persons independent of the Restricted Group;

(iii) A plan's investment in each class of certificates does not exceed 25 percent of all of the certificates of that class outstanding at the time of the acquisition; and

(iv) Immediately after the acquisition of the certificates, no more than 25 percent of the assets of a plan with respect to which the person has discretionary authority or renders investment advice are invested in certificates representing an interest in a trust containing assets sold or serviced by the same entity.[2] For purposes of this paragraph B.(1)(iv) only, an entity will not be considered to service assets contained in a trust if it is merely a subservicer of that trust;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates, provided that the conditions set forth in paragraph B.(1)(i), (iii) and (iv) are met; and

(3) The continued holding of certificates acquired by a plan pursuant to subsection I.B. (1) or (2).

C. The restrictions of sections 406(a), 406(b) and 407(a) of the Act, and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c) of the Code, shall not apply to transactions in connection with the servicing, management and operation of a trust; provided:

(1) Such transactions are carried out in accordance with the terms of a binding pooling and servicing arrangement; and

(2) The pooling and servicing agreement is provided to, or described in all material respects in the prospectus or private placement memorandum provided to, investing plans before they purchase certificates issued by the trust.[3]

Notwithstanding the foregoing, section I.C. does not provide an exemption from the restrictions of section 406(b) of the Act or from the taxes imposed by reason of section 4975(c) of the Code for the receipt of a fee by a servicer of the trust from a person other than the trustee or sponsor, unless such fee constitutes a "qualified administrative fee" as defined in section III.S.

D. The restrictions of sections 406(a) and 407(a) of the Act, and the taxes imposed by sections 4975 (a) and (b) of the Code by reason of sections 4975(c)(1) (A) through (D) of the Code, shall not apply to any transactions to which those restrictions or taxes would otherwise apply merely because a person is deemed to be a party in interest or disqualified person (including a fiduciary) with respect to a plan by virtue of providing services to the plan (or by virtue of having a relationship to such service provider described in section 3(14) (F), (G), (H), or (I) of the Act or section 4975(e)(2) (F), (G), (H), or (I) of the Code), solely because of the plan's ownership of certificates.

II. General Conditions

A. The relief provided under part I is available only if the following conditions are met:

(1) The acquisition of certificates by a plan is on terms (including the certificate price) that are at least as favorable to the plan as they would be in an arm's-length transaction with an unrelated party;

(2) The rights and interests evidenced by the certificates are not subordinated to the rights and interests evidenced by other certificates of the same trust;

(3) The certificates acquired by the plan have received a rating at the time of such acquisition that is in one of the three highest generic rating categories from either Standard & Poor's Corporation (S&P's), Moody's Investors Service, Inc. (Moody's), Duff & Phelps Inc. (D&P) or Fitch Investors Service, Inc. (Fitch);

(4) The trustee is not an affiliate of any member of the Restricted Group. However, the trustee shall not be considered to be an affiliate of a servicer solely because the trustee has succeeded to the rights and responsibilities of the servicer pursuant to the terms of a pooling and servicing agreement providing for such succession upon the occurrence of one or more events of default by the servicer;

(5) The sum of all payments made to and retained by the underwriters in connection with the distribution or placement of certificates represents not more than reasonable compensation for underwriting or placing the certificates; the sum of all payments made to and retained by the sponsor pursuant to the assignment of obligations (or interests therein) to the trust represents not more than the fair market value of such obligations (or interests); and the sum of all payments made to and retained by the servicer represents not more than reasonable compensation for the

[1] Section I.A. provides no relief from sections 406(a)(1)(E), 406(a)(2) and 407 for any person rendering investment advice to an Excluded Plan within the meaning of section 3(21)(A)(ii) and regulation 29 CFR 2510.3-21(c).

[2] For purposes of this exemption, each plan participating in a commingled fund (such as a bank collective trust fund or insurance company pooled separate account) shall be considered to own the same proportionate undivided interest in each asset of the commingled fund as its proportionate interest in the total assets of the commingled fund as calculated on the most recent preceding valuation date of the fund.

[3] In the case of a private placement memorandum, such memorandum must contain substantially the same information that would be disclosed in a prospectus if the offering of the certificates were made in a registered public offering under the Securities Act of 1933. In the Department's view, the private placement memorandum must contain sufficient information to permit plan fiduciaries to make informed investment decisions.

servicer's services under the pooling and servicing agreement and reimbursement of the servicer's reasonable expenses in connection therewith; and

(6) The plan investing in such certificates is an "accredited investor" as defined in Rule 501(a)(1) of Regulation D of the Securities and Exchange Commission under the Securities Act of 1933.

B. Neither any underwriter, sponsor, trustee, servicer, insurer, or any obligor, unless it or any of its affiliates has discretionary authority or renders investment advice with respect to the plan assets used by a plan to acquire certificates, shall be denied the relief provided under Part I, if the provision of subsection II.A.(6) above is not satisfied with respect to acquisition or holding by a plan of such certificates, provided that (1) such condition is disclosed in the prospectus or private placement memorandum; (2) in the case of a private placement of certificates, the trustee obtains a representation from each initial purchaser which is a plan that it is in compliance with such condition, and obtains a covenant from each initial purchaser to the effect that, so long as such initial purchaser (or any transferee of such initial purchaser's certificates) is required to obtain from its transferee a representation regarding compliance with the Securities Act of 1933, any such transferees will be required to make a written representation regarding compliance with the condition set forth in subsection II.A.(6) above.

III. Definitions

For purposes of this exemption:

A. "Certificate" means:

(1) A certificate

(a) That represents a beneficial ownership interest in the assets of a trust; and

(b) That entitles the holder to pass-through payments of principal, interest, and/or other payments made with respect to the assets of such trust; or

(2) A certificate denominated as a debt instrument—

(a) That represents an interest in a Real Estate Mortgage Investment Conduit (REMIC) within the meaning of section 860D(a) of the Internal Revenue Code of 1986; and

(b) That is issued by and is an obligation of a trust;

With respect to certificates defined in (1) and (2) for which ULLICO or any of its affiliates is the trust sponsor.

For purposes of this exemption, references to "certificates representing an interest in a trust" include certificates denominated as debt which are issued by a trust.

B. "Trust" means an investment pool, the corpus of which is held in trust and consists solely of:

(1) Either

(a) Obligations that bear interest or are purchased at a discount and which are secured by multi-family residential and commercial real property (including obligations secured by leasehold interests on commercial real property); or

(b) Fractional undivided interests in any of the obligations described in clause (a) of this subsection B(1);

(2) Property which had secured any of the obligations described in subsection B(1);

(3) Undistributed cash or temporary investments made therewith maturing no later than the next date on which distributions are to made to certificateholders; and

(4) Rights of the trustee under the pooling and servicing agreement, and rights under any insurance policies, third-party guarantees, contracts of suretyship and other credit support arrangements with respect to any obligations described in subsection B.(1).

Notwithstanding the foregoing, the term "trust" does not include any investment pool unless: (i) The investment pool consists only of assets of the type which have been included in other investment pools, (ii) certificates evidencing interests in such other investment pools have been rated in one of the three highest generic rating categories by S&P's, Moody's, D&P, or Fitch for at least one year prior to the plan's acquisition of certificates pursuant to this exemption, and (iii) certificates evidencing interests in such other investment pools have been purchased by investors other than plans for at least one year prior to the plan's acquisition of certificates pursuant to this exemption.

C. "Underwriter" means the person or persons who are primarily responsible for the sale of the certificates.

D. "Sponsor" means:

(1) ULLICO; and

(2) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with ULLICO.

E. "Master Servicer" means the entity that is a party to the pooling and servicing agreement relating to trust assets and is fully responsible for servicing, directly or through subservicers, the assets of the trust.

F. "Subservicer" means an entity which, under the supervision of and on behalf of the master servicer, services loans contained in the trust, but is not a party to the pooling and servicing agreement.

G. "Servicer" means any entity which services loans contained in the trust, including the master servicer and any sub-servicer.

H. "Trustee" means the trustee of the trust, and in the case of certificates which are denominated as debt instruments, also means the trustee of the indenture trust.

I. "Insurer" means the insurer or guarantor of, or provider of other credit support for, a trust.

Notwithstanding the foregoing, a person is not an insurer solely because it holds securities representing an interest in a trust which are of a class subordinated to certificates representing an interest in the same trust.

J. "Obligor" means any person, other than the insurer, that is obligated to make payments with respect to any obligation or receivable included in the trust.

K. "Excluded Plan" means any plan with respect to which any member of the Restricted Group is a "plan sponsor" within the meaning of section 3(16)(B) of the Act.

L. "Restricted Group" with respect to a class of certificates means:

(1) Each underwriter;

(2) Each insurer;

(3) The sponsor;

(4) The trustee;

(5) Each servicer;

(6) Any obligor with respect to obligations or receivables included in the trust constituting more than 5 percent of the aggregate unamortized principal balance of the assets in the trust, determined on the date of the initial issuance of certificates by the trust; or

(7) Any affiliate of a person described in (1)–(6) above.

M. "Affiliate" of another person includes:

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person;

(2) Any officer, director, partner, employee, relative (as defined in section 3(15) of the Act), a brother, a sister, or a spouse of a brother or sister of such other person; and

(3) Any corporation or partnership of which such other person is an officer, director or partner.

N. "Control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

O. A person will be "independent" of another person only if:

(1) Such person is not an affiliate of that other person; and

(2) The other person, or an affiliate thereof, is not a fiduciary who has investment management authority or renders investment advice with respect to any assets of such person.

P. "Sale" includes the entrance into a forward delivery commitment (as defined in section Q below), provided:

(1) The terms of the forward delivery commitment (including any fee paid to the investing plan) are no less favorable to the plan than they would be in an arm's length transaction with an unrelated party;

(2) The prospectus or private placement memorandum is provided to an investing plan prior to the time the plan enters into the forward delivery commitment; and

(3) At the time of the delivery, all conditions of this exemption applicable to sales are met.

Q. "Forward delivery commitment" means a contract for the purchase or sale of one or more certificates to be delivered at an agreed future settlement date. The term includes both mandatory contracts (which contemplate obligatory delivery and acceptance of the certificates) and optional contracts (which give one party the right but not the obligation to deliver certificates to, or demand delivery of certificate from, the other party).

R. "Reasonable compensation" has the same meaning as that term is defined in 29 CFR 2550.408c–2.

S. "Qualified Administrative Fee" means a fee which meets the following criteria:

(1) The fee is triggered by an act or failure to act by the obligor other than the normal timely payment of amounts owing in respect of the obligations;

(2) The servicer may not charge the fee absent the act or failure to act referred to in (1);

(3) The ability to charge the fee, the circumstances in which the fee may be charged, and an explanation of how the fee is calculated are set forth in the pooling and servicing agreement; and

(4) The amount paid to investors in the trust will not be reduced by the amount of any such fee waived by the servicer.

T. "Pooling and Servicing Agreement" means the agreement or agreements among a sponsor, a servicer and the trustee establishing a trust. In the case of certificates which are denominated as debt instruments, "Pooling and Servicing Agreement" also includes the indenture entered into by the trustee of the trust issuing such certificates and the indenture trustee.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of propose exemption published on November 30, 1992 at 57 FR 56597.

For Further Information Contact: Mr. Ronald Willett of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Pension Plan of Government Employees Hospital Association, Inc. (the Plan), Located in Kansas City, Missouri

[Prohibited Transaction Exemption 93–7; Exemption Application No. D–9066]

Exemption

The restrictions of sections 406(a), 406(b)(1), and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to (1) the guaranty by Government Employees Hospital Association, Inc. (the Employer), the sponsor of the Plan, of the maturity values of the sub-funds (the Sub-funds), plus additional interest on one of the Sub-funds (together, the Guaranteed Amount), under group annuity contract number GA–1010 (the GAC) issued to the Plan by Mutual Benefit Life Insurance Company of New Jersey (Mutual Benefit); (2) the interest-free extensions of credit to the Plan by the Employer (the Advances) as advances on the Guaranteed Amount; and (3) the Plan's potential repayment of the Advances (the Repayments); provided that the following conditions are satisfied:

(A) All terms of such transactions are no less favorable to the Plan than those which the Plan could obtain in arm's-length transactions with an unrelated party;

(B) No interest and/or expenses are paid by the Plan;

(C) The advances are made only in lieu of payments due from Mutual Benefit with respect to the GAC;

(D) The Repayments are made only from the amounts actually received by the Plan from Mutual Benefit, its successors or assigns, or any guaranty fund or other association (Third Party Recoveries);

(E) The Repayments do not exceed the lesser of (1) the total Advances, or (2) the Guaranteed Amount; and

(F) The repayments are waived to the extent the Advances exceed the Third Party Recoveries.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on November 30, 1992 at 57 FR 56595.

Written Comments: The Department received one written comment and no requests for a hearing. The comment was submitted on behalf of the Employer, in correction of a typographical error which appeared in the Notice of Proposed Exemption. The Employer notes that the third paragraph of the summary of facts and representations in the Notice describes a subfund maturity date of December 31, 1992. The correct maturity date of the referenced subfund is December 31, 1991.

After consideration of the entire record, the Department has determined to incorporate the aforementioned correction and grant the exemption as proposed.

For Further Information Contact: Ronald Willett of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Fortunoff Pension Plan—Employer Group A (the Group A Plan), Fortunoff Pension Plan—Employer Group B (the Group B Plan) and Fortunoff Fine Jewelry and Silverware, Inc. Profit Sharing Plan (the Profit Sharing Plan; collectively, the Plans), Located in Westbury, NY

[Prohibited Transaction Exemption 92–8; Exemption Application Nos. D–8778, D–9073 and D–9074]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to: (1) The purchase by the Plans of undivided interests in certain improved real property (the Property), for the total cash consideration of $6 million, from M. Fortunoff of Westbury Corporation (M. Fortunoff), the sponsor of the Group B Plan; (2) the leasing of the Property by the Plans to Fortunoff Fine Jewelry and Silverware, Inc. (FFJ), the sponsor of the Group A Plan and the Profit Sharing Plan under the provisions of an amended lease (the Amended Lease); and (3) the use of space in the Property by Fortunoff Information Services (FIS) pursuant to the terms of a license agreement (the License) between FFJ and FIS, provided the following conditions are met: (1) the terms of the transactions are at least as favorable to the Plans as those obtainable in arm's length transactions with an unrelated party; (2) the independent fiduciary has determined that the subject transactions are in the best interests of the Plans, will

monitor and enforce compliance with the terms and the conditions of the transactions and exemption at all times, and will appoint one or more independent fiduciaries to resolve any conflicts of interest which may develop between the Plans with respect to the Amended Lease, the Property or each Plan's interest therein; (3) the acquisition price that is paid by the Plans for proportionate interests in the Property is less than the independently appraised value of the Property; (4) the value of the proportionate interests in the Property that are acquired by each Plan does not exceed 25 percent of each Plan's assets; (5) with the exception of mandatory title insurance charges, no Plan pays any real estate fees or commissions in connection with its acquisition of an interest in the Property; (6) the rental amount (the Base Rent) under the existing lease, which will be incorporated into the Amended Lease, is (as of March 17, 1992) in excess of the fair market rental value of the Property; (7) the Base Rent is adjusted annually by the independent fiduciary based upon an independent appraisal of the Property; (8) FFJ incurs all real estate taxes and other costs that are associated with the Property and which are incident to the Amended Lease; (9) FFJ obtains a one year irrevocable letter of credit (the Letter of Credit) in favor of the Plans as security for its rental obligations under the Amended Lease; (10) M. Fortunoff enters into an escrow agreement (the Escrow Agreement) under which at least one year's rental under the Amended Lease is maintained through the sixth anniversary date that the Property is transferred to the Plans; (11) the fee paid by FIS to FFJ under the License is proportionate to the rental payment made by FFJ to the Plans under the Amended Lease; and (12) the License has no effect on the Plans' ownership rights in the Property or FFJ's obligations to the Plans under the Amended Lease.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption (the Notice) published on May 8, 1992 at 57 FR 19951.

I. Discussion of Written Comments

The Department received seventeen written comments with respect to the Notice and four requests for a public hearing. Of the hearing requests received, one was subsequently withdrawn.

A number of the commentators requested clarification of the terms and conditions of the Notice and had questions as to the provisions of the respective Plan in which they participated. Other commentators expressed concerns regarding (1) whether the applicants and/or members of the Fortunoff Family (the Fortunoffs) would finance the construction of a shopping mall development known as the Long Island Galleria, (2) actual or potential conflicts of interest that might be engaged in by the parties to the proposed transactions, (3) the feasibility of allowing the Plans to invest in the Property given current economic conditions, (4) the structure of the proposed transactions and, (5) the creditworthiness of FFJ. The following is a discussion of these comments including the responses given by Mr. Browde and FFJ.

Several comments were focused on the proposed construction of the Long Island Galleria within the vicinity of FFJ's Westbury, New York store and excess land surrounding it (the Westbury Property). Specifically, these commentators questioned whether the applicants or the Fortunoffs would seek to finance the construction of the Long Island Galleria with the proceeds of the sale of the subject Property by M. Fortunoff to the Plans.

In this regard, FFJ states that the proceeds from the sale of the Property will not be used to finance the construction of the Long Island Galleria. Instead, FFJ explains that plans are currently being implemented for the sale of portions of the Westbury Property to third party developers. As a preliminary step, FFJ states that a 31 acre parcel of property has been sold to the Price Club and construction is currently underway.

Another comment was directed to conflicts of interest that were believed to be inherent in the proposed transactions. Here, the commentator expressed concerns in several areas. First, the commentator wondered whether the Fortunoffs would be vigilant in enforcing the terms of the Amended Lease since the commentator thought the Fortunoffs made all management decisions for the Plans and also managed FIS and FFJ. Second, the commentator questioned the independence of both Mr. Sanford Browde, the independent fiduciary, and Mr. James Peel, the independent appraiser. Third, the commentator remarked that the Plans had divergent interests which the commentator did not believe Mr. Browde could resolve.

In response to the initial comment, Mr. Browde represents that he and not the Fortunoffs is charged with vigilance in protecting the rights of the Plans under the Amended Lease. As an attorney specializing in Labor Law and matters pertaining to the Act, he maintains that he is well acquainted with his fiduciary duties and that he is charged with a personal obligation always to act in the best interests of the Plans. Mr. Browde also asserts that he is generally familiar with commercial real properties in the vicinity of the Property and that he has knowledge of real estate values for income-producing real property and fair rental values for commercial real property. Mr. Browde agrees that if a future conflict develops between the Plans as to the Amended Lease, the Property or the interests of each Plan with respect thereto, he will appoint one or more independent fiduciaries to act on behalf of such Plans that are in conflict in order that the respective interests of each Plan will be separately represented.

In response to the second comment, FFJ notes that Mr. Browde was selected to serve on behalf of the Plans as the independent fiduciary in order to minimize conflicts of interest that may exist in connection with the proposed transactions. FFJ explains that Mr. Browde has impressive credentials as an attorney specializing in Labor Law and matters pertaining to the Act, and he has expressed an understanding of his personal and fiduciary obligations to the Plans. FFJ further notes that Mr. Browde has advised the Department that his business dealings with FFJ represent less than one percent of his annual income.

As for Mr. Peel's independence, FFJ represents that Mr. Peel is a certified MAI appraiser who derives less than one percent of his annual income from the applicants and other Fortunoff interests.

In response to the commentator's argument about the divergent needs of the Plans, Mr. Browde represents that the Plans have consistent investment goals and the principal purpose of the transactions is to afford each Plan with the opportunity to increase its investment yield on fixed income investments and to diversify its portfolio by acquiring an interest in income-producing property. Mr. Browde states that Property is likely to generate additional income to the Plans of nearly $200,000 and he foresees no circumstances where one Plan would have to sell or partition its interest in the Property. Mr. Browde represents further that the Plans are now (and expect to remain) fully funded and have sufficient liquidity with which to pay benefits. Therefore, he believes each Plan is capable of holding the Property as an income-producing capital

investment. Should the Plans' interests diverge at some time in the future, Mr. Browde represents that he will take appropriate independent fiduciary action.

In commenting on the appropriateness of the Property as an investment for the Plans, Mr. Browde explains that the subject Property can be easily used by a multitude of lessees should it be vacated by FFJ during the term of the Amended Lease. He states that the Property is not a special purpose building and can support many of the retail, industrial or office requirements of users in the area.

This same commentator raised two additional concerns about the proposed acquisition transaction. One of the concerns related to the fact that engineering and environmental impact studies had not been conducted on the Property. The other pertained to the proposed leasing arrangements.

In response to the initial comment, Mr. Browde points out that environmental and engineering studies are not required under New York law to sell commercial property such as the subject Property. However, if these studies are conducted, the costs are typically borne by the purchaser. Due to the size of the Property, Mr. Browde does not advise that environmental and engineering studies be conducted because of their expense to the Plans. He also states that in the proposed Contract of Sale, M. Fortunoff represents that the condition of the Property is "good." In this regard, Mr. Browde notes that FFJ's 16 year use of the Property as a warehouse does not impose any environmental or material engineering risks or burdens on the Property. He also states that M. Fortunoff would be contractually liable if it sold a defective property to the Plan for which it is a sponsor. As lessee under a triple net lease, he notes that FFJ and not the Plans, is responsible for operating, maintaining and repairing the Property. Additionally, he states that FFJ as a net lessee is fully responsible under the Amended Lease for engineering defects or environmental conditions existing on the Property.

With respect to the leasing arrangements, the same commentator questions (1) the methodology for calculating rent under the Amended Lease and (2) whether FIS, which occupies only 7 percent of the area of the Property under the License arrangement, should have a non-disturbance agreement. In response to these comments, Mr. Browde represents that the amount of Base Rent payable to the Plans under the Amended Lease is above the current fair market rental value for the Property and the Amended Lease provides that it may not fall below this amount. He also explains that the Amended Lease requires him to increase such rent in the future if necessary to maintain the Base Rent at fair market rental value in accordance with the requirements of the Department.

With respect to the commentator's suggestion that FIS should have a non-disturbance provision incorporated into its License, Mr. Browde states that this provision would be contrary to customary real estate practice because it would deprive the land owner of desired flexibility should the primary lessee default. With a non-disturbance provision, FIS would receive only a small part of the total lease area and it could prevent the Plans from selling, re-leasing or even mortgaging the property as it would burden future users. Thus, Mr. Browde believes the present structure is the proper arrangement because the Plans would have the option of retaining FIS or requiring it to vacate the premises if FFJ defaults on the Amended Lease.

The commentator also questioned the creditworthiness of FFJ and its ability to make payments under the Amended Lease. In addressing this comment, Mr. Browde states that after undertaking an extensive review of the financial position of FFJ, he is fully satisfied with the ability of FFJ to meet all of its debt obligations. Mr. Browde explains that FFJ has consistently paid all amounts due with respect to its borrowings and other obligations on a timely basis, including all obligations under its lease with M. Fortunoff. In determining that FFJ is creditworthy, Mr. Browde has prepared an analysis of the financial condition of FFJ. In this regard, Mr. Browde has reviewed current financial statements of FFJ as well as projections for FFJ's current fiscal year which ends on January 31, 1993. Further, Mr. Browde has conducted interviews with officials at FFJ and with an official of a bank with which FFJ has had a long-standing relationship.

In analyzing FFJ's financial balance sheets for the years 1987 through February 3, 1992, Mr. Browde indicates that the years 1987 and 1988 were the two most profitable ones in the 25 year history of FFJ. In January 1989, he notes that FFJ retired the last installment of a $10 million long term debt facility originated in 1982 to finance its Wayne, New Jersey expansion. He explains that the only debt remaining in January 1989 was a $10 million first mortgage on FFJ's Fifth Avenue, New York store (the Fifth Avenue Property). The mortgage, which is held by Dime Savings Bank, is due in full at June 1996. The loan carries interest at the rate of 10⅝ percent annually and has been timely paid since its inception. The loan is secured by land, a building and improvements having an independently appraised value in excess of $46 million. The property is carried on FFJ's balance sheets at a book value of $4.7 million.

Mr. Browde explains that FFJ opened a new store in Woodbridge, New Jersey (the Woodbridge Property) in October 1989. He states that financing for this expansion was secured in the form of a $9 million loan from National Westminster Bank USA (NWB), FFJ's major lender. As of February 2, 1992, the loan had an outstanding principal balance of $7 million. Mr. Browde states that installments of $1 million have been timely made by FFJ and are payable annually until 1997.

Mr. Browde notes that while most retailers would have amortized these expansion costs over a period of years, pre-opening and grand opening advertising costs were totally expended in 1989 resulting in the first loss year for FFJ. Excluding these costs or amortizing them over a multi-year period would have resulted in a profitable year for FFJ according to Mr. Browde. Mr. Browde states that the repayment schedule for the remaining years of this loan fits within future scheduled cash flows and presents no burdens to FFJ's operations.

According to Mr. Browde, the year 1990 was characterized by lackluster sales activity during the Christmas season which resulted in a loss for FFJ. The loss was modest and after add back of depreciation and other non-cash items, Mr. Browde represents that the year was breakeven.

For 1991, Mr. Browde explains that FFJ implemented a cost reduction strategy which helped control losses that year to the extent of 2.6 percent greater than 1990.

For 1992, Mr. Browde has compared FFJ's financial statement as of February 2, 1992, with the prior year statement. He notes that cash balances shown on the balance sheet were consistent with prior years and that there was a net positive cash flow of $248,000. Among Mr. Browde's other observations are that (1) FFJ has a sufficient budget for fixed asset expenditures, (2) FFJ would not be making any further loans or advances to its affiliate, Westbury Property Investment Company (WPIC) after April 1992 as a result of the recent sale of a portion of the Westbury Property to the Price Club, (3) the accounts payable trail balance is current and according to terms and (4) accrued expenses and customer deposits are proper.

In addition to the above, Mr. Browde states that he has reviewed FFJ's Statement of Operations and that he has analyzed, in depth, the reason for losses experienced by FFJ in 1991 and 1992. He indicates that he is satisfied that FFJ has taken measures aimed at reducing expenses. For the year ended February 2, 1992, he explains that FFJ's net loss was $1,937,000 which were mostly attributable to non-cash items of depreciation and amortization.

As for FFJ's long term debt, Mr. Browde again makes reference to the loans on the Fifth Avenue Property and Woodbridge Property as described above. He indicates that in reviewing FFJ's banking relationship with NWB, he noted that FFJ had been authorized a $10 million short term revolving credit line and an additional $5 million credit line for letters of credit and trade acceptances. He explains that over the past ten years FFJ would routinely pay off its short term revolving line of credit after the Christmas season and would reactivate the borrowing in March to finance the new season inventory buildups.

Mr. Browde represents that he has also reviewed FFJ's position as a guarantor[4] on certain debt obligations. He states that these guarantees represent FFJ's involvement in the following ventures for which FFJ is jointly and severally liable:

(1) *Guarantor of debt between Mr. and Mrs. Alan Fortunoff and S. Marsh & Sons, Inc. (S. Marsh), an affiliated company, and NWB.* Mr. Browde represents that this loan, in the original principal amount of $9 million, is being amortized over a seven year period with annual principal payments ranging from $1 million to $1.5 million. In addition, he states that the schedule of debt repayment for S. Marsh is satisfied from the internal cash flow of FFJ and that the interest rate is based upon the lender's prime rate or a margin over the London Interbank Offered Rate (the LIBOR), whichever is more favorable to the borrowers. Currently, he notes, the interest rate is 6.25 percent.

Mr. Browde explains that S. Marsh has fixed assets in the form of unencumbered land, a building and merchandise inventory amounting to $6 million. This amount, added to the personal holdings of Mr. and Mrs. Fortunoff, comprise the primary security behind this obligation.

Mr. Browde has confirmed that a $2 million repayment of this indebtedness was made on December 31, 1991 in a timely manner. He says the payment was made out of operating revenue. At present, the outstanding principal balance of the loan is $7 million.

(2) *Guarantor of debt secured by the Woodbridge and Westbury Properties.* Mr. Browde explains that FFJ guaranteed mortgages to a banking consortium (the Banking Consortium) comprised of NWB, Citibank, N.A. and First Fidelity Bank, N.A., New Jersey, on real property in the vicinity of Fortunoff's Westbury, Long Island, New York store (approximately $53.6 million)[5] and the Fortunoff store located in Woodbridge, New Jersey (approximately $10.2 million). Mr. Browde explains that the debt to the Banking Consortium is the primary obligation of the property owners, WPIC and Westbury Property Sales Associates (WPSA) and that it is secured by mortgages on the Woodbridge and Westbury Properties.

Mr. Browde states that the lending arrangement with the Banking Consortium requires the payment of interest only on the debt through December 31, 1992. Such interest rate, he explains, is based upon the Banking Consortium's prime rate or, at the borrowers' option, a rate based upon the LIBOR, or whichever rate is more favorable to the borrowers. Again, he notes that the interest rate for these underlying loan obligations is 6.25 percent.

Mr. Browde states that there is annual amortization of principal in the amount of $1.5 million in 1993 and 1994. Beginning in March 1995, he explains that to the extent there is any principal balance remaining, the existing terms of the loans require repayment in 13 substantially equal quarterly payments of approximately $3.9 million.

Mr. Browde explains that all required payments of interest on these obligations have been made on a timely basis. Because a large parcel of the Westbury Property has been sold to the Price Club, net revenues to WPIC and WPSA exceed expenses by approximately $2.5 million. Therefore, Mr. Browde believes WPIC and WPSA are fully capable of meeting required amortization when it begins in 1993.

Mr. Browde explains that WPIC and WPSA are involved in active negotiations to sell other parcels of the Westbury Property to third parties who will act as developers for the property. These sales transactions are expected to serve as the source of repayment of all the outstanding principal amount of the loans and are expected to be completed before the more rapid amortization in March 1995. If the loans are not then fully paid, he explains that amortization of principal may be financed, in whole or in part, from the cash flow of WPSA and WPIC. Further, because the value of the Westbury Property presently exceeds the debt it secures by more than $41 million, Mr. Browde believes this favorable 61 percent loan to value ratio will offer the parties a significant opportunity to refinance and extend the terms of the debt repayment should it be required.

Mr. Browde states that the guarantees will continue in effect as long as there is any amount outstanding and due to the lenders. If there is a payment default, he explains that the lenders may proceed to enforce the debt directly against FFJ, as guarantor, without proceeding against any collateral securing the debt or exhausting any other remedies against the borrower. In practice, Mr. Browde states that lenders typically proceed against a borrower and its collateral security before seeking to enforce a third party guarantee.

Mr. Browde represents that the FFJ guarantee agreement respecting the loan securing the Westbury Property contains a very favorable subrogation provision which would entitle it to recover against WPIC and WPSA, not only the amounts it has paid under the guarantee but an assignment of the Banking Consortium's interests in the guaranteed obligations. Mr. Browde states that this provision has the effect of placing FFJ in the same position as the current bank lenders, including an assignment of the mortgages on the Westbury Property. Thus, in the event that WPIC and WPSA default on the bank loans and FFJ is required to pay the same, Mr. Browde explains that FFJ would not only have recourse against the property owners for the amount paid under FFJ's guarantee agreement, but its position would be secured by a mortgage on the Westbury Property which has a current appraised value that exceeds by approximately $41 million the amount of debt it secures.

Mr. Browde considers the likelihood of a payment default by WPIC and WPSA as being very remote since WPIC and WPSA have been repaying their loan obligations in a timely manner and he believes they are fully capable of meeting required amortization when it begins in 1993. Of particular significance to Mr. Browde is the

[4] Other guarantors include, Mr. and Mrs. Fortunoff, Ms. Rachel Sands and Messrs. Elliot and Isidore Mayrock.

[5] Mr. Browde states that the original principal balance of $89,856,000 was reduced in April 1992 when WPIC and WPSA sold 31 acres of the Westbury Property to the Price Club for $41.5 million. After taxes and fees, Mr. Browde explains that $36,289,000 of the debt was repaid to the Banking Consortium, leaving FFJ presently as a guarantor of the remaining debt in the amount of $53,567,000.

reduction in the debt that is secured by the Westbury Property from approximately $89.9 million to approximately $53.6 million.

II. Guarantees

As security for its obligations under the Amended Lease, FFJ proposes to obtain a $550,000 irrevocable letter of credit in favor of the Plans. The Letter of Credit will be issued by a nationally-recognized commercial bank located in New York for a term of one year beginning on the effective date of the transfer of title to the Property by M. Fortunoff to the Plans. The Letter of Credit will provide that Mr. Browde, on behalf of the Plans, may draw upon amounts available thereunder if FFJ defaults in its rental payments under the Amended Lease and such default continues for more than ten days after notice of such default is given.

In addition, to secure the payment and performance of all of FFJ's obligations to the Plans under the Amended Lease, M. Fortunoff will enter into an escrow agreement with the Plans and establish a special escrow account (the Escrow Account) over which it will have no withdrawing power or authority. M. Fortunoff will deliver to the law firm of McMillan, Rather, Bennett & Rigano, P.C. (the Escrow Agent), a total payment of $1.65 million (the Escrow Amount) which will be held and disbursed solely in accordance with the terms of the Escrow Agreement. Of the total payment placed in the Escrow Account (1) $1.65 million will represent the Escrow Amount beginning on the date that title to the Property is transferred to the Plans (the Transfer Date) through the second anniversary date thereof; (2) $1.1 million will represent the Escrow Amount from the Transfer Date through the third anniversary thereof; and (3) $550,000, or such higher amount as is determined by Mr. Browde to be the fair rental value of the Property under applicable provisions of the Amended Lease, will represent the Escrow Amount from the Transfer Date through the sixth anniversary thereof.[6] If, at any time, the Escrow Account has been depleted so that amounts then required under the Escrow Agreement to be in the custody of the Escrow Agent are not then held in escrow, M. Fortunoff will be required to deliver to the Escrow Agent amounts necessary to pay such shortfall, in full.

[6] The difference in the Escrow Amount during each predesignated period is attributed to disbursements made by the Escrow Agent to M. Fortunoff of $550,000.

All escrowed funds will be placed in an interest-bearing account with a federally or New York State chartered banking institution having net assets of at least $2.5 billion or capital and capital surplus of not less than $10 million, by the Escrow Agent. The funds may be invested in short-term instruments such securities, certificates of deposit, repurchase agreements or commercial paper.

The Escrow Agreement permits the Escrow Agent to make a disbursement of $550,000 to M. Fortunoff after 1994 provided Mr. Browde informs the Escrow Agent that there has been no default under the Amended Lease. After 1995, the Escrow Agreement permits the Escrow Agent to deliver, to M. Fortunoff, the lesser of (1) the difference between the annual Base Rent for the immediately following Amended Lease year and the balance of the Escrow Account or (2) $550,000 if Mr. Browde again notifies the Escrow Agent that there has been no default under the Amended Lease. Finally, after 1999, the Escrow Agreement will permit the Escrow Agent to deliver the balance of the Escrow Account to M. Fortunoff if Mr. Browde informs the Escrow Agent that there has been no default under the Amended Lease.

If during the initial six year term of the Escrow Agreement the Escrow Agent receives notice from Mr. Browde that a default under the Amended Lease has occurred, the Escrow Agent is required not to release the appropriate Escrow Amount. Rather, the Escrow Agreement will be extended and it will continue until the end of the term of the Amended Lease. At the end of such renewal term, if the Escrow Agent receives notice from Mr. Browde that there exists no event of default under the Amended Lease, the Escrow Agent will deliver the balance of the Escrow Account to M. Fortunoff, subject to any claims of Mr. Browde.

The Escrow Agreement further entitles Mr. Browde to exercise certain remedies on behalf of the Plans if FFJ defaults under the Amended Lease. In the event of such a default, the Escrow Agreement requires Mr. Browde to deliver certificates to the Escrow Agent, M. Fortunoff and FFJ specifying the exact nature of the default and the anticipated amount of damages. Ten days after delivery of such certificates, and from time to time thereafter (but not more than twice monthly), until the default is cured or the Escrow Account is depleted, Mr. Browde must instruct the Escrow Agent to deliver to the Plans such amounts as are necessary to reimburse the Plans for any losses or damages the Plans have sustained as a result of such default. The Escrow Agent is further required to deliver such portion of the Escrow Account as is specified in Mr. Browde's certificates upon presentment of same, without offset or deductions of any kind.

Mr. Browde states that there are several significant elements to the way the escrow has been structured that provide important protection to the Plans. He notes that both the Escrow Account and the Letter of Credit would be available to the Plans in the event of a default by FFJ under the Amended Lease, particularly during the first year of the Amended Lease. In addition, he represents that creditors of FFJ could claim no interest in the Escrow Account since the funds are deposited by M. Fortunoff and because M. Fortunoff has a separate corporate existence from that of FFJ. Further, Mr. Browde explains that no creditor of M. Fortunoff could claim an interest in the Escrow Account until the term of the escrow expired since M. Fortunoff would have only a reversionary interest in it.

Mr. Browde views the Escrow Account as being somewhat analogous to the Letter of Credit because only he, on behalf of the Plan beneficiaries, would be entitled to draw upon the amounts made available by the issuing bank. Mr. Browde explains that neither FFJ nor its creditors could seek to obtain funds that would be available under the Letter of Credit because the contract with the issuing bank would permit only the beneficiaries to draw upon such reserves. As an additional similarity between the Escrow Account and the Letter of Credit, Mr. Browde points out that M. Fortunoff is like a bank issuing a letter of credit in the sense that M. Fortunoff is making its funds available only to him, on behalf of the Plans, and only in the event of a default under the Amended Lease.

The Department has considered the concerns expressed by the three individuals who had requested a hearing and the applicant's written response addressing such concerns, and, on the basis of the materials provided, has determined not to hold a public hearing. Accordingly, after careful consideration of the entire exemption record, including the written comments submitted by interested persons, the review and analysis of the transactions by Mr. Browde and the guarantees, the Department has decided to grant the proposed exemption as described herein.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady, Department of Labor, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 29th day of January 1993.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 93–2674 Filed 2–4–93; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: Office of Records Administration, National Archives and Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before March 22, 1993. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESSES: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in the parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. Department of the Air Force (N1–AFU–93–6). Employee Career Development Records.
2. Department of Commerce, National Institute of Standards and Technology (N1–167–92–1). Comprehensive records schedule.
3. Department of Energy, Bonneville Power Administration (N1–305–92–1). Routine housekeeping files.
4. Department of State, Bureau of Public Affairs (N1–59–92–15). Routine and facilitative records of the Office of the Historian.
5. Department of State, Bureau of Politico-Military Affairs (N1–59–92–32). Records of the Office of Defense Trade Controls.
6. Department of Treasury, Synthetic Fuels Corporation (N1–56–91–5). Electronic and textual indexes to SFC Central Project Files.
7. National Archives and Records Administration (N2–101–93–1). Comptroller of the Currency records relating to Insolvent Banks, 1909–1953.
8. Interstate Commerce Commission (N1–134–93–3). Bureau of Traffic tariff files and copies of Postal Service contracts for mail delivery.
9. Railroad Retirement Board (N1–184–93–1). Routine records of the Office of Public Affairs.
10. Railroad Retirement Board (N1–184–93–2). Actuarial Valuation Data Summaries.

Dated: January 26, 1993.

Don W. Wilson,

Archivist of the United States.

[FR Doc. 93–2741 Filed 2–4–93; 8:45 am]

BILLING CODE 7515–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (93–010)]

Aerospace Safety Advisory Panel; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public

Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the Aerospace Safety Advisory Panel.

DATES: March 17, 1993, 1 p.m. to 2:30 p.m.

ADDRESSES: National Aeronautics and Space Administration, 300 C Street, SW., room 9H40, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur V. Palmer, Code Q–1, National Aeronautics and Space Administration, Washington, DC 20546 (202/358–0914).

SUPPLEMENTARY INFORMATION: The Aerospace Safety Advisory Panel will present its annual report to the NASA Administrator and Deputy Administrator. This is pursuant to carrying out its statutory duties for which the Panel reviews, identifies, evaluates, and advises on those program activities, systems, procedures, and management activities that can contribute to program risk. The major subjects covered will be the National Space Transportation System, Space Station, and Aeronautical Operations. The meeting will be open to the public up to the capacity of the room (approximately 50 persons including members of the Panel). The agenda for the meeting is presentation of the Panel's findings and recommendations.

Dated: January 29, 1993.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 93–2687 Filed 2–4–93; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL COMMISSION ON ACQUIRED IMMUNE DEFICIENCY SYNDROME

Meeting

AGENCY: National Commission on Acquired Immune Deficiency Syndrome.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463 as amended, the National Commission on Acquired Immune Deficiency Syndrome announces a forthcoming meeting of the Commission.

DATE AND TIME: Friday, February 12, 1993, 9 a.m.–4 p.m.

PLACE: Embassy Suites Hotel, 1250 22nd Street, NW., Delegate Room, Washington, DC.

TYPE OF MEETING. Open.

FOR FURTHER INFORMATION CONTACT: Roy Widdus, Ph.D., Executive Director, National Commission on Acquired Immune Deficiency Syndrome, 1730 K Street, NW., suite 815, Washington, DC 20006 (202) 254–5125. Records shall be kept of all Commission proceedings and shall be available for public inspection at this address.

AGENDA: The agenda for the Commission meeting will include discussions of the Commission's activities for the remainder of FY 1993.

Dated: February 1, 1993.

Roy Widdus,

Executive Director.

[FR Doc. 93–2715 Filed 2–4–93; 8:45 am]

BILLING CODE 6820–CN–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meeting; Museum Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Museum Advisory Panel (Special Exhibitions: Historical Section) to the National Council on the Arts will be held on March 9–11, 1993 from 9 a.m.–5:30 p.m. in room 714 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on March 9 from 9 a.m.–10 a.m. The topics will be introductory remarks and policy discussion.

The remaining portions of this meeting on March 9 from 10 a.m.–5:30 p.m. and March 10–11 from 9 a.m.–5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 24, 1992, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5439.

Dated: January 28, 1993.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 93–2719 Filed 2–4–93; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Committee of Visitors of the Advisory Committee for Computer and Information Science and Engineering; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Date and Time: February 26, 1993, 8:30 a.m.–5 p.m.

Place: Room 543 and 536, 1800 G Street, NW., Washington, DC.

Type of Meeting: Closed.

Contact Person: Dr. John R. Lehmann, Deputy Division Director, Microelectronic Information Processing Systems Division, rm 414, National Science Foundation, 1800 G St. NW., Washington, DC 20550. Telephone: (202) 357–7373.

Purpose of Meeting: To carry out Committee of Visitors (COV) review, including examination of decisions on proposals, reviewer comments, and other privileged materials.

Agenda: To provide oversight review of the Microelectronic Systems Architecture Program, the Experimental Systems Program, and the Systems Prototyping and Fabrication Program.

Reason for Closing: The meeting is closed to the public because the Committee is reviewing proposal actions that will include privileged intellectual property and personal information that could harm individuals if they were disclosed. If discussions were open to the public, these matters that are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act would be improperly disclosed.

Dated: February 1, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–2675 Filed 2–4–93; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Environmental Protection Agency

National Profile on Commercially Generated Low-Level Radioactive Mixed Waste—NUREG/CR-5938

AGENCY: U.S. Nuclear Regulatory Commission and U.S. Environmental Protection Agency.

ACTION: Notice of availability of national profile on commercially generated low-level radioactive mixed waste—NUREG/CR-5938.

SUMMARY: The Nuclear Regulatory Commission (NRC) and the Environmental Protection Agency (EPA) are jointly issuing the National Profile on Commercially Generated Low-Level Radioactive Mixed Waste, NUREG/CR-5938. NUREG/CR-5938 presents the results of a joint NRC/EPA project to determine the volumes, characteristics, and treatability of mixed hazardous and low-level radioactive waste generated in 1990 by licensed nuclear facilities in the United States.

BACKGROUND: Low-level radioactive mixed waste is hazardous waste as defined in the Resource Conservation and Recovery Act of 1976, as amended, and low-level radioactive waste subject to the Atomic Energy Act of 1954, as amended. The National Profile is the result of a three-year project sponsored by NRC and EPA to determine, on a national basis, the volumes, characteristics, and treatability of commercially generated mixed waste for 1990. The National Profile was developed for the agencies by the Oak Ridge National Laboratory (ORNL). The National Profile is based on a review of existing data from State and compact surveys of mixed waste generators and a survey of 1326 licensed nuclear facilities conducted by ORNL in 1991 and 1992. The National Profile was developed to assist States, low-level waste regional compacts, private developers, and Federal agencies in making decisions concerning the management and regulation of mixed waste generated by licensed facilities.

Based on the results of the survey, approximately 140,000 cubic feet of mixed waste were generated in 1990. The industrial generator category (e.g., commercial radiopharmacies, waste brokers and waste management facilities, fuel cycle facilities, and manufacturers of devices utilizing radioactive material) produced the largest amount of mixed waste (50,000 cubic feet), and the nuclear utilities produced the least (14,000 cubic feet). The academic generator category produced approximately 29,000 cubic feet of mixed waste, the NRC-licensed government generator category produced approximately 27,000 cubic feet, and the medical generator category produced approximately 20,000 cubic feet.

Liquid scintillation fluids (LSF) comprised the largest portion of mixed waste generated in 1990, at over 71% of the total. Organic wastes, such as wastes containing chlorofluorocarbons (CFCs) and oil, made up 18%. Mixed waste containing toxic metals, such as lead, mercury, cadmium, and chromium, made up 3%. The "other" mixed wastes made up about 8% and was comprised of generally complex waste streams containing multiple components that were not easily delineated as single waste streams.

The prevalent isotopes in the mixed waste streams, although not necessarily in order of their prevalence, are: C-14, H-3, P-32, S-35, Co-60, I-125, Cs-137 and 134, and Cr-51.

In addition, the Profile also identified approximately 75,000 cubic feet of mixed waste in storage as of December 31, 1990, composed primarily of cadmium waste (35 percent), followed by LSF (17 percent) and CFC wastes (12 percent). The National Profile indicated that the industrial generator category was storing the largest amount of mixed waste, approximately 57 percent of the total (primarily waste contaminated with cadmium). Nuclear utilities were storing approximately 29 percent (primarily CFCs, waste oil, and lead), academic institutions were storing approximately 7 percent, NRC-licensed government facilities approximately 4 percent, and medical institutions were storing approximately 3 percent of the total mixed waste in storage at the end of 1990.

The National Profile also indicated that a significant portion of commercially generated mixed waste may be treated using existing commercial treatment facilities, particularly for LSF, which was the predominant mixed waste stream reported. However, the National Profile reported that an additional 12,000 cubic feet of treatment capacity is needed to treat certain types of mixed waste generated in 1990 and in storage as of December 31, 1990. It should be noted that this estimate did not consider how current and future use of commercial mixed waste treatment capacity by the Department of Energy will affect the availability of treatment capacity for commercial generators.

Copies of NUREG CR-5938 may be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013-7082. Copies may also be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161, telephone (703) 487-4600. A copy is also available for public inspection and/or copying for a fee at the NRC Public Document Room, 2120 L Street NW (lower level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dominick A. Orlando, Mixed Waste Project Manager, Mail Stop 5-E-4, Division of Low-Level Waste Management and Decommissioning, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 504-2566; or Susan Jones, Environmental Protection Specialist, Mail Code 5303-W, Permits and State Programs Division, Office of Solid Waste, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, telephone (703) 308-8762.

Dated at Rockville, MD this 19th day of January 1993.

For the U.S. Nuclear Regulatory Commission.

Robert M. Bernero,

Director, Office of Nuclear Material Safety and Safeguards.

Dated at Washington, DC this 28th day of January 1993.

For the Environmental Protection Agency.

Sylvia K. Lowrance,

Director, Office of Solid Waste.

[FR Doc. 93-2724 Filed 2-4-93; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-423]

Northeast Nuclear Energy Co.; Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-49 issued to Northeast Nuclear Energy Company, (the licensee), for operation of the Millestone Nuclear Power Station, Unit No. 3 located in New London County, Connecticut.

The proposed amendment would revise the Millestone Unit No. 3 Technical Specifications, Section 4.7.10.e, by extending the surveillance requirement frequency for the snubber functional tests by allowing a one-time extension to the current 18-month surveillance, plus the additional 25

percent allowed by Technical Specification 4.0.2.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed change does not involve an SHC because the change would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

This Technical Specification change will have a negligible effect upon the probability of occurrence of accidents previously evaluated in the Safety Analysis Report. Although the snubber functional test cycle is being lengthened, nearly the same level of confidence as that associated with the Technical Specification required schedule will be maintained. The testing of 100 percent of the small snubbers population, along with replacement of failed units, provided a significantly improved baseline with which to gauge the reliability of the snubber population.

Increasing the functional test interval for snubbers will neither have an effect upon the consequences of an accident evaluated in the Safety Analysis Report, nor will it cause new consequences to occur. As stated previously, an adequate level of confidence in the reliability of the snubber population will be maintained.

2. Create the possibility of a new or different kind of accident from any previously evaluated.

The snubber failure modes neither increase beyond required confidence levels relating to snubber population reliability, nor change due to the variation in the functional test interval. Therefore, there is no possibility of a new accident being created. Also, an increase in the functional test interval will not create a malfunction of a different type than previously evaluated. No new equipment is being added to the plant and no change is being made in the way existing equipment is being operated and maintained.

3. Involve a significant reduction in a margin of safety.

The type of testing performed and the actions taken if a snubber were to fail its functional test remain unchanged. The margin of safety, inherent to the Technical Specifications and relating to snubber surveillance requirements, will remain virtually unchanged. This conclusion is based upon the fact that the proposed testing schedule defined in the Technical Specifications provides nearly the same margin of confidence as the present schedule. The Technical Specification margin of safety remains unchanged. In addition, there is no impact on the consequences of any accident, there can be no impact on any of the protective boundaries, and therefore, no impact on the safety limits.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules and Directives Review Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 8, 1993, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Learning Resource Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish

those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, 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 20555, by the above date. Where petitions are filed during the last 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) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to John F. Stolz: Petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Gerald Garfield, Esquire, Day, Berry and Howard, City Place, Hartford, Connecticut 06103–3499, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated January 15, 1993, and supplemental information dated January 21, 1993, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room located at the Learning Resource Center, Thames Valley State Technical College, 574 New London Turnpike, Norwick, Connecticut 06360.

Dated at Rockville, Maryland, this 1st day of February 1993.

For the Nuclear Regulatory Commission.

Vernon L. Rooney,

Senior Project Manager, Project Directorate 1–4, Division of Reactor Projects—I–II, Office of Nuclear Reactor Regulation

[FR Doc. 93–2725 Filed 2–4–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–423]

Exemption

I.

In the Matter of Northeast Nuclear Energy Company (Millstone Nuclear Power Station, Unit 3).

Northeast Nuclear Energy Company (the licensee) is the holder of Facility Operating License No. NPF–49, which authorizes operation of Millstone Nuclear Power Station, Unit No. 3. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the Commission now or hereafter in effect.

The facility consists of a pressurized water reactor located at the licensee's site in New London County, Connecticut.

II.

One of the conditions of all operating licenses for water-cooled power reactors, as specified in 10 CFR 50.54(o), is that the primary reactor containments shall meet the containment leakage test requirements set forth in 10 CFR part 50, appendix J. More specifically the following sections require that:

Section III.D.2.(a), "Type B Tests"

Type B tests, except tests for air locks, shall be performed during reactor shutdown for refueling or other convenient intervals but in no case at intervals greater than 2 years.

Section III.D.3. "Type C Tests"

Type C tests shall be performed during each reactor shutdown for refueling but in no case at intervals greater than 2 years.

III.

A. Exemption for Temporary Relief

By letter dated November 18, 1992, the licensee requested a one-time schedular exemption for the local leak rate tests (LLRTs) from the requirements of 10 CFR 50, appendix J, Sections III.D.2(a) and III.D.3 to accommodate a schedule change for the next refueling outage. The request for exemption, if granted, would exceed the required Type B and C test interval by approximately 10 months. In addition, the licensee proposed Technical Specification (TS) changes to reflect the above cited exemption request. The staff's evaluation of the licensee's exemption request is provided in the Safety Evaluation dated January 29, 1993, supporting Amendment No. 75, and is summarized below.

At Millstone Unit 3 there are 84 Type B penetrations which require Type B testing. The licensee plans to test all of these penetrations in accordance with the schedule required by appendix J, except for the fuel transfer canal blind

flange that cannot be tested at power. A schedular exemption was requested for the fuel transfer canal blind flange, which was last tested on March 18, 1991.

There are 68 mechanical penetrations that require Type C testing. All but 37 of these were tested when opportunities occurred during outages in the last year. Schedular exemption for testing the remaining 37 penetrations were requested because they either cannot be tested during plant operation, or would cause a degradation in safety if tested during plant operation. All of these penetrations were tested during the 1991 refueling outage.

The Technical Specifications contain a combined leakage rate limit for all penetrations and valves subject to Type B and C testing. The last measurement of combined Type B and C leakage during the 1991 refueling outage was 37.5% of the Technical Specification limit. The projected leak rate at the end of the 10-month period, during which this exemption from Type B and C testing applies, would be less than 50% of Technical Specification limits for combined Type B and C leakage.

Based on the foregoing, the NRC staff concludes that a schedular exemption is technically justified.

B. 10 CFR 50.12 Determinations for Special Circumstances

On January 22, 1991, and February 5, 1991, the licensee (Northeast Nuclear Energy Company) commenced the most recent containment LLRTs in accordance with the above Type B and C periodic testing requirements, respectively, for the Millstone Unit 3 during the 1991 refueling outage. As a result of an unusually long maintenance outage due to the service water system work and erosion/corrosion work during 1991, and two limited duration outages in 1992, the licensee has rescheduled the next refueling outage from November 1992 to approximately September 1993. With the new outage schedule, the opportunity for performing the required tests would exceed the required interval by about 10 months.

At Millstone Unit 3, there are 84 Type B penetrations which require Type B testing. Of the 84 penetrations, 80 are electrical penetrations which can be tested at power. The licensee is conducting Type B testing of these penetrations and plans to complete the testing prior to January 22, 1993. Of the four remaining penetrations, two penetrations (the equipment hatch and equipment hatch manway) were tested on November 16, 1991 and January 28, 1992, respectively. The third penetration, the personnel air lock, is covered under TS Section 3.6.1.3 and is not the subject of this request. The fuel transfer canal blind flange which was tested (Type B) on March 18, 1991, is the only penetration that cannot be tested at power and will require an extension.

There are 68 mechanical penetrations that require Type C testing. In January, May and October 1992, while shut down, Type C testing was satisfactorily performed on 31 penetrations. This represents approximately 45% of the total Type C testing. The exemption request is only for the remaining penetrations (37) whose last Type C tests were performed during the last refueling outage.

The staff concludes that with the unplanned outages that have occurred, with the testing that has been performed to date, and with the licensee's commitment to perform additional testing during any forced outages of sufficient duration that may occur before the next refueling outage, the licensee's good faith efforts to comply with appendix J have been demonstrated.

The time interval of 24 months, specified in appendix J, was based, in part, on the expected degradation of components exposed to the environment resulting from a full 24 months of normal plant operation. The total exposure time for the containment penetration to normal plant operating environment will be only about 19 months with the requested exemption.

The 24-month interval requirement for Type B and C penetrations is intended to be often enough to prevent significant deterioration from occurring and long enough to permit the LLRTs to be performed during plant outages. In addition leak testing of the penetrations during plant shutdown is preferable because of the lower radiation exposure to plant personnel. Moreover, some penetrations, because of their intended functions, cannot be tested at power operation. For penetrations that cannot be tested during power operation or those that if tested during plant operation would cause a degradation in the plant's overall safety (e.g., the closing of a redundant line in a safety system), the increase in confidence of containment integrity following a successful test is not significant enough to justify a plant shutdown specifically to perform the LLRTs within the 24-month time period, in light of the above discussions.

IV.

Pursuant to 10 CFR 50.12 (a)(2)(v), the Commission will not consider granting a schedular exemption unless the licensee has made good faith efforts to comply with the regulation. The NRC staff believes that the licensee has taken prudent steps to improve the containment integrity and, if not for the change in refueling outage schedule caused by unexpected outages, would have complied with appendix J.

Based on our evaluation, the NRC staff has concluded that the licensee has made a good faith effort to comply with the requirements of appendix J and that the special circumstances as described in 10 CFR 50.12(a)(2)(v) exist in that the exemptions would provide only temporary relief from the applicable regulations. Therefore, the staff has determined that the schedular exemptions from 10 CFR part 50, appendix J should be granted.

Accordingly, the Commission has determined that pursuant to 10 CFR 50.12, the exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, the Commission hereby approves the following exemption request.

A temporary exemption is granted from the requirements of Sections III.D.2.(a) and III.D.3, which require a local leak rate test to be conducted at intervals not greater than 24 months. For good cause shown, this exemption extends that interval by approximately 10 months from February 5, 1993, to the next refueling outage, but no later than December 5, 1993.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of these exemptions will have no significant impact on the quality of the human environment (58 FR 5035).

This exemption is effective upon issuance.

Dated at Rockville, Maryland this 29th day of January 1993.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 93-2726 Filed 2-4-93; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 030-05980 and 030-05982; License Nos. 37-00030-02 and 37-00030-08]

Order to Safety Light Corp. Prohibiting the Transfer of Assets and Requiring the Preservation of the Status Quo (Effective Immediately) and Demand for Information

In the matter of Safety Light Corporation; United States Radium Corporation; USR

Industries, Inc.; USR Chemical Products, Inc.; USR Metals, Inc.; USR Lighting, Inc.; U.S. Natural Resources, Inc.; Lime Ridge Industries, Inc.; Metreal, Inc.; (Bloomsburg Site Decommissioning and License Renewal Denials; Bloomsburg Site Decontamination)

I

Safety Light Corporation ("Safety Light" or "SLC") is a holder of License Nos. 37–00030–02 ("02 License") and 37–00030–08 ("08 License") issued on June 20, 1956, and August 5, 1969, respectively, by the Atomic Energy Commission, now the Nuclear Regulatory Commission ("NRC" or "Commission"), pursuant to 10 CFR part 30.[1]

The 02 License authorizes the possession of unspecified quantities of byproduct material in the form of contaminated facilities and equipment for purposes of decontamination, cleanup, and disposal of facilities and equipment previously used for research and development at the Licensees' site in Bloomsburg, Pennsylvania ("Bloomsburg site") under the 02 License. The 02 License was due to expire by its terms on February 29, 1984; Safety Light submitted an application dated January 27, 1984, to renew the 02 License. The 08 License authorizes the possession and use of various radioactive materials at the Bloomsburg site, principally tritium ("H–3"), for research and development, manufacture of various products containing H–3, and the distribution of those products to persons specifically licensed to possess them. The 08 License was last amended on January 8, 1987, and was due to expire by its terms on December 31, 1987; Safety Light submitted an application dated November 23, 1987, to renew the 08 License. Pursuant to 10 CFR 2.109 and 30.37, the renewal applications keep both the 02 and 08 Licenses in effect until the Commission makes a final determination with respect to each application.

II

On March 16, 1989, the NRC Staff issued to the Licensees an "Order Modifying Licenses and Demand for Information (Effective Immediately)" ("March 1989 Order") requiring, *inter alia*, that the Licensees control access to the Bloomsburg site, characterize the radiological contamination of the site, and, upon NRC Staff approval of a decontamination plan, decontaminate the site. On August 21, 1989, the NRC Staff issued to the Licensees an "Order Modifying Licenses (Effective Immediately)" ("August 1989 Order") requiring, *inter alia*, that the Licensees set up a trust to fund site characterization and deposit at least $1,000,000 into that trust on a specified schedule. On February 7, 1992, the NRC Staff denied the applications to renew both the 02 and 08 Licenses in a letter from Robert M. Bernero (Director, Office of Nuclear Material Safety and Safeguards) to Jack Miller (President, Safety Light Corporation), *et al.*, ("Denial"). Together with the Denial, on February 7, 1992, the Staff issued to the Licensees an "Order Establishing Criteria and Schedule for Decommissioning the Bloomsburg Site" ("February 1992 Order") that established criteria and a schedule for decommissioning the Bloomsburg Site and required, *inter alia*, that the Licensees satisfy the requirements of 10 CFR 30.36 for assuring that the site is decommissioned and suitable for release for unrestricted use.

Safety Light and USR Industries and its subsidiaries have requested hearings on each of the aforementioned NRC Staff Orders and the Denial, and those proceedings have been consolidated, as stated below, and are currently pending before the Atomic Safety and Licensing Board. The March 1989 and August 1989 Orders are being heard under ASLBP Nos. 89–590–01–OM and 90–598–01–OM–2 ("OM proceeding"), and the Denial and the February 1992 Order are being heard under ASLBP Nos. 92–659–01–ML and 92–664–02–ML–2 ("ML proceeding"). To date, the Licensees have controlled access and performed a part but not all of the characterization of the site (primarily involving the groundwater flow regime), but have not set up a trust fund for characterization and decontamination in the amount or in the form required by the August 1989 Order.

III

On November 12, 1992, Counsel for SLC transmitted a letter to the Chairman of the Licensing Board presiding over the ML proceeding, which stated, in pertinent part:

> This is to advise you of the present intention of Safety Light Corporation ("SLC") to sell to a Canadian Crown corporation, Shield Source, Inc. ("SSI"), two of its product lines at the Bloomsburg site, *i.e.*, aircraft markers and foils/targets, and certain related assets. This transaction will be completed before the end of the year. (Letter at 1).

The letter further informed the Board that "C.R. White is a principal stockholder of both SLC and SSI"; that the value of the product lines in question would be determined by "two independent appraisers"; and that the sale would have the following consequences:

> As a consequence of the sale of the two product lines, SLC will obtain a combination of cash and accounts receivable in exchange for its customer lists and some fully-depreciated on-site equipment at Bloomsburg. This sale will leave with SLC its dominant product line, *i.e.*, the production and sale of commercial exit signs.
>
> * * * * *
>
> The funds received from the sale of these two product lines will be used to pay down secured creditors consistent with obligations of SLC in its covenants to its bankers.

In response to this letter, on December 21, 1992, by regular mail and telefax, the Staff transmitted a Demand for Information, dated December 17, 1992 ("DFI"), to SLC and SLC's Counsel. The DFI sought detailed information about the proposed sale and required SLC to file its response within 10 days from the date of the DFI, *i.e.*, by December 28, 1992. On or about December 22, 1992, SLC's Counsel informed Staff Counsel that SLC's president, Mr. White, had informed him that the sale had taken place about ten days earlier. After considering this information and the November 12 letter's statement that SLC would still retain its "dominant product line", on or about December 23, 1992, Staff Counsel agreed to an extension of time for SLC to file its response to the DFI, permitting its response to be filed on January 5, 1993. On the same basis, Staff Counsel determined not to proceed with the filing of a motion in the OM and ML proceedings to stay the transfer, which would otherwise have been filed before execution of the Asset Purchase Agreement described below.

On January 5, 1993, SLC submitted its response to the DFI, in which it indicated that the sale had occurred on January 4, 1993, rather than in December 1992. SLC included in its response a copy of an Asset Purchase Agreement dated January 4, 1993 ("Agreement"), and other documents, including an appraisal of the assets being transferred. Prior to the Staff's receipt of SLC's response to the DFI, the Staff was unaware that the information previously provided by Mr. White, through Counsel, was incorrect. In addition, SLC's response to the DFI provided other information that was inconsistent with the letter of November 12, 1992. That response includes

[1] Holders of the 02 and 08 Licenses also include Lime Ridge Industries, Inc., Metreal, Inc., USR Industries, Inc. ("USR Industries"), and latter's subsidiaries, USR Chemical Products, Inc. USR Metals, Inc., USR Lighting, Inc., and U.S. Natural Resources, Inc. These companies and Safety Light will hereinafter collectively be denoted as "Licensees". This Order, however, is directed only to Safety Light, and does not impose any obligations on USR Industries and its subsidiaries, or any of the named companies other than Safety Light.

information that SLC seeks to have withheld from public disclosure, including financial information which demonstrates that the sale would divest from SLC the two product lines that contributed a substantial portion of SLC's gross profits in 1992. The Staff has not yet determined whether to withhold that information from public disclosure but is maintaining it as confidential until a determination is made; that information has been submitted in confidential form to the Licensing Board presiding over the OM and ML proceedings.

SLC's response to the DFI also indicated that the principals of the two corporations which are parties to the Asset Purchase Agreement are substantially identical: C. Richter White, who signed the agreement on SLC's behalf, is President of SLC and is stated to be the majority (60%) stockholder of that company and the sole (100%) stockholder of SSI; further, T. Edward Kyttle, who executed the Asset Purchase Agreement on behalf of SSI as its "President," has been identified by SLC as SLC's "general manager."

The Commission's regulations in 10 C.F.R. 30.9(a) provide that "[i]nformation provided to the Commission by an applicant for a license or by a licensee * * * shall be complete and accurate in all material respects." As described above, SLC has violated § 30.9 because, *inter alia*, it twice provided an inaccurate date for the execution of the Asset Purchase Agreement, such that the NRC Staff did not act to stay the Agreement prior to its execution. This information, as described above, was clearly material to the NRC. Also, the January 5 response to the DFI informed the Staff that the sale would divest SLC of the two product lines that contributed a substantial portion of the company's gross profits in 1992. In light of this disclosure, SLC's November 12, 1992, statement that the sale will leave SLC with its "dominant product line," a statement which was material to the NRC, was also inaccurate. Certain other statements by SLC in its Counsel's letter of November 12, 1992, were also shown to be inaccurate, upon examination of SLC's January 5 response to the DFI. Prior to SLC's submission of its response to the Staff's DFI on January 5, 1993, SLC did not disclose that the information it had previously provided concerning the timing, nature, and effect of the sale was incorrect.

Accordingly, on January 15, 1993, the NRC Staff filed with the Licensing Board presiding over both the OM and ML proceedings the "NRC Staff's Motion For Temporary Relief To Preserve The Status Quo And Protect The Licensing Board And Commission's Jurisdiction In These Proceedings By Prohibiting SLC From Taking Any Steps To Implement Its Announced Transfer, Or Any Transfer, Of Major Assets, *Pendente Lite*" ("Staff Motion"). The Staff Motion, which was filed under a claim of confidentiality based on SLC's pending request for non-disclosure, identified information in SLC's response to the DFI that is inconsistent with the letter of November 12, 1992. The Staff Motion requested the Board to take several actions, which would, in general, (1) prohibit SLC from implementing the Asset Purchase Agreement without prior Licensing Board approval, (2) prohibit SLC from entering into or completing any transaction which would materially affect the value of the company or its ability to comply with the Staff's outstanding Orders, and (3) require SLC to set aside all funds received or to be received as a result of the sale.

An oral argument on the Staff's Motion was held by the Licensing Board on January 19, 1993, at the conclusion of which the Licensing Board granted in part and denied in part the Staff's Motion, as set forth in the Board's Order of January 22, 1993 ("Board Order"). In its Order, the Licensing Board found that "the staff has demonstrated that the regulatory process, and hence the public interest, will be irreparably harmed by SLC's actions that are likely to dissipate its assets and reduce its ability to decontaminate and decommission the Bloomsburg site as required by the Commission's regulation." (Board Order at 4). Accordingly, the Board ordered that:

(1) SLC is prohibited from taking any steps to implement its asset purchase agreement of January 4, 1993, that will dissipate SLC's assets to any significant degree;

(2) SLC is prohibited from transferring or selling any other major assets other than in the normal course of business for full fair value;

(3) SLC is prohibited from entering into or completing any transaction that will materially affect its value or its ability to comply with the agency's outstanding orders;

(4) SLC shall set aside and preserve, in a separate account, any and all funds it may have received or will receive as a result of the January 4, 1993, sale of SLC's assets;

(5) SLC shall proceed with its efforts to obtain a second valuation by an independent appraiser (approved in advance by the staff) of the assets covered by the asset purchase agreement; and

(6) SLC shall provide the Board and the staff with forty-eight hours notice before taking any significant steps to implement any other provisions of its asset purchase agreement of January 4, 1993.

(*Id.* at 5.) The Board Order provided that the relief set forth above is to expire at 4:15 p.m. on January 29, 1993, and the Board indicated that any further relief which the Staff may seek should be the subject of an order issued under 10 CFR 2.202. (*Id.* at 6; Tr. 33–35).

IV

I conclude that further action, as indicated by the Licensing Board, is now required in order to prevent SLC from proceeding to take any further steps to implement its announced transfer of assets, or any other major transfer of assets that may reduce its ability to comply with the March and August 1989 Orders and the February 1992 Order, which, in general terms, require that SLC (a) characterize and decontaminate the Bloomsburg site, (b) set aside the sum of $1,000,000 to fund site characterization, and (c) commence decommissioning of its Bloomsburg site. On the basis of information provided by SLC, as described above, I lack the requisite reasonable assurance that SLC will be able to comply with Commission requirements, including future orders of the Licensing Board or the Commission making final determinations regarding the requirements of the NRC Staff's March and August 1989 and February 1992 Orders. Further, the entry of this Order is required in light of the several examples of inconsistent information provided by SLC to the Staff and Licensing Board relating to its transfer of assets, as more fully set forth above, and in light of the information received by the Staff that indicates that SLC may have contracted to receive less than full fair value in exchange for the assets to be transferred under the Agreement.

In view of the above, I have determined that the requirements of this Order are immediately needed in order to preserve the *status quo*, to prevent SLC's dissipation of assets required to comply with the Commission's orders and regulatory requirements which are necessary to protect the health and safety of the public, and protect the Commission's jurisdiction in these proceedings, as set forth below. Furthermore, pursuant to 10 CFR 2.202(a)(5), I find that the significance of the violations and conduct described above is such that the public health, safety and interest require that this Order be immediately effective. In accordance with the Board Order of

January 22, 1993, written notice of the Staff's intent to issue this Order was given to Safety Light and the Licensing Board on January 26, 1993.

V

Accordingly, pursuant to sections 81, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 30, it is hereby ordered, effective immediately, That:

A. Pending final agency action in the OM and ML proceedings, Safety Light Corporation is prohibited from taking any steps to implement its Asset Purchase Agreement of January 4, 1993, without prior NRC Staff approval;

B. Pending final agency action in the OM and ML proceedings, Safety Light Corporation is prohibited from transferring or selling any other major assets, other than in the normal course of business for full fair value, without prior NRC Staff approval;

C. Pending final agency action in the OM and ML proceedings, Safety Light Corporation is prohibited from entering into or completing any transaction which would materially affect the value of the company or its ability to comply with the Staff's outstanding Orders;

D. Pending final agency action in the OM and ML proceedings, Safety Light Corporation shall set aside and preserve, in a separate account, any and all funds it may have received or will receive as a result of the January 4, 1993, sale of SLC's assets, as previously ordered by the Licensing Board in its January 22, 1993, Order; and

E. Safety Light Corporation shall obtain and provide to the staff a second valuation of the assets covered by the Asset Purchase Agreement, to be performed by an independent appraiser approved in advance by the Staff.

The Director, Office of Nuclear Material Safety and Safeguards, may, in writing, relax or rescind any of the above conditions upon demonstration by Safety Light Corporation of good cause.

Pursuant to section 223 of the Atomic Energy Act of 1954, as amended, any person who willfully violates, attempts to violate, or conspires to violate, any provision of this Order shall be subject to criminal prosecution as set forth in that section.

VI

In accordance with 10 CFR 2.202, Safety Light Corporation must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and set forth the matters of fact and law on which the Licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Service Section, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Director, Office of Nuclear Material Safety and Safeguards at the same address, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, PA 19406–1415, and to the Licensees if the answer or hearing request is by a person other than Safety Light Corporation. If a person other than Safety Light Corporation requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by Safety Light Corporation or a person whose interest is adversely affected, 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 hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), any person adversely affected by this Order, other than Safety Light Corporation, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error. Pursuant to the Licensing Board's Order of January 22, 1993, any motion by Safety Light Corporation to set aside the immediate effectiveness of this Order shall be filed by 4:15 p.m. on Tuesday, February 2, 1993, and any hearing on Safety Light's set-aside motion will be held at 10 a.m. on Tuesday, February 9, 1992, at the Licensing Board's fifth floor hearing room, 4350 East-West Highway, Bethesda, Maryland.

In the absence of any request for hearing, the provisions specified in Section V above shall be final 20 days from the date of this Order without further order or proceedings. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

VII

In addition to issuance of this Order, the Commission requires further information from Safety Light in order to determine whether the Commission can have reasonable assurance that in the future Safety Light will conduct its activities in accordance with the Commission's requirements and will satisfy any requirements in any final agency action taken in the OM and ML proceedings.

Accordingly, pursuant to sections 161c, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's requirements in 10 CFR 2.204 and 10 CFR 30.32(b), in order for the Commission to determine whether Safety Light Corporation's license should be further modified, suspended, or revoked, or other enforcement action taken to ensure compliance with NRC regulatory requirements, Safety Light Corporation is required to submit to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, within seven (7) days of the date of this Order and Demand for Information, the following information, in writing and under oath or affirmation:

A. A full description of all steps that have been taken to date to implement or consummate the "Asset Purchase Agreement" of January 4, 1993, as well as all such steps that are pending at this time or are contemplated to occur in the future; and

B. With respect to the separate account required by section V.D. of this Order and previously required by the Licensing Board's January 22, 1993, Order:

1. The name, address, and nature of the institution where the account is located;
2. The account number;
3. The names of the individuals with control over the account;
4. A record of transactions in the account; and
5. The account's current balance.

Copies shall also be sent to the Assistant General Counsel for Hearings and Enforcement at the same address, and to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, PA 19406–1415.

After reviewing Safety Light Corporation's response, the NRC will determine whether further action is

necessary to ensure compliance with regulatory requirements.

Dated at Rockville, Maryland this 29th day of January, 1993.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Materials Safety, Safeguards and Operations Support.

[FR Doc. 93-2727 Filed 2-4-93-8:45 am]

BILLING CODE 7590-01-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Annual Earnings Questionnaire for Annuitants in Last Pre-Retirement Non-Railroad Employment
(2) *Form(s) submitted:* G-19L
(3) *OMB Number:* 3220-0179
(4) *Expiration date of current OMB clearance:* Three years from date of OMB approval
(5) *Type of request:* Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection
(6) *Frequency of response:* Annually
(7) *Respondents:* Individuals or households
(8) *Estimated annual number of respondents:* 6,000
(9) *Total annual responses:* 1
(10) *Average time per response:* .5 hour
(11) *Total annual reporting hours:* 3,000
(12) *Collection description:* Under Section 2(e)(3) of the Railroad Retirement Act, an annuity is not payable or is reduced for any month in which the beneficiary works for a railroad or earns more than the prescribed amounts. The collection obtains earnings information needed by the Railroad Retirement Board for determining possible reductions in annuities because of LPE earnings.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the form and supporting documents can be obtained from Dennis Eagan, the agency clearance officer (312-751-4693). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611-2092 and the OMB reviewer, Laura Oliven (202-395-7316), Office of Management and Budget, room 3002, New Executive Office Building, Washington, DC 20503.

Dennis Eagan,

Clearance Officer.

[FR Doc. 93-2728 Filed 2-4-93; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-31794; File No. SR-AMEX-92-45]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Filing of and Order Granting Accelerated Approval Relating to Minimum Fractions of Trading

January 29, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] the American Stock Exchange, Inc. ("AMEX" or "Exchange"), on December 14, 1992, filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The AMEX proposes to add Commentary .01 to Rule 127 in order to provide that Portfolio Depository Receipts ("PDRs") listed and traded under AMEX Rule 1000 *et seq.* may be traded in fractions of 1/32's.

The text of the proposed rule change is available at the Office of the Secretary, AMEX, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

AMEX Rule 127 provides parameters for the minimum fractional change for dealings in securities on the Exchange. Currently, the minimum fractional change for securities trading at $5.00 and above is 1/8 of $1.00 per share. The Exchange proposes to add Commentary .01 to Rule 127 to provide that Portfolio Depository Receipts traded under Rules 1000 *et seq.* shall trade with minimum fractional changes of 1/32. The Commission has granted to the Exchange the authority to list and trade an issuance of PDRs based on the Standard & Poor's ("S&P") 500 Stock Index, otherwise known as "SPDRs."[3]

The ability to trade in fractions of 1/32's is particularly important for open-end unit investment trust securities such as PDRs which can be expected to fluctuate in price according to fluctuations in the underlying index for the particular issuance. Trading in 1/32's is intended to avoid unnecessarily large price fluctuations based on the movements in the underlying index, which can be detrimental to the investing public. In addition, a narrower quotation spread should make such securities more useful instruments for institutional arbitrageurs and other market professionals who may hedge their positions in futures or other derivative markets.

(2) Basis

The AMEX believes that 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 intended to promote just and equitable principles of trade, to facilitate transactions in securities, and to protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will impose no burden on competition.

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1991).

[3] See Securities Exchange Act Release No. 31591 (December 11, 1992), 57 FR 60253.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange requests that the proposed rule change be given accelerated approval pursuant to section 19(b)(2) of the Act. The Commission finds that the proposed rule change to permit the trading of PDRs in 1/32's is consistent with the requirements of the Act and the rules and regulations thereunder, and, in particular, the requirements of sections 6(b) and 11A of the Act. The Commission believes that the proposal is consistent with the section 6(b)(5) requirement that the rules of the Exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. Additionally, the Commission believes that the proposal is consistent with section 11A which requires the Commission to facilitate the establishment of a national market system. Pursuant to section 11A, a national market system should assure, among other things, fair competition between exchanges, economically efficient execution of securities transactions and the practicability of brokers executing investors' orders in the best market.

The Commission believes that market quality for PDRs should be enhanced by applying a minimum fractional change of 1/32, rather than the present 1/8, to PDR securities selling at $5.00 and above. The Commission believes that decreasing such trading variation should help to produce more accurate pricing of PDRs and can result in tighter quotations. In addition, trading PDRs in 1/32's will benefit the investing public by helping to soften price fluctuations that may occur when the underlying PDR index substantially moves.

The Commission further believes that the tighter quotation spreads resulting from trading PDR securities in 1/32's should allow customers to receive the best possible execution of their transactions in these securities. Although PDRs, and specifically, SPDRs, will initially be listed and traded by the AMEX, it is conceivable that other national securities exchanges or the National Association of Securities Dealers, Inc. ("NASD") could apply for authority to list and trade a PDR product. At the present time, however, the Intermarket Trading System ("ITS") is not capable of accommodating quotes in 1/32's.[4] Accordingly, if other securities exchanges and/or national securities associations file for permission to list and trade a PDR product, the Commission would at that time be required to re-evaluate the adequacy and sufficiency of ITS in conjunction with section 11A's statutory mandate to assure fair competition between the exchanges.[5]

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register** because of the benefits that trading in 1/32's will provide for market participants trading PDRs, in general, and SPDRs, in particular. The Commission accordingly believes that granting accelerated approval of the proposed rule change is appropriate and consistent with section 6 of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 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-92-45 and should be submitted by February 26, 1993.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[6] that the proposed rule change (File No. SR-AMEX-92-45) is approved.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-2765 Filed 2-4-93; 8:45 am]

BILLING CODE 8010-01-M

[4] Phone conversation between Keith Riley, Branch Chief, Division of Market Regulation, and Thomas Demchek, SIAC, on January 29, 1993.

[5] See Securities Exchange Act Release No. 31118 (August 28, 1992), 57 FR 40484.

[6] 15 U.S.C. 78s(b)(2) (1982).

[Release No. 34-31805; File No. SR-Amex-92-46]

Self-Regulatory Organizations; Filing of Proposed Rule Change by American Stock Exchange, Inc., Relating to Member Firm Use of Electronic Display Book

February 1, 1993.

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 December 21, 1992, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange has adopted a policy statement in connection with member firm use, on the Amex trading floor, of an electronic display book for equities being licensed from the New York Stock Exchange ("NYSE").

The text of the policy statement is available at the Office of the Secretary, Amex, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purposes of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange has recently negotiated an agreement with the NYSE to license the NYSE's electronic display book for equities, for purposes of implementing an electronic display book on the Amex trading floor. The Exchange expects to begin deployment of the display book by the end of the first quarter of 1993.

The Amex Constitution[1] currently provides that the Exchange shall not be liable for any damages incurred by a member firm growing out of its use of the facilities afforded by the Exchange for the conduct of its business (which includes the use of the Exchange's trading systems), except as the Exchange may otherwise provide. It is recognized that liability for systems use is a risk not properly borne by the Exchange. In connection with the display book agreement, the NYSE is requiring that it also be protected from liability with regard to member firm use of the display book on the Amex floor.

Accordingly, the Exchange has adopted a policy statement, in connection with member firm use of the display book on the Amex trading floor, that disclaims NYSE liability for such member firm use of the system.[2] The policy statement will constitute a rule or regulation of the Exchange. Upon approval by the SEC, the policy statement will be sent to the membership.

2. Statutory 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 intended to facilitate transactions in securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

[1] See Art. IV, Sec. 1(e) of the Amex Constitution.

[2] The Commission notes that this disclaimer would only limit NYSE liability for damages sustained by Amex members and member firms using the electronic display book on the Amex trading floor.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 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-92-46 and should be submitted by February 26, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-2759 Filed 2-4-93; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-31800; File No. SR-CBOE-92-13]

Self-Regulatory Organizations; Chicago Board Options Exchange Inc.; Order Approving Proposed Rule Change Relating to the Listing and Trading of Quarterly Index Expiration Options Based on the Standard & Poor's 100 and 500 Stock Indexes

February 1, 1993

I. Introduction

On June 26, 1992, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] a proposed rule change to provide for the listing and trading of options on the Standard & Poor's ("S&P") 100 and 500 Stock Indexes that will expire on the first business day of the month following the end of each calendar quarter ("Quarterly Index Expirations" or "QIXs"). Currently, all equity and stock index options traded on the Exchange expire on the Saturday immediately following the third Friday of the expiration month. The CBOE intends to trade QIXs in addition to the existing S&P 100 ("OEX") and 500 ("SPX") Index options expiring at the middle of the month.

Notice of the proposed rule change, amended as of July 16, 1992, appeared in the **Federal Register** on August 18, 1992.[3] No comments were received on the proposed rule change. Thereafter, CBOE amended the proposal to revise applicable position limits.[4] Notice of that amendment appeared in the **Federal Register** on October 27, 1992.[5] No comments were received on the amendment. On January 15, 1993, the Exchange filed an additional amendment, Amendment No. 3, in order to conform the proposal to existing Chapter 24 of the CBOE's Rules and clarify position and exercise limits for QIXs. This order approves the proposal.

II. Description of the Proposal

The Exchange proposes to add subparagraph (c) to Rule 24.9 to provide for the listing of up to eight near-term quarterly expirations open for trading on OEX and SPX options. The CBOE would be permitted at any one time to

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1992).

[3] See Securities Exchange Act Release No. 31010 (August 7, 1992), 57 FR 37176.

[4] See Amendment No. 2, File No. SR-CBOE-92-13.

[5] See Securities Exchange Act Release No. 31338 (October 19, 1992), 57 FR 48643.

have up to eight QIX OEX and eight QIX SPX options open for trading with expiration on the first business day of the month following the end of a calendar quarter.[6] Accordingly, this quarterly expiration feature will provide expirations approximately two weeks apart from existing OEX or SPX options expirations in the quarterly month expiration.

The proposed QIX options will trade simultaneously with, not independent of, currently listed and traded OEX and SPX options. The proposed QIX options will be subject to the same rules that presently govern the trading of existing OEX and SPX options contracts, including sales practice rules, margin requirements, and floor trading procedures. Contract terms for the QIX options will be similar to the corresponding OEX and SPX options that presently trade on the Exchange. For example, QIX OEX will have American-style exercise, with the daily exercise settlement value based on the index value derived from the closing prices of component stocks. Similarly, QIX SPX will have European-style exercise and the exercise settlement value will be based upon the index value derived from the closing prices of component stocks on the last trading day prior to expiration.[7] In addition, the multiplier for QIX options in the discretion of the Exchange may be set at 500 rather than the customary 100.[8]

With regard to position and exercise limits, the CBOE proposes: (1) That QIXs on the S&P 500 Index ("QIX SPXs") be aggregated with and treated identically to A.M.-settled, European-style option contracts on the S&P 500 Index ("A.M.-settled SPXs") for all position limit purposes, including being subject to the 25,000 contract index arbitrage limit; and (2) that QIXs on the S&P 100 Index ("QIX OEXs") be treated like all other OEX options for all position limit purposes, except for the requirement that limits the number of contracts in the series of any broad-based index option with the nearest expiration ("telescoping requirement").[9] The number of contracts in any QIX position having a multiplier of 500 must be treated as equal to five times the actual number of contracts in the position for the purposes of position and exercise limits.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5).[10] In particular, the Commission believes that the proposed rule change is designed to provide investors with a tailored quarterly portfolio hedge that may be more suitable to their investment needs. Specifically, by providing investors with the ability to use QIX options that settle based on the value of component stocks on the last business day of the calendar quarter, the CBOE proposal will allow investors increased flexibility to tailor their portfolio positions to satisfy their investment objectives. For instance, according to the CBOE, the performance of portfolio managers and institutional investors is judged on a quarterly basis.[11] Therefore, in the past, these investors have been forced to pursue "quarterly hedges" in the over-the-counter ("OTC") market employing forwards, options and/or swaps. Accordingly, the Commission believes the CBOE proposal is a reasonable response by the Exchange to meet the demands of sophisticated portfolio managers and other institutional investors who are increasingly using the OTC market in order to satisfy their hedging needs,[12] and will thereby promote competition among these markets.

In addition, the Commission believes that the CBOE proposal will help to promote the maintenance of a fair and orderly market because the purpose of the proposal is to extend the benefits of a listed, exchange market in OEX and SPX options to quarterly calendar expirations. The attributes of the Exchange's OEX and SPX options market versus an OTC market include, but are not limited to, a centralized market center, an auction market with posted market quotations and transaction reporting, standardized contract specifications, parameters and procedures for clearance and settlement, and the guarantee of the Options Clearing Corporation ("OCC") for all contracts traded on the Exchange.[13]

The Commission also notes that the Exchange's existing rules applicable to stock index options, including among others, strike price interval, bid/ask differential, price continuity, and sales practice rules and position and exercise limits will apply to QIX options. In particular, QIX SPXs will be subject to a 45,000 contract limit under Rule 24.4(b), with a 25,000 contract limit for index arbitrage,[14] but no telescoping provision, and will be aggregated with A.M.-settled SPX contracts.[15] QIX OEXs under Rule 24.4(c) will be subject to a 25,000 contract limitation without the telescoping requirement, and will be aggregated with other OEX contracts. Accordingly, all S&P 100 options contract positions, including OEX and QIX OEX, are limited in total to a 25,000 position limit.[16]

---

[6] Presently, options traded at the CBOE expire on the Saturday following the third Friday of the expiration month. The CBOE trades index options with expirations of up to one year in length that expire at three month intervals. The Exchange allows for up to six expiration months with none farther out than twelve months. In addition, the CBOE also trades long-term index options that may expire three years from listing named "LEAPS." The CBOE is not now proposing to list or trade QIX options with more than twelve months to expiration. Any such proposal would be filed with the Commission for review under section 19(b)(2) of the Act.

[7] Although closing price ("P.M.") settlement of SPXs are being phased-out in favor of opening price or A.M.-settlement consistent with Securities Exchange Act Release No. 30944 (July 21, 1992), 57 FR 33376, March, June and December 1993 expirations will contain a P.M.-settled SPX contract as well as the A.M.-settled SPXs. QIXs, however, are by their terms P.M.-settled contracts expiring on non-expiration Fridays.

[8] The Exchange believes that increased contract size may be justified due to the larger portfolios now being managed by institutional investors. The CBOE's rules provide that position limits will be accordingly adjusted if the multiplier is 500 rather than 100. Initially, the Exchange intends to use only the 100 multiplier. The CBOE has stated that the Commission will be notified, and appropriate procedures or rule amendments filed and approved prior to trading options based on a 500 multiplier. See letter from Charles J. Henry, President and Chief Operating Officer, CBOE, to Sharon Lawson, Assistant Director, Division of Market Regulation, dated January 29, 1993.

[9] Unless provided otherwise in the CBOE's rules, the telescoping provision in CBOE Rule 24.4 limits the size of positions in near-term expiration months in broadbased stock index options to 15,000 contracts on the same side of the market.

[10] 15 U.S.C. 78f(b)(5) (1982).

[11] In addition, many investment strategies employed by these portfolio managers converge at the calendar quarter. Hence, traditional exchange-type expirations provide a less than perfect hedge for many institutions.

[12] According to the Exchange, the proliferation of the OTC options market in domestic indexes and equities is largely due to the availability of option contracts that expire on a calendar quarter basis.

[13] See File No. SR-OCC-91-27.

[14] Specifically, CBOE Rule 24.4(b) states that no more than 25,000 contracts may be used for the purpose of taking advantage of any differential in price between the S&P 500 Index and the securities underlying the S&P 500.

[15] The remaining closing price settlement of P.M.-SPX contracts (symbol of "NSX") will continue to be subject to Rule 24.4(a) limiting positions to 25,000 contracts with a telescoping provision of 15,000 contracts in the near term series. In any event, positions in all S&P 500 contracts, including A.M.-settled SPXs, P.M.-settled SPXs, and QIX SPXs are to be aggregated and cannot exceed the position and exercise limits established for the particular contract.

[16] Both QIX SPXs and QIX OEXs will be entitled to certain hedge exemptions from position limits under the CBOE's rules. QIX SPXs will be treated identically to A.M.-settled SPXs for purposes of the hedging exemptions from position and exercise limits in Interpretation .02 to Rule 24.4 (150,000 contract limit) and the facilitation exemption in Interpretation .03 to Rule 24.4 (250,000 contracts in

Continued

The Commission notes that QIX SPXs will be treated like A.M.-settled SPXs except for expiration settlement which will be based on the closing values of the component securities.[17] Although the Commission continues to believe that basing the settlement of index products on opening, as opposed to closing, prices on Expiration Fridays helps alleviate stock market volatility,[18] these concerns are reduced in the case of both QIX SPXs and QIX OEXs, since expiration of these stock index options will not correspond to the normal expiration of stock index option, stock index futures, and options on stock index futures. In particular, QIX SPXs and QIX OEXs will never expire on an "Expiration Friday" or any other "Expiration Fridays" in March, June, September and December, thereby diminishing the impact that QIX SPXs and QIX OEXs could have on the market. Accordingly, the Commission preliminarily believes that QIX options will not compromise the protection of investors or have an adverse market effect. Of course, the Commission expects the CBOE to monitor the actual effect of QIXs once trading commences and take prompt action (including timely communication with marketplace self-regulatory organizations responsible for oversight of trading in component stocks) should any unanticipated adverse market effects develop.

Lastly, based on representations from the CBOE, the Commission believes that the CBOE and the Options Price Reporting Authority ("OPRA") will have adequate systems processing capacity to accommodate the additional options listed in connection with QIX options. Specifically, the Exchange represents that "CBOE and OPRA have the necessary systems capacity to support the new series which would result from introduction of QIX options."[19]

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[20] that the proposed rule change (SR-CBOE-92-13) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[21]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-2760 Filed 2-4-93; 8:45 am]

BILLING CODE 8010-01-M

the aggregate and 135,000 contracts for a single account). QIX OEXs are subject to the 75,000 contract hedge exemption in Interpretation .01 to Rule 24.4, and, will not be eligible for any facilitation exemptions from position limits.

[17] QIX OEXs will follow the pattern of existing OEX contracts and also will be settled based on the closing prices of its component securities.

[18] See Securities Exchange Act Release No. 30944 (July 21, 1992), 57 FR 33376.

[19] See letter from Charles J. Henry, President and Chief Operating Officer, CBOE, to Sharon Lawson, Assistant Director, Division of Market Regulation, SEC, dated January 29, 1993, incorporating a memorandum from Joseph P. Corrigen, Executive Director, OPRA, to Charles J. Henry, CBOE, dated January 29, 1993.

[20] 15 U.S.C. 78s(b)(2) (1982).

[21] 17 CFR 200.30-3(a)(12) (1992).

[Release No. 34-31798; File No. SR-MSTC-92-11]

Self-Regulatory Organizations; Midwest Securities Trust Company; Notice of Filing and Order Granting Temporary Approval on an Accelerated Basis of a Proposed Rule Change Concerning the Institutional Participant Services Program

January 29, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934,[1] notice is hereby given that on December 21, 1992, the Midwest Securities Trust Company ("MSTC") 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 primarily by MSTC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposed rule change on a temporary basis through January 31, 1994.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change extends the approval of (i) the Institutional Participant Services Program ("Program") and (ii) the Institutional Participant ("Institutions") category of participants.

II Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, MSTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. MSTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1) (1988).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Commission has approved the Program on a temporary basis through January 31, 1992 ("Temporary Approval Period").[2] The rationale for initially approving the rule change on a temporary basis was to provide MSTC with the opportunity to formulate more definitive financial and operational standards for Institutions that desire to participate in the Program. Subsequently, on December 26, 1990, MSTC filed a proposed rule change[3] which requested permanent approval of the Program and proposed more definitive standards of participation and of financial and operational capabilities for Institutions.[4] In order to provide the Commission and MSTC with the opportunity to continue their studies of these standards while providing continuity of service to Institutions participating in the Program, MSTC requests that the Commission grant temporary approval of the proposed rule change on an accelerated basis under the terms of the Temporary Approval Orders through January 31, 1994. MSTC believes that the proposed rule change is consistent with section 17A of the Act[5] because it will promote the prompt and accurate clearance and settlement of securities transactions and help perfect the national system for the clearance and settlement of securities transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

MSTC does not believe that any burdens will be placed on competition as a result of the proposed rule change.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

MSTC has not received any comments from participants of the proposed rule change.

[2] Securities Exchange Act Release Nos. 27752 (March 1, 1990), 55 FR 8271 (File No. SR-MSTC-89-05); 28844 (February 1, 1991), 56 FR 5035 (File No. SR-MSTC-91-01); 29493 (July 26, 1991), 56 FR 36854 (File No. SR-MSTC-91-03); 30326 (January 31, 1992), 57 FR 4783 (File No. SR-MSTC-92-01); and 30981 (August 10, 1992), 57 FR 35616 (File No. SR-MSTC-92-06) (collectively referred to as "Temporary Approval Orders").

[3] File No. SR-MSTC-90-10.

[4] For a complete description of the services offered and the current standards of financial and operational capabilities for Institutions, refer to the Temporary Approval Orders.

[5] 15 U.S.C. 78q-1 (1988).

III. Date of Effectiveness of the Proposed Rule Change and Timing of Commission Action

The Commission finds that the proposed rule change is consistent with the requirements of the Act and, in particular, with the requirements of sections 17A(b)(3) (A) and (F) of the Act.[6] Those sections require that the rules and organizational structure of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to remove impediments to and perfect the mechanism for the national system for the prompt and accurate clearance and settlement of securities transactions. The Commission believes that MSTC's proposal will help achieve these requirements by providing Institutions with the opportunity to participate directly in the national market system through MSTC.

MSTC requests the Commission to find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. Such accelerated approval will permit MSTC to offer continuity of service to Institutions that currently participate in the Program while providing the Commission and MSTC with sufficient time to analyze the more definitive standards of participation and of financial and operational capabilities proposed by MSTC.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission does not anticipate that it will receive any significant negative comment on the proposed rule change in light of the fact that no comments were received on the proposals approved in the Temporary Approval Orders, which were identical in substance to this proposed rule change. Furthermore, the Commission notes that the Program has operated without incident during the Temporary Approval Period. Thus, accelerated approval of the proposed rule change will permit MSTC to provide continuity of service to those Institutions that currently participate in the Program while the Commission and MSTC continue to study MSTC's proposed permanent standards of participation and of financial and operational capabilities for such Institutions.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the principal office of MSTC. All submissions should refer to File No. SR–MSTC–92–11 and should be submitted by February 26, 1993.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[7] that the proposed rule change (File No. SR–MSTC–92–11) be, and hereby is, approved on an accelerated basis through January 31, 1994.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–2764 Filed 2–4–93; 8:45 am]

BILLING CODE 8010–01–M

[6] 15 U.S.C. 78q–1(b)(3) (A) and (F) (1988).

[7] 15 U.S.C. 78s(b)(2) (1988).

[8] 17 CFR 200.30–3(a)(12) (1992).

[Release No. 34–31797; File No. SR–NYSE–92–20]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Amendments to Rule 104.10(6) Pertaining to Specialists' Liquidating Transactions

January 29, 1993.

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 12, 1992, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change amends permanently Exchange Rule 104.10(6) pertaining to specialists' liquidating transactions. The Commission previously approved the amendments to Rule 104.10(6) on a pilot basis.[1]

The Exchange requests accelerated approval of the proposed rule change to enable the pilot procedures, which would otherwise expire on January 29, 1993, to continue on a permanent and uninterrupted basis.[2]

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

(a) *Purpose*

The Exchange proposed to amend Rule 104.10(6) in File No. SR–NYSE–91–07. The proposed rule change, filed as a one-year pilot, amended Rule 104.10(6) to permit specialists to "reliquify" a dealer position by selling "long" on a zero-minus tick,[3] or by purchasing to cover a "short" position on a zero-plus tick,[4] without Floor Official approval. The proposed amendments also emphasized the specialist's affirmative role in providing

[1] See Securities Exchange Act Release No. 29626 (August 29, 1991), 56 FR 43953 (September 5, 1991) ("1991 Approval Order") (order approving File No. SR–NYSE–91–07); Securities Exchange Act Release No. 31108 (August 27, 1992), 57 FR 40237 (September 2, 1992) ("August 1992 Approval Order") (order approving File No. SR–NYSE–92–18); Securities Exchange Act Release No. 31526 (November 27, 1992), 57 FR 57254 (December 3, 1992) ("November 1992 Approval Order") (order approving File No. SR–NYSE–92–35).

[2] *See* letter from Brian M. McNamara, Managing Director, Market Surveillance, NYSE, to Diana Luka-Hopson, Branch Chief, Commission, dated January 22, 1993.

[3] A zero minus tick is a price equal to the last sale if the last preceding transaction at a different price was at a higher price.

[4] A zero plus tick is a price equal to the last sale if the last preceding transaction at a different price was at a lower price.

stabilizing dealer participation to the marketplace where reliquification may be required to facilitate the maintenance of a fair and orderly market.

The Commission granted temporary approval of the NYSE's proposal on a one-year pilot basis and requested that the Exchange submit a report evaluating the effects of the amendments.[5] The Commission also granted approval for a 90-day extension of the pilot until November 27, 1992 in order for the pilot to continue uninterrupted while the Exchange's request for permanent approval was being considered.[6] The Commission subsequently granted approval for a 60 day extension of the pilot until January 29, 1993 to enable the Commission to review the NYSE's use of the pilot program procedures and to enable the pilot to continue without interruption during the Commission's review.[7] The current pilot is scheduled to expire on January 29, 1993. The Exchange's reports submitted to the Commission concerning the pilot program noted that the amendments to the Rule appear to be working well in enabling specialists to reliquify appropriately to meet the needs of the market.

The Exchange is therefore seeking permanent approval of the amendments as described below. The Exchange is proposing to amend permanently Rule 104.10(6) to permit specialists to "reliquify" a dealer position by selling "long" inventory stock on a zero minus tick, or by purchasing to "cover" a "short" position on a zero plus tick, without Floor Official approval. The Exchange believes that this proposal will facilitate the specialist's market maintenance capability, particularly during unusual market conditions.

In addition to this change, the Exchange believes that it is appropriate to amend permanently Rule 104.10(6) to emphasize the specialist's affirmative role in providing stabilizing dealer participation to the marketplace, especially during periods of volatile or unusual market activity, involving significant price movement in a security, where reliquification may be required to facilitate the maintenance of a fair and orderly market. In this regard, Rule 104.10(6) would be amended to provide that:

—liquidations involving the principal selling of *any* stock on a direct minus tick,[8] or the purchasing of stock on a direct plus tick[9] will require Floor Official approval, and should be effected only in conjunction with the specialist's re-entering the market on the opposite side of the market from the liquidating transaction where the imbalance indicates that the immediate succeeding transactions would result in a lower (higher) price following the sale (purchase);

—during volatile or unusual market conditions involving significant price movement in a security, the specialist should re-enter the market following a liquidation transaction which was effected by selling stock on a direct minus or zero minus tick, or purchasing stock on a direct plus or zero plus tick and, at a minimum, participate as dealer to the extent of his usual level of dealer participation in the subject security;

—during such periods, a series of such liquidating or purchasing transactions effected within a brief period of time should be accompanied by the specialist's re-entry in the market and effecting transactions which reflect a significant degree of dealer participation.

The Exchange believes that the proposed amendments are consistent with the philosophy underlying the specialists negative obligations in that Rule 104 has always recognized that reliquifying transactions on destabilizing ticks may be appropriate under certain conditions.[10] The Exchange believes that the proposed amendments reflect the need to facilitate specialists' ability to maintain fair and orderly markets through reliquification. The proposed amendments also are consistent with the manner in which the Exchange has interpreted the specialist's responsibility to re-enter the market following reliquifying transactions.

The Exchange believes that the proposed amendments to Rule 104.10(6) strike an appropriate balance by ensuring that specialists have flexibility to liquidate or decrease positions, while at the same time emphasizing their responsibility to re-enter the market following reliquifying transactions.

(b) *Statutory Basis*

The basis under the Act for this proposed rule change is section 6(b)(5), which requires that the rules of the Exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. The Exchange believes the proposed rule change is consistent with these objectives because it enhances the specialists' ability to reliquify and re-enter the market and reinforces the specialists' obligation to participate during volatile or unusual market conditions in a manner that is counter to the trend of the market and which cushions price movements in the specialists' stocks.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the

[5] See 1991 Approval Order, *supra* note 1.

[6] See August 1992 Approval Order, *supra* note 1.

[7] See November 1992 Approval Order, *supra* note 1.

[8] A minus tick is a price below the price of the last preceding sale.

[9] A plus tick is a price above the price of the last preceding sale.

[10] NYSE Rule 104, which is the primary NYSE rule governing the activities of its specialists, restricts a specialist's purchases or sales of his or her specialty stock to those dealings that are reasonably necessary to permit the specialist to maintain a fair and orderly market. Prior to Commission approval of the pilot procedures, Rule 104.10(6) provided, among other things, that transactions by a specialist to liquidate or decrease his or her position in a specialty stock must be affected in a reasonable and orderly manner in relation to general market conditions, the market conditions of the particular security, and the adequacy of the specialist's positions to the needs of the market. The Rule also provided that, unless a specialist has Floor Official approval, he or she should avoid liquidating all, or substantially all, of a position by selling stock at prices below the last different price (on a direct minus or zero minus tick) or by purchasing stock at prices above the last different price (on a direct plus or zero plus tick), unless the transaction is reasonably necessary in relation to the specialist's overall position in his or her specialty stocks. In addition, the Rule provided that, unless a specialist has Floor Official approval, he or she should avoid failing to re-enter the market where necessary, after effecting transactions such as those described above; and failing to maintain a fair and orderly market during liquidation.

Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–92–20 and should be submitted by February 26, 1993.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with sections 6(b)(5) and 11 of the Act.[11] The Commission believes the proposal is consistent with the section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market, and, in general, protect investors and the public interest. The Commission also believes that the proposal is consistent with section 11(b) of the Act and Rule 11b–1 thereunder,[12] which allow exchanges to promulgate rules relating to specialists in order to maintain fair and orderly markets.

Both the Act and Exchange rules reflect the crucial role played by specialists in providing stability, liquidity, and continuity in the Exchange's auction market. Recognizing the importance of the specialist in the auction market, the Act and Exchange rules impose stringent obligations upon specialists.[13] Primary among these obligations are the requirements to maintain fair and orderly markets and to restrict specialist dealings to those that are "reasonably necessary" in order to maintain a fair and orderly market.[14]

The importance of specialist performance to the quality of Exchange markets was highlighted during the 1987 and 1989 market breaks. In the Division of Market Regulation's ("Division") report on the October 1987 Market Break ("1987 Market Break Report"), the Division examined specialist performance on the NYSE on October 19 and 20, 1987.[15] The Division found that, during the periods of the greatest volatility in 1987, particularly on October 19, 1987, NYSE specialists had to act as the primary, or sometimes the only, buyers for many of the specialty stocks because of the lack of buying interest by upstairs firms.[16] The increased volume of order flow, coupled with the lack of participation on the part of upstairs firms, resulted in NYSE specialists having to take large dealer positions.[17] Although many NYSE specialists appeared to perform well under the adverse conditions, specialist performance during this period varied widely.

The Division also examined NYSE specialist performance during the volatile conditions of October 13 and 16, 1989. The Division found that specialist performance during that time was similar in many respects to specialist performance during the October 1987 Market Break.[18] Specifically, the Division found that, during these two periods of extreme market volatility, specialists were confronted with extraordinary order imbalances that required unprecedented capital commitments.[19] As in October 1987, specialists as a whole on October 13, 1989, were substantial buyers in the face of heavy selling pressure, although performance varied among specialists.

Both the 1987 Market Break Report and the October 1989 Report reaffirmed the importance of specialist participation in countering market trends during periods of market volatility. At the same time, the reports emphasized the importance the Commission placed on the NYSE's ability to ensure that all specialists comply with their affirmative and negative market making obligations during such period.[20]

One area of specialist performance specifically reviewed by the October 1989 Report involved specialists' compliance with the negative obligations imposed by NYSE Rule 104.10(6)(i). Prior to the implementation of the NYSE's pilot program, that Rule stated that, unless the specialist has the prior approval of a Floor Official, he or she should avoid liquidating all or substantially all of a dealer position on a destabilizing tick (*i.e.*, purchases on plus or zero plus ticks and sales on minus or zero minus ticks) unless the transaction is reasonably necessary in relation to the specialist's overall position in the stocks in which he or she is registered. In the October 1989 Report, the Division requested that the NYSE examine the language of this rule, which appeared to provide specialists with unnecessarily broad latitude for effecting transactions on destabilizing ticks.

The proposed rule change is responsive to the request regarding Rule 104.10(6)(i) as well as the conclusions of the two market break reports. The NYSE, recognizing that market conditions may necessitate that a specialist participate heavily in a rapidly declining market, proposed amendments to Rule 104.10(6), initially on a pilot basis, to provide specialists with flexibility in liquidating positions in order to facilitate their ability to maintain fair and orderly markets, particularly during unusual market conditions. At the same time, the amendments were designed to strengthen the specialist's concomitant obligation to participate as dealer on the opposite side of the market after a liquidating transaction. As noted above, the Commission approved the proposed amendments as a one year pilot program, and subsequently extended the pilot on two occasions.[21]

The Exchange is requesting permanent approval of the pilot program procedures. Under the proposal, a specialist may liquidate a position by selling stock on a direct minus tick or by purchasing stock on a direct plus tick only if such transactions are reasonably necessary for the maintenance of a fair and orderly market and only if the specialist has

[11] 15 U.S.C. 78f and 78k (1988).

[12] 17 CFR 240.11b–1 (1991).

[13] Rule 11b–1 under the Act, 17 CFR 240.11b–1 (1990); NYSE Rule 104.

[14] 17 CFR 240.11b–1(a)(2).

[15] See Division of Market Regulation, The October 1987 Market Break, February 1988, at xvii, 4–1.

[16] See 1987 Market Break Report, 4–123, 4–26 to 4–27. Generally, "upstairs firms," or block trading desks of large broker dealers (as opposed to specialists and other traders on the NYSE floor), can, at times, provide an additional source of liquidity for NYSE-listed issues through their trading activities. During the 1987 market break, however, particularly on October 19, very little buying was effected by upstairs firms, forcing specialists to be the contraside to large blocks of stock. See 1987 Market Break Report at 4–23 to 4–24, 4–27.

[17] See 1987 Market Break Report at 4–58.

[18] See Division of Market Regulation, Market Analysis of October 13 and 16, 1989, ("October 1989 Report") at 3–4, 33–44.

[19] See 1987 Market Break Report at 4–8; October 1989 Report, at 23–26.

[20] A specialist's dealer responsibilities consist of "affirmative" and "negative" obligations. In accordance with their affirmative obligations, specialists are obligated to trade for their own accounts to minimize order disparities and contribute to continuity and depth in the market. Conversely, pursuant to their negative obligations, specialists are precluded from trading for their own accounts unless such dealing is necessary for the maintenance of a fair and orderly market. In view of these obligations, the price trend in a security should be determined not by specialist trading, but by the movements of the incoming orders that initiate the trades.

[21] See 1991 Approval Order; August 1992 Approval Order and November 1992 Approval Order, *supra* note 1.

obtained the prior approval of a Floor Official. Liquidations on a zero minus or a zero plus tick, which prior to the implementation of the pilot program required Floor Official approval, could be effected under the proposed procedures without a Floor Official's approval, but would continue to be subject to the restriction that they be effected only when reasonably necessary to maintain a fair and orderly market. In addition, the specialist must maintain a fair and orderly market during the liquidation.

After the liquidation, a specialist would be required to re-enter the market on the opposite side of the market from the liquidating transaction to offset any imbalances between supply and demand. During any period of volatile or unusual market conditions resulting in a significant price movement in a specialist's specialty stock, the specialist's re-entry into the market must reflect, at a minimum, his or her usual level of dealer participation in the specialty stock. In addition, during such periods of volatile market conditions or unusual price movements, re-entry into the market following a series of transactions must reflect a significant level of dealer participation.

In our 1991 Approval Order,[22] the Commission requested that the NYSE submit a report setting forth the criteria developed by the Exchange to determine whether any reliquifications by specialists were necessary and appropriate in connection with fair and orderly markets. The Commission also asked, among other things, that the Exchange provide information regarding the Exchange's monitoring of liquidation transactions effected by specialists on any destabilizing tick. In both our August and November, 1992 Approval Orders,[23] the Commission requested that the NYSE continue to monitor the pilot and update its report where appropriate. In particular, the Commission asked the NYSE to report any non-compliance with the rule and the action the NYSE had taken as a result of such non-compliance.

The NYSE submitted its reports to the Commission on July 20, 1992, October 19, 1992 and January 25, 1993 concerning the pilot program. As noted above, in requesting permanent approval, the NYSE believes that the pilot program procedures appear to be working well in enabling specialists to reliquify appropriately to meet the needs of the market.

After careful review, the Commission believes that it is appropriate to approve the amendments to Rule 104.10(6) on a permanent basis. In making this determination, we note that the pilot period has provided the Commission and the Exchange an opportunity to monitor the operation of the amendments during unusual or volatile market conditions. The Commission believes that the experience with the pilot indicates that specialists, for the most part, have been meeting their obligations under the Rule and are properly assuming their responsibilities of reentering the market following liquifying transactions.

In summary, the Commission believes that the amendments to Rule 104.10(6) reinforce a specialist's obligation to maintain a fair and orderly market by providing stabilizing dealer participation to the marketplace, especially during periods of volative or unusual market activity. For example, during periods of high market volatility, not only would specialists continue to be obligated to temper disparities between supply and demand, but specialists would specifically have to re-enter the market at a specified rate after a liquidating transaction. Similarly, the amendments to Rule 104.10(6) reinforce the negative market making obligations of specialists. For example, a specialist is not permitted to reliquify in the absence of a large dealer position; rather he or she is able to do so only if reasonably necessary to enable him or her to maintain a fair and orderly market. Thus, the amendments to Rule 104.10(6) do not allow the specialist to use the rule as a vehicle for trading.

The Commission recognizes that, during future periods of market volatility, accompanied by increasing volume and selling pressure, specialists may be under extreme pressure to keep the markets orderly and continuous by entering the market as buyers. In these instances, the Commission believes that the amendments to Rule 104.10(6) should assist specialists in tempering sudden price movements and keeping any general price movements orderly, thereby furthering the maintenance of fair and orderly markets consistent with sections 6 and 11 under the Act.

The Commission believes that the Exchange has established adequate surveillance procedures and criteria which should allow the NYSE to monitor specialist compliance with Rule 104.10(6). More specifically, the Commission believes that the use of the NYSE's existing surveillance procedures should allow the Exchange to determine if specialists are meeting the requirements of the Rule. The Commission expects the NYSE to continue to monitor carefully compliance with the Rule's procedures as required under section 19(g) of the Act.[24] In particular, the Exchange should continue to ensure that specialists are meeting their market making obligations and appropriately re-entering the market as required under the Rule.[25]

Finally, as we discussed in our 1991 Approval Order, the NYSE provides statistics on the percentage of proprietary destabilizing transactions executed by specialists to the Market Performance and Allocation Committees as a guideline on specialist performance. As a result of the amendments to Rule 104.10(6), such statistics reflect zero plus and zero minus reliquification transactions separately, in conjunction with the overall stabilization percentage, in order to preserve the data's usefulness as an indicator of stabilizing participation. The Commission believes that including a review of destabilizing transactions by specialists into specialist performance reviews should help to ensure that specialists are undertaking these transactions only in situations where they are needed to maintain fair and orderly markets.

The Commission's finds good cause for approving the proposed rule change prior the thirtieth day after the date of publication of notice of filing thereof. This will permit the liquidating procedures to continue uninterrupted on a permanent basis. In addition, the procedures the Exchange proposes to continue using are the identical procedures that were published in the **Federal Register** for the full comment period and were approved by the Commission.[26]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[27] that the above-mentioned proposed rule change (SR–NYSE–92–20) is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[28]

[22] See 1991 Approval Order, *supra* note 1.

[23] See August 1992 Approval Order, *supra* note 1 and November 1992 Approval Order, *supra* note 1.

[24] Section 19(g) of the Act requires every self-regulatory organization to comply with, and enforce compliance with, the Act, the rules thereunder, and its own rules.

[25] The Commission emphasizes that reliquifications are not precluded during periods of significant price movements, but they should be accompanied by the necessary dealer participation against the trend of the market, even in situations where continuity and depth reflect variations that may normally be experienced in the stock.

[26] No comments were received in connection with the proposed rule change which implemented these procedures. See 1991 Approval Order, *supra* note 1.

[27] 15 U.S.C. 78s(b)(2) (1988).

[28] 17 CFR 200.30–3(a)(12)(1991).

Margaret H. McFarland,
Deputy Secretary.
[FR Doc. 93–2762 Filed 2–4–93; 8:45 am]
BILLING CODE 8010–01–M

[Release No. 34–31795; File No. SR–NYSE–93–07]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc., Relating to Decreases Affecting Transaction Charges, Reduction of the Odd-Lot Specialist Charge and Creation of a New Specialist Charge

January 29, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 73s(b)(1), notice is hereby given that on January 29, 1993, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange plans to institute, as of February 1, 1993, changes affecting Transaction Charges and System Processing Charges. A limitation on the proposed additional system credit [1] will cease to effective May 28, 1993, unless the Commission approves the limitation pursuant to an additional filing under Rule 19b–4 [2] or disapproves that limitation prior to May 28, 1993.[3]

The Exchange proposes to amend its charges, as follows:

	1992	1993
Transaction charges:		
Charge on floor brokerage commission earned	1.1%	0.0%
Credit on floor brokerage:		
Paid Out	1.2%	1.2%
Give-ups	1.1%	0.0%
*System credit on all executed orders from 100 to 2,099 shares	$0.30	$0.30
*Additional system credit on all individual and Agency executed market orders from 100 to 2,099 shares (I and A orders as defined by the Exchange for audit trail purposes).[4].		
System processing charges:		
Specialist Odd-Lot Charge- per share		
Odd Lots	$0.02	$0.004
Partial Round-Lots	$0.00135	$0.00135
**Specialist system charge per execution of system order on individual and agency market orders from 100 to 2,099 shares		$0.65

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to provide a more equitable distribution of the NYSE's overall charges among its constituents and to respond to overall competitive market conditions.

2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under Section 6(b)(4) that an Exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members, issuers and other persons using its services.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that this proposed fee change will not impose any burden competition that is not necessary or appropriate in the furtherance of the purposes of the Act. The fee change is intended to respond to competitive market conditions and to enhance the Exchange's competitive posture, thus furthering competition in the securities market. The additional credit is specifically targeted at increasing the number of individual and certain agency orders sent to the Exchange. The proposed fee change is also structured to maintain the current relationship between member proprietary and non-member dealer activities in Exchange-listed securities. In this regard, the Exchange is not seeking to give additional encouragement to members to send to the Exchange proprietary orders of competing market makers, which the Exchange believes would inappropriately promote the direct competitive activities of non-member market makers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments regarding the proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange and therefore has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the

---

[1] See, infra, note 4.

[2] *See* File No. SR–NYSE–93–08, noticed for comment in Securities Exchange Act Release No. 31796.

[3] The Commission notes that the Exchange will set up a reserve so that, in the event the limitation on the additional system credit, *see infra* note 4, does not become permanent, the amounts withheld thereunder can be distributed to the appropriate member firms.

[4] Orders with the following descriptions are excluded and not eligible for this credit:

An order of a member or member organization trading as agent for the account of a non-member competing market maker.

Competing Market Maker: A specialist or market maker registered as such on a registered stock exchange (other than the NYSE), or a market-maker bidding and offering over-the-counter, in a NYSE-traded security.

*Combined credits are limited to Total Transaction Charge.

**Total charges levied not to exceed $9 million per annum in aggregate.

submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–93–07 and should be submitted by February 26, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–2767 Filed 2–4–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–31796; File No. SR–NYSE–93–08]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by New York Stock Exchange, Inc., Relating to Permanent Approval of Limitation on Additional System Credit

January 29, 1993.

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 January 29, 1993, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to make permanent the limitation affecting the additional system credit to the NYSE's transaction charges.[1] That limitation excludes, from the Individual and Agency market orders eligible for the additional system credit, those orders with the following descriptions:

An order of a member or member organization trading as agent for the account of a non-member competing market maker.

Competing Market Marker: a specialist or market maker registered as such on a registered stock exchange (other than the NYSE), or a market maker bidding and offering over-the-counter, in a NYSE-traded security.

The practical effect would be to maintain the current fee structure for the above defined orders.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to seek permanent approval of the additional system credit limitation, defined above, which would maintain the current fee structure for the defined orders.

2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under section 6(b)(4) that an Exchange have rules that provides for the equitable allocation of reasonable dues, fees and other charges among its members, issuers and other persons using its services.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that making permanent this proposed fee change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The fee change is intended to respond to competitive market conditions and to enhance the Exchange's competitive posture, thus furthering competition in the securities market. The additional credit is specifically targeted at increasing the number of individual and certain agency orders sent to the Exchange. The proposed fee change is also structured to maintain the current relationship between member proprietary and non-member dealer activities in Exchange-listed securities. In this regard, the Exchange is not seeking to give additional encouragement to members to send to the Exchange proprietary orders of competing market makers, which the Exchange believes would inappropriately promote the direct competitive activities of non-member market makers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments regarding the proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the

---

[1] The Commission notes that a proposed rule change filed by the NYSE to revise its transaction and system processing charges has become effective under Section 19(b)(3)(A) of the Act. Specifically, the rule provides for an additional system credit on all individual and Agency executed market orders from 100 to 2,099 shares, but excludes certain market participants from receiving the credit. *See* File No. SR–NYSE–93–07, Securities Exchange Act Release No. 31795. Under that filing, the limitation will cease to be effective on May 28, 1993, unless the Commission approves this proposal prior to that date. In the interim, the NYSE has created a reserve for the credits which would otherwise be distributed.

Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–93–08 and should be submitted by February 26, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–2766 Filed 2–4–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–31793; File No. SR–PSE–92–45]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Stock Exchange, Inc., Relating to an Increase in Position and Exercise Limits for Options on the Wilshire Small Cap Index

January 29, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 8, 1992, the Pacific Stock Exchange, Inc. ("PSE or Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE proposes to amend PSE Rule 7.6 to provide for an increase in the position and exercise limits currently available for options on the Wilshire Small Cap Index ("Wilshire Index" or "Index"). The text of the proposed rule change is available at the Office of the Secretary, PSE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission the PSE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The PSE prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant parts of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

On November 3, 1992, the Commission approved an Exchange proposal to list and trade options on the Wilshire Index.[1] Under the Commission's approval order, the position and exercise limits for options on the Index are currently set at 25,000 contracts on the same side of the market, with no more than 15,000 of such contracts in the series with the nearest expiration date.[2]

The Exchange now proposes to increase the position and exercise limits available on the Index to 37,500 contracts on the same side of the market, with no more than 22,500 of such contracts in the series with the nearest expiration date.[3] These proposed position limits are similar in terms of aggregate dollar value with those that the Commission recently approved for options on the Russell 2000 Index on the CBOE.[4]

The Exchange believes that the characteristics of the Index and the Russell 2000 are sufficiently similar to justify comparable position and exercise limits for both indexes. The Exchange notes that both indexes are capitalization weighted, have an exceptionally high correlation rate of 99.05% (taken on a quarterly basis), and are primarily comprised of domestic securities from the small capitalization market.

(2) Basis

The Exchange believes that 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, to remove impediments to and perfect the mechanism of a free and open market and the national market system, and to protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the

---

[1] Exchange Act Release No. 31397 (Nov. 3, 1992), 57 FR 53368.

[2] See also PSE rule 7.6(d)(1).

[3] Originally, the PSE proposed to increase the position and exercise limits for the Wilshire Index to 50,000 contracts on the same side of the market, with no more than 30,000 contracts in the nearest expiration month, the same number of contracts that the Commission recently approved for options on the Russell 2000 Index ("Russell 2000") on the Chicago Board Options Exchange ("CBOE"). See *infra* note 4. As of January 28, 1993, the Wilshire Index had a value of 298.53 while the Russell 2000 closed at 227.19. Accordingly, because the value of the Russell 2000 is approximately 25% less than that of the Wilshire, the PSE amended its filing to request position and exercise limits that are comparable to the Russell 2000 Index in terms of aggregate dollar value. See letter from Michael D. Pierson, Senior Attorney, Market Regulation, PSE, to Stephen M. Youhn, Office of Options and Derivative Products Regulation, Division of Market Regulation, SEC, dated January 26, 1993.

[4] See Exchange Act Release No. 31382 (Oct. 30, 1992), 57 FR 52802.

Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to the file number in the caption above and should be submitted by February 26, 1993.

For the Commission, by the Division of Market Regulation, pursuant to the delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-2763 Filed 2-4-93; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-31804; File No. SR-PTC-92-14]

Self-Regulatory Organizations; Filing of Proposed Rule Change by Participants Trust Company Relating to the Designation by PTC of Certain Securities Guaranteed by the United States Department of Veterans Affairs as Eligible Securities

February 1, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on December 14, 1992, Participants Trust Company ("PTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to allow PTC to designate certain securities guaranteed by the United States Department of Veterans Affairs ("Veterans Administration" or "VA") as eligible securities as permitted by Article I, Rule 2 of PTC's Rules ("VA Securities").

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summeries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to allow PTC to designate certain securities guaranteed by the Veterans Administration as eligible securities as permitted by Article I, Rule 2 of PTC's Rules. The VA Securities are issued and guaranteed pursuant to 38 U.S.C. 3720 h(1) and (2).[2] The authority to guarantee new issues of securities had originally terminated on December 31, 1992.

In May, 1992, PTC filed a proposed rule change[3] regarding VA Securities issued during 1992 pursuant to the then current authorizing legislation which expired by its terms on December 31, 1992. The aforesaid authority has now been extended until December 31, 1995. In its present proposed rule change, PTC wishes to make final its designation of VA Securities as eligible for deposit in PTC on the understanding that securities so designated will only be eligible at PTC if issued with a Government guarantee under 38 U.S.C 3720 h(1) and (2) as it now exists or as hereafter amended.

On the closing for issuance of securites under this program, the issuing trust will receive an opinion of the General Counsel of the VA to the effect that the VA's obligations under the VA guarantee constitute absolute and unconditional general obligations of the United States, for which the full faith and credit of the United States is pledged.

PTC has been advised that the VA Securities will be REMIC's[4] issued by a trust and that there will be approximately three or four issues per year. Each issue will be comprised of a series of tranches each of which constitute a "Security" within the PTC definition of "Securities." The anticipated total face value amount of each securities issuance is approximately $350,000,000 to $500,000,000.

PTC's current system accommodates the VA Securities. With regard to processing, because the VA Securities are comparable to GNMA's, no substantive operational changes need to be made to PTC's computer processing system. For example, it is expected that there will be daily settlement of the VA Securities. Currently, a substantial portion of GNMA's settle daily. There will be a single monthly payment date for principal and interest ("P&I") on the VA Securities. GNMA I's currently pay on the 15th of the month and PTC distributes P&I on payment date plus one.

GNMA II's currently pay on the 20th of the month, and PTC pays on that date. Therefore, PTC's system is capable of making distributions of P&I on the same day as payment date. The VA Securities will be registered in the name of PTC's nominee, "MBSCC & Co.," and the physical certificates will be held in custody for PTC by a custodian bank, as is the case for GNMA Securities.

The volume of the VA Securities to be deposited at PTC will continue to be modest compared to the total face amount of GNMA Securities now on deposit at PTC[5] and is expected to have a comparably small impact on PTC's overall transaction volume. P&I distributions also continue to be modest compared to the multibillion dollar P&I distributions for GNMA I's. Accordingly, the VA Securities will have no meaningful impact on the capacity of PTC's transaction processing or P&I disbursement facilities.

The acceptance for deposit of the VA Security as an eligible security does not necessitate any change in PTC's Rules or affect the rights of its participants. As an eligible security, functionally and legally comparable to GNMA Securities, PTC's Rules and Procedures are applicable, without change, and govern PTC's and its Participants' rights and obligations with respect to the VA Securities. Finally, the fees imposed by PTC for providing depository services for VA Securities will be the same as those in effect for GNMA's.

Since the proposed rule change provides for the prompt and accurate clearance and settlement of securities transactions it is consistent with section 17A of the Act and the rules and regulations thereunder applicable to PTC.

---

[1] 15 U.S.C. 78s(b)(1).

[2] As amended by Public Law 102-547, enacted on October 28, 1992.

[3] See SR-PTC-92-07, Securities Exchange Act Release No. 30792 (June 19, 1992), 57 FR 27495.

[4] A REMIC is a real estate mortgage investment conduit, a pass-through vehicle created under the Tax Reform Act of 1986 to issue multiclass mortgage-backed securities.

[5] The current total face amount of GNMA securities is now approximately $680 billion.

B. Self-Regulatory Organization's Statement on Burden on Competition

PTC does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

PTC has not solicited, and does not intend to solicit, comments on this proposed rule change. PTC has not received any unsolicited written comments from participants or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or,

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of PTC. All submissions should refer to file number SR–PTC–92–14 and should be submitted by February 26, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–2761 Filed 2–4–93; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

January 29, 1993.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following security:

Dr. Pepper/Seven-Up Companies, Inc. Common Stock, $.01 Par Value (File No. 7–10136)

This security is listed and registered on one or more other national securities exchanges and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 12, 1993, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–2770 Filed 2–4–93; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Pacific Stock Exchange, Inc.

January 29, 1993.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following security:

Dr. Pepper/Seven-Up Companies, Inc. Common Stock, $.01 Par Value (File No. 7–10135)

This security is listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 12, 1993, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–2768 Filed 2–4–93; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

January 29, 1993.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following security:

Dr. Pepper/Seven-Up Companies, Inc. Common Stock, $0.01 Par Value (File No. 7–10134)

This security is listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 12, 1993, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the

Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-2769 filed 2-4-93; 8:45am]

BILLING CODE 8010-01-M

[Rel. No. IC-19245; 812-8198]

First Transamerica Life Insurance Co., et al.; Application

January 29, 1993.

AGENCY: Securities and Exchange Commission (the "SEC" or "Commission").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: First Transamerica Life Insurance Company ("Company"), Separate Account VA-2NLNY of First Transamerica Life Insurance Company (the "Variable Account") and Dreyfus Service Corporation ("Dreyfus").

RELEVANT 1940 ACT SECTIONS: Order requested under section 6(c) for exemptions from sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an order permitting the deduction of a mortality and expense risk charge from the assets of the Variable Account under certain group variable annuity contracts (the "Contracts").

FILING DATE: The application was filed on December 1, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing on the application by writing to the Secretary of the SEC and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on February 23, 1993 and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, by certificate. Hearing requests should state the nature of the interest, the reason for the request and the issues contested. Persons may request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. The First Transamerica Applicants, c/o James W. Dederer, Esq., First Transamerica Life Insurance Company, 575 Fifth Avenue, Twentieth Floor, New York, NY 10017. Dreyfus Service Corporation, 200 Park Avenue, New York, NY 10166.

FOR FURTHER INFORMATION CONTACT: Joyce M. Pickholz, Attorney, at (202) 272-3046 or Wendell M. Faria, Deputy Chief, at (202) 272-2060, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from the Commission's Public Reference Branch.

Applicants' Representations

1. The Company is a stock life insurance company which was originally incorporated under the laws of New York in 1986. It is a wholly-owned subsidiary of Transamerica Occidental Life Insurance Company, which is in turn an indirect subsidiary of Transamerica Corporation.

2. The Variable Account is registered with the Commission as a unit investment trust under the 1940 Act. The Variable Account is divided into sub-accounts that will invest in shares of the Dreyfus Life and Annuity Index Fund, Inc., or one or more of the portfolios of the Dreyfus Variable Investment Fund. In addition, other portfolios or funds managed or distributed by Dreyfus or an affiliate may be made available.

3. Dreyfus will serve as the distributor and principal underwriter of the Contracts.

4. The Contracts are flexible multi-funded deferred group annuity contracts under which certificates can be purchased on a non-tax qualified basis or used to fund rollovers to individual retirement annuities qualifying for favorable tax treatment under Section 408(b) of the Internal Revenue Code of 1986. Each Certificate Owner will receive a certificate evidencing such participant's coverage under the Contract ("Certificate Owner"). The initial purchase payment for a certificate is $2,500 and additional payments of at least $500 may be made at any time before the annuity date.

5. The Contract offers a death benefit. Prior to the annuity date, the death benefit proceeds for each certificate are equal to the greater of (a) the Certificate Owner's account value or, (b) the sum of all purchase payments less withdrawals and any premium taxes.

6. Subject to certain restrictions, Certificate Owners may transfer all or part of their interest in a sub-account to another sub-account of the Variable Account. During the accumulation phase of the Contracts, transfers in excess of four per year will be subject to a transfer fee equal to the lesser of 2% of the amount transferred or $10. No transfer fee is charged during the annuitization phase.

7. During the accumulation phase and upon surrender of the Certificate, the Company will deduct an annual account fee for each certificate equal to the lesser of (a) 2% of a Certificate Owner's account value or (b) $25. The fee may be increased but will not exceed $50. After the annuity date an annual fee of $30 will be deducted in equal installments from each annuity payment under the variable payment option.

8. During the accumulation phase, the Company also will deduct a daily administrative charge from the assets of each sub-account of the Variable Account currently at an effective annual rate of 0.10% of the average net assets of the Variable Account. This charge may be increased but will not exceed 0.25%. If a variable annuity option is elected, the daily administrative charge during the annuitization phase will be set at an effective annual rate of 0.15%. The charge may be increased but will not exceed 0.25%.

9. Applicants represent that the Company does not anticipate any profit from the charges described in paragraphs 5-8 above and that the Company will deduct the administrative charges in reliance upon and in compliance with Rule 26a-1 under the 1940 Act.

10. Premium taxes relating to a particular certificate will be deducted from premiums, upon receipt of purchase payments, withdrawal, surrender, payment of death benefits, or annuitization in reliance upon Rule 26a-2 under the 1940 Act. No charges are currently made for federal, state, or local taxes other than premium taxes. However, the Company may deduct such taxes from the Fixed Account and the Variable Account in the future.

11. There are no charges or deductions for sales load. The Company will incur expenses relating to the sale of the Certificates. Those expenses will be paid from the Company's general assets.

12. The Company will impose a daily charge to compensate it for bearing certain mortality and expense risks in connection with the Variable Account and the Contracts. The charge is set at

an annual maximum rate of 0.80% of the net assets in the Variable Account. Of that amount, approximately 0.30% is estimated to be attributable to mortality risks, and approximately 0.50% is estimated to be attributable to expense risks. If a variable annuity payment option is elected, the charge during the annuitization phase will be 1.25%. Of that amount, approximately 0.85% is attributable to mortality risks and 0.40% is attributable to expense risks. The Company currently anticipates a profit from this charge. The mortality risk borne by the Company arises from its contractual obligation to make annuity payments (determined in accordance with the annuity tables and other provisions contained in the Contract) regardless of how long all annuitants or any individual annuitant may live. The Company also assumes a risk in connection with the payment of death benefits. The expense risk assumed by the Company is the risk that actual administrative costs will exceed the amount recovered through the various administrative charges described above.

Applicants' Legal Analysis and Conditions

1. Applicants request exemptions from sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to the extent relief is necessary to permit the deduction from the Variable Account of the mortality and expense risk charge under the Contracts. Sections 26(a)(2)(C) and 27(c)(2), as herein pertinent, prohibit a registered unit investment trust and any depositor thereof or underwriter therefor from selling periodic payment plan certificates unless the proceeds of all payments (other than sales load) are deposited with a qualified bank as trustee or custodian and held under arrangements which prohibit any payment to the depositor or principal underwriter except a fee, not exceeding such reasonable amounts as the Commission may prescribe, for performing bookkeeping and other administrative services.

2. Applicants submit that the Company is entitled to reasonable compensation for its assumption of mortality and expense risks and represent that the mortality and expense risk charge under the certificates is consistent with the protection of investors because it is a reasonable and proper insurance charge. The Company also represents that the charge for mortality and expense risks is within the range of industry practice with respect to comparable annuity products. Applicants state that this representation is based upon the Company's analysis of publicly available information about similar industry products, taking into consideration such factors as current charge levels, the existence of charge level guarantees, death benefit guarantees, guaranteed annuity rates and other Contract options. The Company will maintain at its administrative offices, available to the Commission, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, its comparative survey.

3. Applicants acknowledge that if a profit is realized from the mortality and expense risk charge, all or a portion of such profit may be viewed as being offset by distribution expenses. The Company has concluded that there is a reasonable likelihood that the proposed distribution financing arrangements will benefit the Variable Account and the Certificate Owners. The basis for such conclusion is set forth in a memorandum which will be maintained by the Company at its administrative offices and will be available to the Commission.

4. Applicants represent that the Variable Account will invest only in underlying management investment companies which undertake, in the event such company adopts any plan under Rule 12b–1 under the 1940 Act to finance distribution expenses, to have a board of directors (or trustees), a majority of whom are not interested persons of the company, formulate and approve any such plan under Rule 12b–1.

Conclusion

Applicants assert that for the reasons and upon the facts set forth above, the requested exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to deduct the mortality and expense risk charge under the Contracts meet the standards in Section 6(c) of the 1940 Act. In this regard, Applicants assert that the exemptions are necessary and appropriate in the public interest and consistent with the protection of investors and the policies and purposes of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–2771 Filed 2–4–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19246; 812–8200]

First Transamerica Life Insurance Company, et al.; Application

January 29, 1993.

AGENCY: Securities and Exchange Commission (the "SEC" or "Commission").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: First Transamerica Life Insurance Company ("Company"), Separate Account VA–2LNY of First Transamerica Life Insurance Company (the "Variable Account") and Dreyfus Service Corporation ("Dreyfus").

RELEVANT 1940 ACT SECTIONS: Order requested under section 6(c) for exemptions from sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an order permitting the deduction of a mortality and expense risk charge from the assets of the Variable Account under certain variable annuity policies (the "Policy").

FILING DATE: The application was filed on December 1, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing on the application by writing to the Secretary of the SEC and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on February 23, 1993 and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, by certificate. Hearing requests should state the nature of the interest, the reason for the request and the issues contested. Persons may request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. The First Transamerica Applicants, c/o James W. Dederer, Esq., First Transamerica Life Insurance Company, 575 Fifth Avenue, Twentieth Floor, New York, NY 10017. Dreyfus Service Corporation, 200 Park Avenue, New York, NY 10166.

FOR FURTHER INFORMATION CONTACT: Joyce M. Pickholz, Attorney, at (202) 272–3046 or Wendell M. Faria, Deputy Chief, at (202) 272–2060, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a

fee from the Commission's Public Reference Branch.

Applicants' Representations

1. The Company is a stock life insurance company which was incorporated under the laws of New York in 1986. It is a wholly-owned subsidiary of Transamerica Occidental Life Insurance Company, which is in turn an indirect subsidiary of Transamerica Corporation.

2. The Variable Account is registered with the Commission as a unit investment trust under the 1940 Act. The Variable Account is divided into sub-accounts that will invest in shares of the Dreyfus Life and Annuity Index Fund, Inc. or one or more of the portfolios of the Dreyfus Variable Investment Fund. In addition, other portfolios or funds managed or distributed by Dreyfus or an affiliate may be made available.

3. Dreyfus will serve as the distributor and principal underwriter of the Policy.

4. The Policies are flexible multi-funded deferred annuity policies which can be purchased on a non-tax qualified basis or used to fund rollovers to individual retirement annuities qualifying for favorable tax treatment under section 408(b) of the Internal Revenue Code of 1986. The initial purchase payment for a Policy is $5,000 and additional payments of at least $500 may be made at any time before the annuity date. Initially, payments may be allocated to one or more sub-accounts of the Variable Account. The Company anticipates that, in the future, payments may be allocated to the sub-accounts of the Variable Account, one or more Guarantee Periods of the Fixed Account (if and when made available), or to a combination of these investment accounts.[1]

5. Subject to certain restrictions, Policy Owners may transfer all or part of their interest in a sub-account to another sub-account of the Variable Account or to the Fixed Account (if and when available). During the accumulation phase, a Policy Owner may make up to 18 transfers per Policy year, one of which may be to or from the Fixed Account. During the accumulation phase of the Policy, transfers in excess of six per year may be subject to a transfer fee equal to the lesser of 2% of the amount transferred or $10. Currently, no transfer fee is deducted. After annuity payments begin, if a variable annuity is selected, the Policy Owner may make four transfers among sub-accounts per Policy year. No transfer fee applies after the annuity date.

6. The Policy offers a death benefit. Prior to the annuity date, the death benefit proceeds are equal to the greater of (a) the Policy value, or (b) the sum of all purchase payments less withdrawals and any premium taxes. No contingent deferred sales load or market value adjustment is applied to amounts received as a death benefit.

7. During the accumulation phase and upon surrender of the Policy, the Company will deduct an annual Policy fee equal to the lesser of (a) 2% of the Policy value of (b) $30. The fee may be increased but is guaranteed not to exceed $60. After the annuity date an annual fee of $30 will be deducted in equal installments from each annuity payment.

8. The Company will also deduct a daily administrative charge from the assets of each sub-account of the Variable Account currently at an effective annual rate of 0.15% of the average net assets of the Variable Account. This charge may be increased but will not exceed 0.25%.

9. The Company reserves the right to impose an annual fee not to exceed $25 for administrative expenses associated with processing monthly withdrawals pursuant to a systematic withdrawal option offered under the Policy.

10. Applicants represent that the Company does not anticipate any profit from the charges described in paragraphs 5–9 above and that the Company will deduct the administrative charges in reliance upon and in compliance with Rule 26a–1 under the 1940 Act.

11. A contingent deferred sales charge of up to 6% of the amount withdrawn will be imposed on certain partial withdrawals from or surrender of a Policy. The percentage of the charge varies according to the number of Policy years between the Policy year in which a payment was credited to the Policy and the Policy year in which the withdrawal is made. The charge is equal to 6% until the second year after receipt of payment has been completed, 5% until 4 years are completed, 4% for the next two years, 2% after 6 complete years and 0% after 7 complete years. The amount of any withdrawal will be deemed to come first from purchase payments on a first in/first out basis until all purchase payments have been withdrawn. The Company guarantees that the aggregate contingent deferred sales charge will never exceed 6% of the total purchase payments. Beginning in the second Policy year, up to 10% of purchase payments held less than seven years may be withdrawn without a charge. Also, the contingent deferred sales charge will not be applied to death benefits or certain annuities.

12. Premium taxes relating to a particular Policy will be deducted from premiums, upon receipt of premiums, withdrawal, surrender, payment of death benefits, or annuitization. No charges are currently made for federal, state, or local taxes other than premium taxes. However, the Company may deduct such taxes from the Fixed Account and the Variable Account in the future.

13. The Company will impose a daily charge to compensate it for bearing certain mortality and expense risks in connection with the Variable Account and the Policies. The charge is set at an annual maximum rate of 1.25% of the net assets in the Variable Account. Of that amount, approximately 0.65% is estimated to be attributable to mortality risks, and approximately 0.60% is estimated to be attributable to expense risks. The Company currently anticipates a profit from this charge. The mortality risk borne by the Company arises from its contractual obligation to make annuity payments (determined in accordance with the annuity tables and other provisions contained in the Policy) regardless of how long all annuitants or any individual annuitant may live. The Company also assumes a risk in connection with the payment of death benefits. The expense risk assumed by the Company is the risk that actual administrative costs will exceed the amount recovered through the various administrative charges described above.

Applicants' Legal Analysis and Conditions

1. Applicants request exemptions from sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to the extent relief is necessary to permit the deduction from the Variable Account of the mortality and expense risk charge under the Policy. Sections 26(a)(2)(C) and 27(c)(2), as herein pertinent, prohibit a registered unit investment trust and any depositor thereof or underwriter therefor from selling periodic payment plan certificates unless the proceeds of all payments (other than sales load) are deposited with a qualified bank as trustee or custodian and held under arrangements which prohibit any payment to the depositor or principal underwriter except a fee, not exceeding such reasonable amounts as the Commission may prescribe, for performing bookkeeping and other administrative services.

[1] For additional information concerning the Applicants and the policies, see Registration No. 33–55152 for the Variable Account which is incorporated by reference into the application.

2. Applicants submit that the Company is entitled to reasonable compensation for its assumption of mortality and expense risks and represent that the mortality and expense risk charge under the Policy is consistent with the protection of investors because it is a reasonable and proper insurance charge. The Company also represents that the charge of 1.25% for mortality and expense risks is within the range of industry practice with respect to comparable annuity products. Applicants state that this representation is based upon the Company's analysis of publicly available information about similar industry products, taking into consideration such factors as current charge levels, the existence of charge level guarantees, death benefit guarantees, guaranteed annuity rates and other Policy options. The Company will maintain at its administrative offices, available to the Commission, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of its comparative survey.

3. Applicants acknowledge that the proceeds from the contingent deferred sales load may be insufficient to cover all costs relating to the distribution of the Policy. Applicants also acknowledge that if a profit is realized from the mortality and expense risk charge, all or a portion of such profit may be viewed as being offset by distribution expenses not reimbursed by the contingent deferred sales charge. The Company has concluded that there is a reasonable likelihood that the proposed distribution financing arrangements will benefit the Variable Account and the Policy Owners. The basis for such conclusion is set forth in a memorandum which will be maintained by the Company at its administrative offices and will be available to the Commission.

4. The Company represents that the Variable Account will invest only in underlying management investment companies which undertake, in the event such company adopts any plan under Rule 12b–1 under the 1940 Act to finance distribution expenses, to have a board of directors (or trustees), a majority of whom are not interested persons of the company, formulate and approve any such plan under Rule 12b–1.

Conclusion

Applicants assert that for the reasons and upon the facts set forth above, the requested exemptions from sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to deduct the mortality and expense risk charge under the Policy meet the standards in section 6(c) of the 1940 Act. In this regard, Applicants assert that the exemptions are necessary and appropriate in the public interest and consistent with the protection of investors and the policies and purposes of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–2772 Filed 2–4–93; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2623]

Arizona and Contiguous Counties in Utah, Colorado and New Mexico; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on January 19, 1993, and an amendment thereto on January 26, I find that the Counties of Apache, Cochise, Coconino, Gila, Graham, Greenlee, Maricopa, Navajo, Pima, Pinal, Santa Cruz, and Yavapai in the State of Arizona constitute a disaster area as a result of damages caused by flooding beginning January 5, 1993 and continuing. Applications for loans for physical damage may be filed until the close of business on March 22, 1993, and for loans for economic injury until the close of business on October 19, 1993, at the address listed below: U.S. Small Business Administration, Disaster Area 4 Office, P.O. Box 13795, Sacramento, CA 95853–4795, or other locally announced locations. In addition, applications for economic injury loans from small businesses located in the contiguous counties of LaPaz, Mohave, and Yuma in Arizona; Kane and San Juan Counties in Utah; Montezuma County in Colorado; and Catron, Cibola, Grant, Hidalgo, McKinley, and San Juan Counties in New Mexico may be filed until the specified date at the above location.

The interest rates are:

	Percent
For physical damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.625
For economic injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 262306 and for economic injury the numbers are 783400 for Arizona; 783500 for Utah; 783600 for Colorado; and 783700 for New Mexico.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: January 28, 1993.

Bernard Kulik,

Assistant Administrator for Disaster Assistance.

[FR Doc. 93–2793 Filed 2–4–93; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2586]

Florida, Amendment #3; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended in accordance with an amendment dated January 15, 1993, to the President's major disaster declaration of August 24, to extend the deadline for filing applications for physical damage. The new deadline is February 19, 1993.

The termination date for filing applications for economic injury remains the close of business on May 24, 1993.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: January 25, 1993.

Bernard Kulik,

Assistant Administrator for Disaster Assistance.

[FR Doc. 93–2794 Filed 2–4–93; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2596]

Hawaii, Amendment #3; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended in accordance with an amendment dated January 19, 1993, to the President's major disaster declaration of September 12, 1992, to extend the deadline for filing applications for physical damage to February 13, 1993. All other information remains the same, i.e., the termination date for filing applications for economic injury is June 14, 1993.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: January 25, 1993.

Bernard Kulik,

Assistant Administrator for Disaster Assistance.

[FR Doc. 93–2795 Filed 2–4–93; 8:45 am]

BILLING CODE 8025–01–M3

[Declaration of Disaster Loan Area #2624]

Massachusetts (And Contiguous Counties in New Hampshire); Declaration of Disaster Loan Area

Essex County and the contiguous counties of Middlesex and Suffolk in the State of Massachusetts and Hillsborough and Rockingham Counties in the State of New Hampshire constitute a disaster area as a result of damages caused by a winter storm and coastal flooding which occurred December 10–13, 1992. Applications for loans for physical damage may be filed until the close of business on March 29, 1993 and for economic injury until the close of business on October 26, 1993 at the U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South, 3rd Fl., Niagara Falls, NY 14303, or other locally announced locations.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.625
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The numbers assigned to this disaster for physical damage are 262411 for Massachusetts and 262511 for New Hampshire. For economic injury the numbers are 783800 for Massachusetts and 783900 for New Hampshire.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated January 26, 1993.

Dayton J. Watkins,

Acting Administrator.

[FR Doc. 93–2796 Filed 2–4–93; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2619]

New Jersey; Amendment #1; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended in accordance with amendments dated December 23, 1992 and January 13, 1993 to the President's major disaster declaration of December 18, to include Salem County as a disaster area as a result of damages caused by a severe coastal storm, unusual high tides, heavy rain and riverine flooding, and to establish the incident period for this disaster as beginning on December 10, 1992 and continuing through December 17, 1992.

In addition, applications for economic injury loans from small businesses located in the contiguous county of New Castle, Delaware may be filed until the specified date at the aforementioned location.

The economic injury numbers are 782100 for New Jersey and 783300 for Delaware.

All other information remains the same, i.e., the termination date for filing applications for physical damage is February 16, 1993 and September 20, 1993 for economic injury.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: January 25, 1993.

Bernard Kulik,

Assistance Administrator for Disaster Assistance.

[FR Doc. 93–2797 Filed 2–4–93; 8:45 am]

BILLING CODE 8025–01–M

Southeast SBIC, Inc. (License No. 04/04–0256); Surrender of License

Notice is hereby given that Southeast SBIC, Inc., One Southeast Financial Center, Miami, Florida 33131 has surrendered its License to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (Act). Southeast SBIC, Inc., was licensed by the Small Business Administration on May 2, 1991.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender of the license was accepted on January 8, 1993, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 29, 1993.

Wayne S. Foren,

Associate Administrator for Investment.

[FR Doc. 93–2697 Filed 2–4–93; 8:45 am]

BILLING CODE 8025–01–M

Westamco Investment Co.; Notice of License surrender

[License No. 09/14–0024]

Notice is hereby given that Westamco Investment Company, 8929 Wilshire Boulevard, suite 400, Beverly Hills, California 90211, has surrendered its license to operate as a small business investment company under section 301(c) of the Small Business Investment Act of 1958, as amended, (the Act). Westamco Investment Company was licensed by the Small Business Administration on July 24, 1961.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender of the license was accepted on December 29, 1992 and accordingly, all rights, privileges and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: January 22, 1993.

Wayne S. Foren,

Associate Administrator for Investment.

[FR Doc. 93–2798 Filed 2–4–93; 8:45 am]

BILLING CODE 8025–01–M

Albuquerque District Advisory Council; Public Meeting

The U.S. Small Business Administration Albuquerque District Advisory Council will hold a public meeting at 9:30 a.m. on Monday, April 19, 1993 at the U.S. Small Business Administration, 625 Silver, SW., suite 320, Albuquerque, New Mexico, to discuss such matters as may be presented by members, staff of the U.S Small Business Administration, or others present.

For further information, write or call Mr. Tom Dowell, District Director, U.S. Small Business Administration, 625 Silver, SW., suite 320, Albuquerque, New Mexico 87102, (505) 766–1870.

Dated: January 25, 1993.

Dorothy A. Overal,

Acting Assistant Administrator, Office of Advisory Councils.

[FR Doc. 93–2799 Filed 2–4–93; 8:45 am]

BILLING CODE 8025–01–M

Columbia District Advisory Council; Public Meeting

The U.S. Small Business Administration Columbia District Advisory Council will hold a public meeting at 10 a.m. on Thursday, February 18, 1993 in the Daniel Management Center of the University of South Carolina, room 857, 1701 College Street, Columbia, South Carolina, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. Elliot O. Cooper, District Director, U.S. Small Business Administration, P.O. Box 2786, Colombia, South Carolina 29202, (803) 765–5339.

Dated: February 2, 1993.

Dorothy A. Overal,

Acting Assistant Administrator, Office of Advisory Councils.

[FR Doc. 93–2800 Filed 2–4–93; 8:45 am]

BILLING CODE 8025–01–M

Concord District Advisory Council; Public Meeting

The U.S. Small Business Administration Concord District Advisory Council will hold a public meeting at 10 a.m. on Tuesday, February 16, 1993 in the Stewart Nelson Plaza building, Suite 202, 143 N. Main Street, Concord, New Hampshire, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. William K. Phillips, District Director, U.S. Small Business Administration, P.O. Box 1257, Stewart Nelson Plaza, 143 N. Main Street, Concord, New Hampshire 03302–1257, (603) 225–1400.

Dated: January 25, 1993.

Dorothy A. Overal,

Acting Assistant Administrator, Office of Advisory Councils.

[FR Doc. 93–2801 Filed 2–4–93; 8:45 am]

BILLING CODE 8025–01–M

Des Moines District Advisory Council; Public Meeting

The U.S. Small Business Administration Des Moines District Advisory Council will hold a public meeting from 10 a.m. to 2 p.m. on Wednesday, February 24, 1993, at the Institute for Physical Research and Technology, located on the Iowa State University campus in Ames, Iowa, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. Conrad E. Lawlor, District Director, U.S. Small Business Administration, room 749 Federal Building, 210 Walnut Street, Des Monies, Iowa 50309, (515) 284–4567.

Dated: January 27, 1993.

Dorothy A. Overal,

Acting Assistant Administrator, Office of Advisory Councils.

[FR Doc. 93–2802 Filed 2–4–93; 8:45 am]

BILLING CODE 8025–01–M

Helena District Advisory Council; Public Meeting

The U.S. Small Business Administration Helena District Advisory Council will hold a public meeting at 11 a.m. on Thursday, February 25, 1993 and adjourn at noon February 26th at the Montana Club, 24 West 6th Avenue, Helena, Montana, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Jo Alice Mospan, District Director, U.S. Small Business Administration, 301 South Park, Drawer 10054, Helena, Montana 59626–0054, (406) 449–5381.

Dated: January 25, 1993.

Dorothy A. Overal,

Acting Assistant Administrator, Office of Advisory Councils.

[FR Doc. 93–2803 Filed 2–4–93; 8:45 am]

BILLING CODE 8025–01–M

Lower Rio Grande Valley District Advisory Council; Public Meeting

The U.S. Small Business Administration Lower Rio Grande Valley District Advisory Council will hold a public meeting at 2 p.m. on Thursday, February 25, 1993 at the University of Texas—Pan American Library Regency Room, 1201 West University Drive, Edinburg, Texas, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. Miguel A. Cavazos, Jr., District Director, U.S. Small Business Administration, 222 E. Van Buren Street, Suite 500, Harlingen, Texas 78550, (210) 427–8625.

Dated: January 25, 1993.

Dorothy A. Overal,

Acting Assistant Administrator, Office of Advisory Councils.

[FR Doc. 93–2804 Filed 2–4–93; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

Study Group 9 of the U.S. Organization International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 9 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will hold an open meeting February 23, 1993, at the Federal Communication Commission, 1919 M Street, NW., Washington, DC in room 315 commencing at 10 a.m.

Study Group 9 deals with matters relating primarily to the study of radio relay systems. The purpose of the meeting is to discuss and establish the basis of preparations for a number of current and in-process actions affecting the interests of Study Group 9. These include, studies of sharing issues between the fixed service and new WARC 92 allocated satellite services, preparatory activities for the first Radiocommunication Assembly to be convened in November 1993, and planning for normal Study Group 9 Working Party activities.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Requests for further information should be directed to Mr. Alex Latker, International Conference Staff, Common Carrier Bureau, Federal Communication Commission, Washington, DC 20554, phone (202) 632–3214.

Dated: February 1, 1993.

Warren G. Richards,

Chairman, U.S. CCIR National Committee.

[FR Doc. 93–2690 Filed 2–4–93; 8:45 am]

BILLING CODE 4710–45–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 93–004]

National Offshore Safety Advisory Committee; Request for Applications for Membership

AGENCY: Coast Guard, DOT.

ACTION: Request for applications.

SUMMARY: The U.S. Coast Guard is seeking applicants for appointment to membership on the National Offshore Safety Advisory Committee (NOSAC).

This Committee advises the Secretary of Transportation on safety and rulemaking matters related to the offshore mineral and energy industries. The Committee consists of 14 regular members who have particular expertise, knowledge and experience regarding the transportation and other technology, equipment, and techniques that are used, or are being developed for use, in the exploration or recovery of offshore mineral resources. The Committee charter requires membership to be distributed among particular segments of the offshore industry, including representation from the general public and environmental interests. Five (5) members will be appointed for terms commencing in January 1994, one representing each of the following:

—Offshore Operations;

—Diving services related to offshore construction, inspection and maintenance;

—Pipelaying services related to offshore construction;

—Geophysical services related to offshore exploration and construction; and

—The General Public.

To achieve the balance of membership required by the Federal Advisory Committee Act, the Coast Guard is especially interested in receiving applications from minorities and women. The Committee will meet at least once a year in Washington, DC or another location selected by the Coast Guard. Members of the Committee serve without compensation (neither travel nor per diem) from the Federal Government.

DATES: Applications should be received no later than 31 May 1993. Application forms may be obtained by contacting the Executive Director at the address below.

ADDRESSES: Persons interested in applying should write to Commandant (G–MVI–4), room 1405, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, DC 20593–0001.

FOR FURTHER INFORMATION CONTACT: CDR M. M. Ashdown, Executive Director, National Offshore Safety Advisory Committee (NOSAC), room 1405, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, DC 20593–0001, (202) 267–2307.

Dated: January 28, 1993.

R.C. North,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 93–2805 Filed 2–4–93; 8:45 am]

BILLING CODE 4910–14–M

[CGD 90–071]

RIN 2115–AD61

Tank Level or Pressure Monitoring Devices; Technical Feasibility Study

AGENCY: Coast Guard, DOT.

ACTION: Notice of availability.

SUMMARY: A technical feasibility study for Tank Level or Pressure Monitoring Devices is available to the public. The Coast Guard Office of Marine Safety, Security, and Environmental Protection (G–M) commissioned this study to gather technical documentation and analysis for rulemaking on this subject.

ADDRESSES: Copies of the study, entitled Tank Level Detection Devices For The Carriage Of Oil, are available for inspection at U.S. Coast Guard Headquarters, room 3406, 2100 Second Street SW., Washington, DC 20593–0001, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477. Copies of the study may be requested by telephone (202) 267–6740 or by facsimile (202) 267–4624. Please include the title of this study.

FOR FURTHER INFORMATION CONTACT: LCDR Michael B. Karr, Project Manager, G–MS–1, (202) 267–6756, Oil Pollution Act of 1990 (OPA 90) Staff, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001.

SUPPLEMENTARY INFORMATION:

Background and Discussion

Section 4110 of OPA 90 requires the Secretary of Transportation to establish, by regulation, minimum standards for the monitoring of cargo tank levels on oil tankships and tank barges to prevent or detect leakage. An advance notice of proposed rulemaking (ANPRM) on Tank Level or Pressure Monitoring Devices, published May 7, 1991, solicited comments on how best to implement OPA 90 requirements for tank level or pressure monitoring devices (56 FR 21116). As discussed in the ANPRM, preliminary research indicates that existing level detectors are not sufficiently sensitive to detect leakage before a large discharge occurs. That assumption was verified by internationally recognized experts in the field of marine environmental protection and marine vessel design. Therefore, the Coast Guard commissioned a study to determine the availability of existing devices which could indicate small rates of leakage from a vessel's tanks or which could be modified to indicate small leakage rates.

Summary of the Study

The study identifies and describes types of liquid level detection devices now in use or available. It defines the operating environment, including various uncertainty factors inherent in that environment and limitations for each liquid level sensing system. The study evaluates the performance of the identified sensors, including potential false leak indications in a non-ruptured tank. It further develops hull failure and leak scenarios and evaluates the performance of the identified systems for given leak scenarios. The study also suggests an approach to developing a type approval standard.

The study found that a wide variety of liquid level sensing systems exists for both marine and shoreside applications. In addition, the study noted the severity of the operating environment in marine oil cargo tanks including factors of measurement uncertainty. While cargo stratification and deformation of tank boundaries degrade performance of liquid level sensing systems, the impact of other noise sources, such as ship motion, hull deformation, and dynamic loading stresses will vary depending on the type of sensor. The study indicated the large variation in the liquid level caused by sloshing in cargo tanks also makes measuring cargo levels difficult.

The study evaluated performance of sensors under both ideal conditions and those simulating environmental noise, excluding cargo sloshing. Although environmental noise may substantially degrade performance from that claimed by manufacturers and result in inaccurate indications, the study determined that attainable accuracy is expected to be within 1.0–2.0% of the actual level, varying with the system used and the noise effects on the cargo level indication or indicator. The study defined attainable accuracy as the limit of cargo level change outside of which the crew could be confident that the indicator signals the existence of a leak. An alert operator would respond (to a suspected leak) only when the sensor exceeds the appropriate level of attainable accuracy determined appropriate by crew experience.

The Coast Guard will use this study in development of a notice of proposed rulemaking on this subject.

Dated: January 28, 1993.

R.C. North,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 93–2807 Filed 2–4–93; 8:45 am]

BILLING CODE 4910–14–M

[CGD 92-077]

Northwest Pacific Loran-C Transfer/ Closure

AGENCY: Coast Guard, DOT.

ACTION: Notice of intent.

SUMMARY: The Coast Guard intends to transfer operation and control of the Northwest Pacific Loran-C Chain to the Government of Japan by October 1, 1993 with the exception of the Loran-C station located at Barrigada, Guam, which will cease operation. This transfer date is 15 months prior to the termination date identified in the 1990 Federal Radionavigation Plan. By implementing. This accelerated transfer, the Coast Guard will realize an annual savings of 10 million dollars.

FOR FURTHER INFORMATION CONTACT: Commander Douglas S. Taggart, Chief, Radio Aids Management Branch (G-NRN-1), room 1413, U.S. Coast Guard Headquarters, 2100 2nd Street, SW., Washington, DC 20593-0001, phone (202) 267-0990.

SUPPLEMENTARY INFORMATION: The Northwest Pacific Loran-C Chain (Group Repetition Interval 9970), which was commissioned in 1963 in response to a Department of Defense requirement for a precise navigation system in the Far East, consists of Loran Stations Hokkaido (Japan), Gesashi (Japan), Marcus Island (Japan), Iwo Jima (Japan), Barrigada (Guam), and Loran Monitor Station Yokota (Japan). The Department of Defense requirement for Loran-C will end December 31, 1994. The Department of Defense has approved an agreement between U.S Forces Japan and the Government of Japan allowing the U.S Coast Guard to transfer operation of the Northwest Pacific Loran-C Chain to the Government of Japan by October 1, 1993 with the exception of the Loran-C station located at Barrigada, Guam, which will cease operation at 2400Z, June 30, 1993. The Government of Japan intends to continue operation of the remainder of the chain in support of its national users.

Loran-C system service for the continental U.S. and Alaska is expected to remain in operation through the year 2015 and will not be affected by this action.

Dated: January 29, 1993.

W.J. Ecker,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 93-2806 Filed 2-4-93; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

February 1, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0035

Form Number: IRS Forms 943, 943-PR, 943-A, and 943A-PR

Type of Review: Revision

Title: Employer's Annual Tax Return for Agricultural Employees

Description: Agricultural employers must prepare and file Form 943 (Puerto Rico only) to report and pay FICA taxes and (943 only) income tax voluntarily withheld. Agricultural employers may attach Form 943A and 943A-PR to Form 943 and 943-PR to show their tax liabilities for semiweekly periods. The information is used to verify that the correct tax has been paid.

Respondents: Farms, Businesses or other for-profit

Estimated Number of Respondents/ Recordkeepers: 392,443

Estimated Burden Hours Per Respondent/Recordkeeper:

Form	Recordkeeping	Learning about the law or the form	Preparing the form	Copying, assembling, and sending the form to the IRS
943	9 hrs., 20 min	22 min	1 hr., 28 min	16 min.
943 Mail Out	9 hrs., 5 min	22 min	1 hr., 28 min	16 min.
943 Over the Counter	9 hrs., 34 min	22 min	1 hr., 28 min	16 min.
943 Voucher	14 min			
943A	9 hrs., 20 min		9 min	
943A-PR	9 hrs., 20 min		9 min	
943-PR	8 hrs., 8 min	22 min	27 min	16 min.

Frequency of Response: Annually

Estimated Total Reporting/ Recordkeeping Burden: 4,416,022 hours

Clearance Officer: Garrick Shear (202) 622-3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 93-2742 Filed 2-4-93; 8:45 am]

BILLING CODE 4830-01-M

Public Information Collection Requirements Submitted to OMB for Review

February 1, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

U.S. Savings Bonds Division

OMB Number: 1535-0001

Form Number: SB–60 and SB–60A
Type of Review: Extension
Title: Payroll Savings Report
Description: The total number of payroll savers is determined from Reports SB–60 and SB–60A completed by companies that offer the sale of Savings Bonds through payroll savings plans. Total number of savers is used in budget formulation and measures of program effectiveness.
Respondents: Businesses or other for-profit
Estimated Number of Respondents: 12,955
Estimated Burden Hours Per Respondent: 41 minutes
Frequency of Response: Semi-annually
Estimated Total Reporting Burden: 17,871 hours
Clearance Officer: Richard J. Schneebeli, (202) 377–7704, U.S. Savings Bonds Division, Room 8035, 800 K Street, NW., Washington, DC 20226.
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 93–2743 Filed 2–4–93; 8:45 am]
BILLING CODE 4830–01–M

Public Information Collection Requirements Submitted to OMB for Review

February 1, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and firearms

OMB Number: 1512–0178
Form Number: ATF F 4483 (5300.5)
Type of Review: Extension
Title: Report of Firearms Transactions
Description: This form is used to evaluate Firearms transactions by licensees when the Regional Director (Compliance) determines the need to do so. It is prepared from existing records and submitted to the official.
Respondents: Businesses or other for-profit, Small business or other organizations
Estimated Number of Respondents: 250
Estimated Burden Hours Per Respondent: 1 hour
Frequency of Response: On occasion
Estimated Total Reporting Burden: 250 hours

OMB Number: 1512–0369
Form Number: ATF REC 5300/1
Type of Review: Extension
Title: Licensed Firearms Manufacturers Records of Production, Disposition and Supporting Data
Description: Firearms manufacturers record in a permanent record all firearms manufactured and record their disposition. These records are vital to support ATF mission to inquire into the disposition of any firearm in the course of a criminal investigation.
Respondents: Businesses or other for-profit
Estimated Number of Recordkeepers: 1,380
Estimated Burden Hours Per Recordkeeper: 52 hours, 12 minutes
Frequency of Response: Other
Estimated Total Recordkeeping Burden: 72,023 hours
Clearance Officer: Robert N. Hogarth, (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, room 3200, 650 Massachusetts Avenue, NW., Washington, DC 20226.
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 93–2745 Filed 2–4–93; 8:45 am]
BILLING CODE 4810–31–M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 23
Friday, February 5, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL MARITIME COMMISSION

TIME AND DATE: 10:00 a.m., February 10, 1993.

PLACE: Main Hearing Room, 800 North Capitol Street, NW., Washington, DC 20573–0001.

STATUS: Part of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTER(S) TO BE CONSIDERED: Portion open to the public:

1. Petition No. P7–92—Motor Vehicle Manufacturers Association of the United States, Inc. and Wallenius Lines, N.A.—Joint Application for Exemption from Certain Requirements of the Shipping Act of 1984 for Certain Limited Shipments of Passenger Vehicles.
2. Docket No. 92–31—Service Contracts—Consideration of Comments on Proposed Rule.

Portion closed to the public:

1. Trans-Atlantic Agreement Rate Activity.
2. Docket No. 90–13—Memphis Forwarding Company, Inc.—Possible Violations of Section 19(d)(4) of the Shipping Act of 1984—Consideration of the Record.

CONTACT PERSON FOR MORE INFORMATION: Joseph C. Polking, Secretary, (202) 523–5725.

Ronald D. Murphy,
Assistant Secretary.

[FR Doc. 93–2874 Filed 2–3–93; 10:23 am]

BILLING CODE 6730–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, February 10, 1993.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: February 3, 1993.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 93–2889 Filed 2–3–93; 10:24 am]

BILLING CODE 6210–01–M

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

TIME AND DATE: 9:00 a.m., February 16, 1993.

PLACE: 4th Floor, Conference Room, 1250 H Street NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: .

1. Approval of the minutes of the January 19, 1993, Board meeting.
2. Labor Department briefing.
3. Review of Peat Marwick audit report entitled "Pension and Welfare Benefits Administration Review of the Policies and Procedures of the Federal Retirement Thrift Investment Board Administrative Staff."
4. Thrift Savings Plan activity report by the Executive Director.
5. Quarterly review of investment policy.

CONTACT PERSON FOR MORE INFORMATION: Tom Trabucco, Director, Office of External Affairs, (202) 942–1640.

Dated: February 2, 1993.

Francis X. Cavanaugh,
Executive Director, Federal Retirement Thrift Investment Board.

[FR Doc. 93–2968 Filed 2–3–93; 2:18 pm]

BILLING CODE 6760–01–M

NUCLEAR REGULATORY COMMISSION

DATE: Tuesday, February 9, 1993.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Tuesday, February 9

4:30 p.m.

Affirmation/Discussion and Vote (Public Meeting)

a. Final Amendments to 10 CFR Part 61, "Licensing Requirements for Land Disposal of Radioactive Waste" (Tentative)
b. Clarification of Physical Protection Requirements at Fixed Sites

To Verify the Status of Meeting Call (Recording)—(301) 504–1292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 504–1661.

Dated: February 2, 1993.

William M. Hill, Jr.,
SECY Tracking Officer, Office of the Secretary.

[FR Doc. 93–2874 Filed 2–3–93; 10:25 am]

BILLING CODE 6730–01–M

Corrections

Federal Register
Vol. 58, No. 23
Friday, February 5, 1993

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

[FV-91-329]

United States Standards for Grades of Frozen Cauliflower

Correction

In proposed rule document 93-521 beginning on page 3816 in the issue of Monday, January 11, 1993, make the following correction:

Subpart—United States Standards for Grades of Frozen Cauliflower [Corrected]

On page 3817, in the table of contents, in the third column, the entry for Sec. 52.729 should read "Acceptance criteria."

BILLING CODE 1505-01-D

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 275 and 283

[Amdt. No. 348]

Food Stamp Program; Hunger Prevention Act of 1988; Rules of Practice; Administrative Law Judges

Correction

In proposed rule document 93-1176 beginning on page 5188 in the issue of Tuesday, January 19, 1993, make the following corrections:

1. On page 5190, in the second column, in the last paragraph, in the first line, "Food Stamp" should read "Food Stamp Act".

2. On page 5194, in the first column, in the last paragraph, in the first line, "part" should read "party".

3. On page 5196, in the second column, in the first line, "§ 283.24" should read "§ 283.4".

4. On the same page, in the 3d column, in the 2d complete paragraph, in the 15th line, delete "The parties would be limited to 15 pages, excluding exhibits."

§ 283.3 [Corrected]

5. On page 5197, in the 3d column, in § 283.3, in the 10th paragraph, "*OC claim*" should read "*QC claim*".

§ 283.5 [Corrected]

6. On page 5198, in the 3d column, in § 283.5(c), in the 12th line, "§ 283.179(d)" should read "§ 283.17(d)".

§ 283.12 [Corrected]

7. On page 5201, in the third column, in § 283.12(b)(8)(iii), in the second line, "required" should read "inquired".

§ 283.15 [Corrected]

8. On page 5202, in the second column, in § 283.15(d)(1), in the fifth line, "guilty or" should read "guilty of".

§ 283.18 [Corrected]

9. On page 5204, in the first column, in § 283.18(a), in the third line, "several" should read "served"; in the fourth line, "part," should read "party,".

§ 283.21 [Corrected]

10. On page 5205, in the second column, in § 283.21(d), in the eighth line, "cause" should read "causes".

§ 283.30 [Corrected]

11. On page 5207, in the second column, in § 283.30, in the next to the last line, "2 days" should read "20 days".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8457]

RIN 1545-AP74

Taxation of Fringe Benefits and Exclusions From Gross Income of Certain Fringe Benefits

Correction

In rule document 92-30941 beginning on page 62192 in the issue of Wednesday, December 30, 1992, make the following corrections:

§ 1.132-1 [Corrected]

1. On page 62196, in the second column, in § 1.132-1(g), in the sixth line, delete "on".

§ 1.132-5 [Corrected]

2. On page 62198, in the first column, in § 1.132-5(r)(4), in the first line, "for" should read "from".

BILLING CODE 1505-01-D

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 1

RIN 2900-AE61

Regional Office Committees on Waivers and Compromises

Correction

In rule document 93-561 beginning on page 3840 in the issue of Tuesday, January 12, 1993, make the following correction:

§ 1.965 [Corrected]

1. On page 3841, in the 1st column, in § 1.965(b)(2), in the 10th line, "if undertaken" should read "is undertaken".

BILLING CODE 1505-01-D

federal register

Friday
February 5, 1993

Part II

Environmental Protection Agency

Federal Agency Hazardous Waste Compliance Docket; Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4552–3]

Federal Agency Hazardous Waste Compliance Docket

AGENCY: Environmental Protection Agency.

ACTION: Notice of Seventh Update of the Federal Agency Hazardous Waste Compliance Docket Pursuant to CERCLA Section 120(c).

SUMMARY: Section 120(c) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), requires the Environmental Protection Agency (EPA) to establish a Federal Agency Hazardous Waste Compliance Docket that contains certain information regarding Federal facilities that manage hazardous waste or from which hazardous substances may be or have been released. (As defined by CERCLA 101(22), a release is any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment.) CERCLA requires that the docket be updated every 6 months as new facilities are reported to EPA by Federal agencies. The following list identifies the Federal facilities to be included in the sixth update of the docket (that is, facilities not previously listed on the docket and reported to EPA since the last update to the docket, 57 FR 31758, July 17, 1992, which was current as of March 1, 1992). EPA policy specifies that for each Federal facility that is included on the docket during an update, the responsible Federal agency must complete a preliminary assessment (PA) and, if warranted, a site inspection (SI), within 18 months of publication of this notice. Such remedial site evaluation activities will help determine whether the facility should be included on the National Priorities List (NPL) and will provide EPA and the public with valuable information about the facility. In addition to the docket additions list, this notice includes a section comprising revisions (that is, corrections and deletions) to the previous docket list and a new list of the facilities on the docket that have been evaluated and determined not to be appropriate for NPL listing at this time (the Site Evaluation Accomplished (SEA) list). At the time of publication of this notice, the new total number of Federal facilities listed on the docket is 1,930.

DATES: This list is current as of December 7, 1992.

FOR FURTHER INFORMATION CONTACT: Federal Facilities Docket Hotline. Telephone: (800) 548–1016 toll free, or (703) 883–8577.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Revisions to the Previous Docket
III. Process for Compiling the Updated Docket
IV. Facilities Not Included
V. Information Contained on Docket Listing
VI. Facility Status Reporting

I. Introduction

The Federal Agency Hazardous Waste Compliance Docket ("docket") was required to be established under section 120(c) of CERCLA, 42 U.S.C. 9620(c), as amended by SARA. The docket contains information on Federal facilities that is submitted by Federal agencies to the U.S. Environmental Protection Agency ("EPA" or "the Agency") under sections 3005, 3010, and 3016 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6925, 6930, and 6937, and under section 103 of CERCLA, 42 U.S.C. 9603. Specifically, RCRA Section 3005 establishes a permitting system for certain hazardous waste treatment, storage, and disposal (TSD) facilities; RCRA Section 3010 requires waste generators, transporters, and TSD facilities to notify EPA of their hazardous waste activities; and RCRA Section 3016 requires Federal agencies to submit biennially to EPA an inventory of hazardous waste sites that the Federal agencies own or operate. CERCLA Section 103(a) requires notification to the National Response Center (NRC) of a release; CERCLA Section 103(c) requires reporting to EPA the existence of a facility at which hazardous substances are or have been stored, treated or disposed and the existence of known or suspected releases of hazardous substances at such facilities.

The docket serves, among others, three major purposes: (1) To identify the universe of Federal facilities that must be evaluated to determine whether they pose a risk to human health and the environment sufficient to warrant inclusion on the NPL; (2) to compile and maintain the information submitted to EPA on these facilities under the provisions listed in Section 120(c) of CERCLA; and (3) to provide a mechanism to make this information available to the public.

The initial list of Federal facilities to be included in the docket was published on February 12, 1988 (53 FR 4280). Updates to the docket have been published on November 16, 1988 (53 FR 47364); December 15, 1989 (54 FR 51472); August 22, 1990 (55 FR 34492); September 27, 1991 (56 FR 49328); and December 12, 1991 (56 FR 64898); and July 17, 1992 (57 FR 31758). This notice constitutes the seventh update of the docket.

Today's notice is divided into four major sections: (1) Corrections, (2) Deletions, (3) Additions, and (4) the SEA list. The docket corrections section lists changes to information on facilities already listed on the docket. The deletions section lists facilities that EPA is deleting from the docket. The additions section lists newly identified facilities that have been reported to EPA since the last update and are now being included on the docket. The SEA list is the list of all docket facilities to which EPA has assigned a status of Site Evaluation Accomplished.

The information submitted to EPA on each Federal facility is contained in the docket repository located in the EPA Regional Office of the region where the facility is found. (See 53 FR 4280 (February 12, 1988) for a description of the information required under these provisions.) Each repository contains the documents submitted to EPA under the reporting provisions and correspondence relevant to the reporting provisions for each facility. A complete national index of the information found in the Regional docket repositories is maintained at EPA Headquarters in Washington, DC, and made available to the public. The index for each Region is available for public review at each Regional repository. Contact the Federal Facilities Docket Hotline (800–548–1016) for information on repository locations and arrangements for reviewing and copying specific documents.

II. Revisions to the Previous Docket

1. Corrections

Changes necessary to correct the previous docket were identified by both EPA and Federal agencies. These changes vary from simple address and spelling changes to facility name and ownership corrections. In addition, some facility name changes were made to make the nomenclature consistent on the docket. Many are simply typographical errors. For each facility with a correction, the original entry as it appeared in the February 12, 1988, notice; or subsequent updates, is shown directly above the corrected entry for easy comparison.

2. Deletions

Today, 59 facilities are being deleted from the docket for various reasons, such as incorrect reporting of hazardous waste activity, change in Federal ownership, and exemption as a small quantity generator (SQG) under RCRA (40 CFR 262.44). Facilities being deleted will no longer be subject to the requirements of CERCLA Section 120(d).

3. Additions

Today, 263 facilities are being added to the docket primarily because of new information obtained by EPA (for example, recent reporting of a facility pursuant to RCRA Sections 3005, 3010, or 3016 or CERCLA Section 103). For all facilities being added in this section, it is EPA's policy that the responsible agency must complete the required PA, and, if warranted, an SI, within 18 months from the date of this publication.

Of the 263 facilities being added to the docket, 30 are facilities that have reported the release of a reportable quantity (RQ) of a hazardous substance to the NRC. Under Section 103(a) of CERCLA, a facility is required to report to the NRC the release of a hazardous substance in a quantity that equals or exceeds the established RQ. Release reports received by the NRC, the U.S. Coast Guard, and EPA are electronically transmitted to the Transportation Systems Center at the U.S. Department of Transportation (DOT), where they become part of the Emergency Response Notification System (ERNS) database. ERNS is a national computer database and retrieval system that stores information on releases of oil and hazardous substances. Facilities being added to the docket and facilities already listed on the docket that have an ERNS report have the notation of "103(a)" in the "Reporting Mechanism" column.

It is EPA's policy generally not to list on the docket facilities that are SQGs and have never generated more than 1,000 kg of hazardous waste in any month. If a facility has ever generated more than 1,000 kg of hazardous waste in any month (that is, is an episodic generator), it will be added to the docket. In addition, facilities that are SQGs but have reported releases under CERCLA Section 103, or hazardous waste activities pursuant to another reporting mechanism, will be listed on the docket, and will undergo remedial site evaluation activities, such as a PA and, where appropriate, an SI. All such facilities will be listed on the docket regardless of whether they are SQGs pursuant to RCRA. As a result, some of the facilities that EPA is today adding to the docket are SQGs that had not been previously listed on the docket but have reported releases or hazardous waste activities to EPA under another reporting provision.

In the process of compiling the documents for the Regional repositories, EPA identified a number of facilities that had previously submitted a PA report, an SI report, a Department of Defense Installation Restoration Program report, or another Federal agency environmental restoration program report, but had not submitted a CERCLA Section 103 notification form. Section 120(c)(3) of CERCLA requires that EPA include information submitted under section 103 in the docket. In general, section 103 requires certain persons to provide notice of certain releases of hazardous substances. The aforementioned Federal agency environmental restoration program reports contain information similar to information provided pursuant to CERCLA Section 103 and are considered equivalent forms of notification for purposes of the docket. Thus, the Agency believes that facilities that have provided information equivalent to a CERCLA Section 103 notification, such as a Federal agency environmental restoration program report, should be included on the docket regardless of the absence of formal section 103 notification. Therefore, some of the facilities that EPA is adding today are being placed on the docket because of the above-mentioned reports.

EPA now includes privately owned, government-operated facilities (POGOs) on the docket. CERCLA section 120(c) requires that the docket contain information submitted under RCRA sections 3005, 3010, and 3016, and CERCLA section 103, which all impose duties on operators as well as owners of facilities. In addition, other subsections of CERCLA section 120 refer to facilities "owned or operated" by an agency or other instrumentality of the Federal Government. This terminology clearly includes facilities that are operated by the Federal Government even if they are not owned by it. Specifically, CERCLA section 120(e), which sets forth the duties of the Federal agencies after a facility is listed on the NPL, refers to the agency that "owns or operates" the facility. In addition, the primary basis for assigning responsibility for conducting PAs and SIs, as required by docket listing, is Executive Order 12580, which assigns this responsibility to the agency with "jurisdiction, custody, or control" over a facility. An operator may be deemed to have jurisdiction, custody or control over a facility.

III. Process for Compiling the Updated Docket

In compiling the newly reported facilities for the update being published today, EPA extracted the names, addresses, and identification numbers of facilities from four EPA databases—ERNS, Biennial Inventory of Federal Agency Hazardous Waste Activities, Resource Conservation and Recovery Information System (RCRIS), and Comprehensive Environmental Response, Compensation and Liability Information System (CERCLIS)—that contain Federal facility information submitted under the four provisions listed in CERCLA Section 120(c).

Extensive computer checks compared the current docket list with the information obtained from the above databases to determine which facilities were, in fact, newly reported and qualified for inclusion on the update. In spite of the quality assurance efforts EPA has undertaken, it is possible that State-owned or privately owned facilities, that are not operated by the Federal government, may have been included. These problems are the result of historical procedures used to report and track Federal facility data; the Agency is working to resolve them. Federal agencies are requested to write to EPA's Docket Coordinator at the following address if revisions to this update information are necessary: Federal Facilities Docket Coordinator, Office of Federal Facilities Enforcement (OE-2261), U.S. EPA, 401 M Street, SW., Washington, DC 20460.

IV. Facilities Not Included

As explained in the original docket preamble (53 FR 4280), the docket does not include the following categories of facilities (note, however, that any of these types of facilities may, where appropriate, be listed on the NPL):

1. Facilities formerly owned by a Federal agency and now privately owned. However, facilities that are now owned by another Federal agency will remain on the docket, with responsibility for conducting PAs and SIs resting with the current owner.

2. SQGs that have never produced more than 1,000 kg in any month and have not reported releases under CERCLA Section 103 or other hazardous waste activities under RCRA Section 3016.

3. Facilities that are solely transporters as reported under RCRA Section 3010.

V. Information Contained on Docket Listing

As discussed above, the update information below is divided into three separate sections. The first section is a list of new facilities that are being added to the docket. The second section is a list of facilities being deleted from the docket. The third section comprises corrections to the docket. Each facility listed as part of the update has been assigned a code that indicates a more specific reasons(s) for the addition, deletion, or correction. The code key precedes the lists.

It is EPA's policy that all facilities on the additions list to this seventh docket update must submit a PA, and, if warranted, an SI, to EPA within 18 months of the date of this publication. A PA must include existing information about a site and its surrounding environment, including a thorough examination of the human, food-chain, and environmental targets, the potential waste sources, and migration pathways. Based upon information in the PA, or other information coming to EPA's attention, EPA will determine whether a followup SI is required. An SI augments the data collected in a PA. An SI may reflect sampling and other field data that is used to determine if further action or investigation is appropriate. This policy includes any facility changing responsible agencies. These reports should be submitted to the Federal Facilities Coordinator in the appropriate EPA Regional Office.

The facilities listed in each section are organized by State and then grouped alphabetically within each State by Federal agency responsible for the facility. Under each State heading is listed the facility name and address, the statutory provision(s) under which the facility was reported to EPA, the EPA Region where the facility is located, and the correction codes.

The statutory provision(s) under which a facility reported are listed in a column titled "Reporting Mechanisms." Each Facility has its applicable mechanisms listed; for example: 3010,3016,103(c).

The complete list of Federal facilities that now makes up the docket is not being published today. However, the list is available to interested parties and can be obtained by calling the Federal Facilities Docket Hotline (800–548–1016 or 703–883–8577). As of today, the total number of Federal facilities that appear on the docket is 1,930.

VI. Facility Status Reporting

In response to numerous Federal agency requests, EPA has expanded the docket database to include information on the status of docket facilities. A prevalent concern has been the inability to identify facilities that, after submitting all necessary site assessment information, were found to warrant no further EPA involvement at this time. Accordingly, EPA has expanded the docket database to include a column indicating the facility's status. The status codes are as follows:

U=Undetermined
N=Site Evaluation Accomplished (SEA)
P=Currently Proposed for the NPL
F=Currently Final on the NPL
R=Removed from the Proposed NPL and No Longer Considered for the Final NPL
D=Deleted from the Final NPL

EPA has changed the site assessment recommendation No Further Remedial Action Planned (NFRAP) to SEA to denote a more positive attitude and to emphasize that the determination involves an affirmative effort on EPA's part toward evaluating sites.

SEA is a term used in the Superfund site assessment program to identify facilities where EPA has found that, based on currently available information, listing on the NPL is not likely and further assessment is not appropriate at this time. SEA status does not represent an EPA determination that there are no environmental threats present at the facility or that no further environmental response action of any kind is necessary. As stated, SEA status is intended to mean only that the facility does not appear to warrant NPL listing based on the information available to EPA at this time, and that therefore no further involvement by EPA in site assessment or cleanup at the facility is anticipated. However, additional CERCLA response actions by the agency that owns or operates the facility, whether remedial or removal actions, may be necessary at a facility with SEA status.

The status information contained in the docket is the result of regional evaluation of information taken directly from CERCLIS. (CERCLIS is a database that helps EPA Headquarters and Regional personnel with site, program, and project management. It contains the official inventory of all CERCLA [NPL and non-NPL] sites and supports all site planning and tracking functions. It also integrates financial data from preremedial, remedial, removal, and enforcement programs.) The status information was taken from CERCLIS and sent to the Regional Docket Coordinators for review. The results of their reviews were incorporated into the status field in the docket. Subsequently, a list of all facilities with an SEA status (containing an "N" in the status field) was generated; this list is being published today.

Important limitations apply to this SEA status list. First, the information is accurate only as of December 7, 1992. Second, a facility's status may be subject to change at any time due to any number of factors, including new site information or changing EPA policies. Finally, the SEA status list is based on regional review of CERCLIS data, is provided for information purposes only, and should not be considered binding upon either the agency responsible for the facility or EPA.

The status information in the docket will be reviewed and a new list of SEA facilities will be published at each docket update.

Dated: January 5, 1993.

Herbert H. Tate, Jr.,

Assistant Administrator for Enforcement.

I. Docket Revisions

Categories of Revisions for Docket Update by Correction Code

*Categories for Facility Deletion**

(1) Small Quantity Generator
(2) Not Federally Owned
(3) Formerly Federally Owned
(4) No Hazardous Waste Generated
(5) (This correction code is no longer used)
(6) Redundant Listing/Site on Facility
(7) Combining Sites Into One Facility/Entries Combined
(8) Does Not Fit Facility Definition (All Are Vessels)
(9) No Hazardous Waste (Responsible Agency Changed)
(10) Small Quantity Generator (Responsible Agency Changed)
(11) No Hazardous Waste (Temporary Storage Only)
(12) Not Federally Owned (Small Quantity Generator)
(13) Redundant Listing/Site on Facility (Agencies Will Coordinate)
(14) Small Quantity Generator (Never Actually Built)

Categories for Facility Addition

(15) Small Quantity Generator with Either a RCRA 3016 or CERCLA 103
(16) One Entry Being Split into Two/Agency Responsibility Being Split
(17) New Information Obtained Showing That Facility Should be Included
(18) Facility Was a Site on a Facility That Was Disbanded, Now a Separate Facility
(19) Sites Were Combined into One Facility
(19A) New Facility

Categories for Corrections to Facility Information

(20) Reporting Provisions Change
(20A) Typo Correction/Name Change/Address Change
(21) Changing Responsible Agencies (New Responsible Agency Has 18 Months to Submit PA)

*Further information on category definitions can be obtained by calling the Docket Hotline.

(22) Changing Responsible Agencies and Title (New Responsible Agency Has 18 Months to Submit PA)

(23) New Reporting Mechanism Added to Update

(24) Reporting Mechanism Determined to be Not Applicable after Regional File Review

FEDERAL FACILITIES DOCKET

[Docket Additions]

Facility name	Facility address	City	State	Zip code	Agency	Reporting mechanism	Correction code
Canyon Creek RRS	T 7 S, R 6 E, Sec 15.	Big Delta	AK	99737		3016	19A
DERA-Kodiak Tracking Station.	Cape Chiniak Rd, end of.	Kodiak	AK			103c	19A
M–I Drilling Fluids Company-Anchorage.	721 W 1st Ave	Anchorage	AK	99501		3010	19A
Tongass National Forest: Thorne Bay Dump.		Thorne Bay	AK	99919	Agriculture	103c	19A
NOAA-St. Paul Island.	171' 30' 30" Long W and 57' 5'.	St. Paul Village	AK		Commerce	103c	19A
Anchorage Defense Fuel Support Point.	1217 Anchorage Port Road.	Anchorage	AK	99501	Defense	3016	19A
Fairbanks Defense Fuel Support Point.	Canol Service Road	Ft. Wainwright	AK	99703	Defense	3016	19A
PHS-Kanakanak Hospital.	2.5 Mi SW of village	Dillingham	AK	99576	Health and Human Services.	103a	19A
FWS–Skilak Guard Station.		Soldotna	AK		Interior	103c 3016	19A
North East Cape St. Lawrence Island.	St. Lawrence Island 70 Mi E of Savoonea.	Northeast Cape	AK	99769	Navy	103c	19A
St. Lawrence Island-Cargo Beach Site.	Cargo Beach	Northeast Cape	AK		Navy	103c	19A
Wales Naval Field Station.		Wales	AK	99783	Navy	103c	19A
FAA-Cape Yakataga Facility.	Cape Yakataga	Cape Yakataga	AK	99574	Transportation	3010 3016	19A
FAA–Skwentna Facility.	Skwentna Arpri Area.	Skwentna	AK	99667	Transportation	3010	19A
Summit Air Navigation Site.	Canbwell Pks Hwy 5 Mi S Nav Aids.	Summit	AK	99729	Transportation	3016	19A
Percy Roy Farm	County Rd. 40	Pine Level	AL	36065		3016	19A
Martin-Gasden Air National Guard Station.	Gadsden Municipal Airport.	Gadsden	AL		Air Force	103c 3010	19A
Coosa River Storage Annex.		Talledega	AL	35160	Army	103c	19A
Rogersville Corp of Engineers.	Route 4 Box 305	Rogersville	AL	35652	Army	3010	19A
Trinity 500–KV Substation.	Woodall Road at Ipsco Road.	Decatur	AL	35601	Tennessee Valley Authority.	3010	19A
American Samoa Power.	American Samoa	American Samoa	AS			103c	19A
Casa Grande Valley Newspapers.	1104 N Pinal Ave	Casa Grande	AZ	85222		3010	19A
Casa Grande Valley Newspapers.	200 W Second St	Casa Grande	AZ	85222		3010	19A
Lockheed Aeromod Center Inc.	1555 E Aero Park Blvd.	Tucson	AZ	85706		3010	19A
Maricopa County Parks & Recreation Maintenance Yd.	41000 North 99th Avenue.	Phoenix	AZ	85027		3016	19A
Maricopa Water District Lands.	41000 North 99th Avenue.	Phoenix	AZ	85027		3016	19A
Triumph Air Repair Inc.	4010 S 43rd Pl	Phoenix	AZ	85040		3010	19A
Yuma Mesa Irrigation and Drainage District.	14329 S. Fourth Avenue.	Yuma	AZ	85365		3016	19A
Barry M. Goldwater Air Force Range.		Phoenix	AZ	85309	Air Force	103c	19A
Luke-El Mirage Road Landfill.	7011 N. El Mirage Road.	Glendale	AZ	85307	Air Force	3016	19A
BLM-Peoria Auto Fluff Site.	3707 N. 7th St., P.O. Box 16563—Phoenix.	Peoria	AZ		Interior	103c	19A

FEDERAL FACILITIES DOCKET—Continued

[Docket Additions]

Facility name	Facility address	City	State	Zip code	Agency	Reporting mechanism	Correction code
Standford #1	NR Ave I & County Highway.	Yuma	AZ	85365	Interior	103c	19A
Standford #2	Yavapai County	Yuma	AZ	86322	Interior	103c	19A
DEA-Ashfork	12 M. SE of Ashfork	Ashfork	AZ		Justice	103a	19A
DEA-Mesa	1764 North Mesa Drive.	Mesa	AZ		Justice	103a	19A
DEA-Phoenix	10809 N. 40th Street.	Phoenix	AZ		Justice	103a	19A
DEA-Sierra Vista	1031 East Acacia	Sierra Vista	AZ		Justice	103a	19A
Action Battery Manufacturing Company.	4700–02 W Rosecrans.	Hawthorne	CA	90250		3010	19A
BLM–ORYX Energy Company—Fellows.	Band Govt Lease Kern County.	Fellows	CA	93224		3010	19A
BLM–ORYX Energy Company—McKittrick.	Cal Federal "A" Lease Kern Co..	McKittrick	CA	93251		3010	19A
Express Cleaners	1170 Arnold Dr #140.	Martinez	CA	94553		3010	19A
Garage, State of California.	570 Ellis	San Francisco	CA	94109		3010	19A
General Chemical Company.	5568 Schaefer Ave .	Chino	CA	91710		3010	19A
LAAFB-Fort MacArthur Annex.	2400 Pacific Avenue	San Pedro	CA	90731		3016	19A
Laxfuel Corporation .		Los Angeles	CA	90045		103c	19A
Lemon Grove Camera.	7848 Broadway	Lemon Grove	CA	92045		3010	19A
Lester Miller Farm	Miller Rd North of Hahn Road.	Arbuckle	CA	95912		3016	19A
Los Angeles County of, Mechanical Dept.	1100 N Eastern Ave	Los Angeles	CA	90063		3010	19A
ORYX Henry	OCSP0240 Plat. Henry Cont. Shelf.	Santa Barbara Channel.	CA	93013		3010	19A
Performance West Petroleum.	2065 Martin Ave #106.	Santa Clara	CA	95050		3010	19A
Prototype Concepts Inc.	1945 Placentia Ave	Costa Mesa	CA	92627		3010	19A
Radionics Inc	1800 Abbott	Salinas	CA	93901		3010	19A
San Gabriel Area 1 4 NPL Site.	San Gabriel Valley	Los Angeles	CA	90001		3010	19A
Santa Barbara County Roadyard.	4415 Cathedral — Oaksroad.	Santa Barbara	CA	93110		3010	19A
Angeles Nat'l Forest: Dillon Divide Midnight Dump.	Dillon Divide Off Little Tujunga Road.	San Fernando	CA		Agriculture	103a	19A
Port Hueneme Civil Engineering Laboratory.	Building 560	Port Hueneme	CA	93043	Corps Of Engineers, Civil.	103a	19A
Laboratory for Energy-Health Research (LEHR).	Old Davis Road	Davis	CA	95616	Energy	3016	19A
Geological Survey	345 Middlefield Road.	San Mateo	CA	94025	General Services Administration.	103c 3010	19A
FDA-Los Angeles	1521 W. Pico Blvd	Los Angeles	CA	90015	Health and Human Services.	3010	19A
Oakland City Housing.	1180 25th Avenue	Oakland	CA	94601	Housing and Urban Development.	3010	19A
BLM–A&W Smelter .		Rosamund	CA		Interior	103c	19A
BLM-Coachella Landfill.		Indio	CA		Interior	103c	19A
BLM-Raintree Pesticide Dump.	S1 R10E T12N	Georgetown	CA		Interior	103a	19A
Herlong Munitions			CA		Interior	3016	19A
Carlsbad Narcotics Task Force.	2461 Impala	Carlsbad	CA	92008	Justice	103a	19A
Alameda Annex Naval Supply Center.		Alameda	CA	94501	Navy	103c	19A
Point Mugu Naval Air Station.	Naval Air Weapons Station.	Point Mugu	CA	93042	Navy	3016	19A
Pomona Industrial Reserve Ordnance Plant.	Pomona/Mission Boulevard.	Pomona	CA	91766	Navy	103c	19A
Port Hueneme Construction Batallion Center.	Building 1360 Neesa.	Port Hueneme	CA	93043	Navy	103a	19A

FEDERAL FACILITIES DOCKET—Continued

[Docket Additions]

Facility name	Facility address	City	State	Zip code	Agency	Reporting mechanism	Correction code
Stanislaus Landfill		Patterson	CA		Navy	103a	19A
Rockwell International Flight OPS.	5885 W Imperial Highway.	Los Angeles	CA	90245	Transportation	3010	19A
Robert H. Freytag Property.	3102 North Overland Trail.	La Porte	CO	80535		3016	19A
Bonanza Mining District.		Bonanza	CO	81149	Agriculture	103c	19A
Delta Airlines-Denver.	Stapleton Airport	Denver	CO	80238	Commerce	3010 103c	19A
BR-Taylor Reservoir			CO		Interior	103a	19A
Idaho Springs Mercury.			CO		Interior	3016	19A
Bloomfield Naval Weapons Industrial Reserve Plant.	Old Windsor Avenue, P.O. Box 2.	Bloomfield	CT	06002	Navy	103c	19A
U.S. Government Printing Office.	N Capitol & H Sts NW.	Washington	DC	20401		3010	19A
Washington Headquarters.	401 M St SW	Washington	DC	20460	EPA	3010	19A
Washington Headquarters.	600 Independence Ave SW.	Washington	DC	20546	NASA	3010	19A
Synthesis Technologies Inc.	835 Dawson Drive	Newark	DE	19713		3010	19A
Busick Farm	State Road 360	Madison	FL	32340		3016	19A
Osceola National Forest Site 2.	North of Highway 100.	Lake City	FL	32055	Agriculture	103c 3016	16
Osceola National Forest Site 3.	Cortez Road, South of Highway 90.	Lake City	FL	32055	Agriculture	3016 103c	16
Osceola National Forest Site 4.	West of Dirt Road, off Route 772.	Lake City	FL	32055	Agriculture	3016 103c	16
Osceola National Forest Site 5.	Hwy 90 to Osceola Forest Office.	Lake City	FL	32055	Agriculture	103c 3016	16
Osceola National Forest Site 6.	South of Hwy 90 on Possum Trot Road.	Lake City	FL	32055	Agriculture	3016 103c	16
Tallahassee Federal Correction Institution.	501 N.E. Capital Circle.	Tallahassee	FL	32311	Justice	103a	19A
Key West Naval Air Station—Demolition Key.	Public Works Office, Naval Air Station.	Key West	FL	33040	Navy	3005	19A
Brunswick Facility	Route 11	Brunswick	GA	30365	EPA	103a	19A
Atlanta Penitentiary	615 McDonough Blvd.	Atlanta	GA	30315	Justice	3016 103c	19A
Federal Law Enforcement Training Center.	GA State Rd 303	Glynco	GA	31524	Treasury	3005 3010 3016	19A
Queen Emmalani Tower.	Queen & South Street.	Honolulu, Oahu	HI	96813		103c	19A
Sandia National Laboratories-Kauai Test Facility.	U.S. Navy Pacific Missile Range.	Kekaha	HI	96796		3016	19A
Kapalama Military Reservation.	Sand Island Access Road.	Oahu Island	HI	96898	Army	103c	19A
Kilauea Military Reservation.	Highway 11, 28 M Marker.	Hawaii National Park.	HI	96718	Army	103c	19A
Pohakuloa Training Area.	Saddle Road, Central Part of Island.	Pohakuloa	HI	96556	Army	103c	19A
Kahoolawe Island		Maui	HI	96732	Navy	103c	19A
Pearl Harbor Naval Complex.		Pearl Harbor	HI	96860	Navy	103c	19A
Kanehoe Coast Guard Omega Station.	Haiku Valley	Kaneohe	HI	96744	Transportation	103c	19A
Des Moines Bulk Mail Center.	4000 NW 109th Street.	Urbandale	IA	50395	Postal Service	3016	19A
Boise National Forest: Missouri Mine.	Idaho City Dist.		ID		Agriculture	3016	19A
Payette National Forest: Cinnabar Mine.	Krassel Dist		ID		Agriculture	3016	19A
BLM-Hoff Road Site	T2S R32E Sect 35 SW of SW.	Blackfoot	ID	83221	Interior	3010	19A
Carrico Elmer Drum Site.	Locust St and Bernard.	Washington	IN	47501		3010	19A
Industrial Fuels and Asphalt.	4240 White Oak Ave.	Hammond	IN	46327		3010	19A

FEDERAL FACILITIES DOCKET—Continued

[Docket Additions]

Facility name	Facility address	City	State	Zip code	Agency	Reporting mechanism	Correction code
Wayne/Hoosier National Forest: Branchville Site.		Bedford	IN	47421	Agriculture	103c	19A
Lexington Federal Correctional Institution.	3301 Leestown Rd	Lexington	KY	40511	Justice	3005 3010	19A
C. Ezell Property	Route 1 Box 69	Sandheimer	LA	71276		3016	19A
Claiborn Range, England Air Force Base.	LA Hwy 488 13M SW of Alexandria.	Alexandria	LA	71301	Agriculture	3010	19A
Baton Rouge Depot	2695 N. Sherwood Forest Drive.	Baton Rouge	LA	70814	Defense	3016	19A
DEA-Hamilton Residence.	Lakeshore Drive	Hamilton	MA		Justice	103a	19A
DEA-Video Corner Bourne National Cemetery.	68 Humphrey Street MA National Cemetery.	Swampscott Bourne	MA	02532	Veterans Administration.	3016	19A
Brockton Medical Center.	940 Belmont Street	Brockton	MA	02401	Veterans Administration.	3016	19A
West Roxbury Medical Center.	1400 VFW Parkway	W. Roxbury	MA	02132	Veterans Administration.	3016	19A
Ace Professional Finishing Co.	1113 Old N Point Rd Bldg H.	Baltimore	MD	21222		3010	19A
Bainbridge Naval Training Center.	US Highway 222	Bainbridge	MD	21904		103c	19A
Fort Holabird Crime Records Center.	Corner of Oakland and Detroit Avenue.	Baltimore	MD	21222		103c	19A
Kaiser Aluminum & Chemical Corporation.	2000 Halethorpe Ave.	Baltimore	MD	21227		3010	19A
Glenndale Plant Germplasm Quarantine Fac.	11601 Old Pond Road.	Glenn Dale	MD	20769	Agriculture	103c	19A
Granite Control	2845 Hemwood Road.	Woodstock	MD	21163	Defense	103c	19A
NSA (FANX I, II, III)	Elkridge Landing Rd	Linthicum	MD	21090	Defense	3010	19A
NIH–NIA Gerontology Research.	4940 Eastern Avenue.	Baltimore	MD	21224	Health and Human Services.	3010 103c	19A
Bangor Maine Air National Guard-BIA.	Bangor Int'l Arprt Rt 222/Geofrey Blvd.	Bangor	ME	04401	Air Force	103c	19A
Togus Medical Center.	Route 17	Togus	ME	04330	Veterans Administration.	3016	19A
Mt. Clemens Naval Air Facility.		Mt Clemens	MI	48043	Transportation	103c 3010	19A
August Bauer Farm	Rt. 1 Box 213	Fanbault	MN	55021		3016	19A
USEDA CO USACE	812 First Ave	Two Harbors	MN	55616	Army	3010	19A
Fort Snelling National Cemetery, Minneapolis.	7601 34th Avenue South.	Minneapolis	MN	55450	Veterans Administration.	3016	19A
DEA–St. Louis	120 South Central	St Louis	MO	63105	Justice	3010	19A
Bilbo Pennington Property.	Rt. 2	Sumner	MS	38957		3016	19A
FS-Regional Field Service Facility.	14th and Catlin	Missoula	MT	59807	Agriculture	103a	19A
Kootenai National Forest: Libby Airport Wood Trea.	Libby Airport	Libby	MT	59923	Agriculture	3016	19A
Great Falls Montana Air National Guard.	International Airport	Great Falls	MT	59401	Air Force	3010	19A
Precious Metals Plating.	Star Route Box 85	Bonner	MT		Housing and Urban Development.	103c	19A
Grant-Kohrs Ranch	¼ Mile North of Deer Lodge.	Deer Lodge	MT	59722	Interior	3010	19A
Lyons Station	45 Mi. So of Ennis on Hwy 287.	Ennis	MT	59749	Interior	3010	19A
Tuscon/Herbrew Academy.	NW ¼ Section 26, T 37N, R 9W.		MT		Interior	103c	19A
West Fork Ranger Station.	15 Miles South of Darby, Mt on.	West Fork RS	MT	59829	Interior	3010	19A
Ted Smith Property	State Route 1903	Parkton	NC	28371		3016	19A
Manchester Medical Center Ash Dump.	718 Smyth Road	Manchester	NH	03104	Veterans Administration.	103c	19A
Sgt. Joyce Kilmer Army Reserve Center.	Bldg 1007 Kilmer USAR Center.	Edison	NJ	08817	Army	3010	19A

FEDERAL FACILITIES DOCKET—Continued

[Docket Additions]

Facility name	Facility address	City	State	Zip code	Agency	Reporting mechanism	Correction code
Princeton Plasma Physics Laboratory.	Forrestal Campus	Princeton	NJ		Energy	103c 3010	19A
Waste Isolation Pilot Plant.	30 Miles E of Carlsbad/Jal Hwy.	Carlsbad	NM	88221		3016	19A
Gila National Forest	Forest Route 701 3.5 Mi E of Hwy 180.	Alma	NM	88039	Agriculture	103c	19A
BLM-Eddy Potash	3071 Potash Mine Road.	Carlsbad	NM	88220	Interior	3016	19A
Assayers Laboratories.	2155 Last Chance Rd.	Elko	NV	89801		3010	19A
Yucca Mountain Site Characterization Project.	FOC—Area 25	Mercury	NV	89023		3016	19A
BLM-Henderson Lead Contamination Soil Site.	T215, R63E, Sec 26, 27, 34, 35.	Henderson	NV	89015	Interior	103c	19A
BLM-Sandy Valley Landfill Site.	2 Miles NE	Sandy Valley	NV	89119	Interior	103c	19A
BLM-Silverado Mill Site.			NV		Interior	3016	19A
Alex Rogowski Property.	RFD 2 Box 334	Goshen	NY	10924		3016	19A
Dresden Naval Underwater Systems Center.	Seneca Lake Field Station.	Dresden	NY	14441		3010	19A
Far Rockaway Postal Service.	1836 Mott Ave	Far Rockaway	NY	11691		3010	19A
General Electric-Johnson City.	600 Main St	Johnson City	NY	13790		3010	19A
McLvor Alice Estate of.	823 McLvor Rd	Oaks Corners	NY	14518		3010	19A
Soiltech Inc Wide Beach Site.	10848 Lake Shore Road.	Irving	NY	14081		3010	19A
West Valley Demonstration Project.	Rock Springs Road	West Valley	NY	14171		3005 3010 3016	19A
Womens Rights N H P.	116 to 122 Fall St	Seneca Falls	NY	13148		3010	19A
Bronx Organizational Maintenance Shop #30 & #31.	29 West Kingsbridge Road.	Bronx	NY	10468	Air Force	3010	19A
Bronx Organizational Maintenance Shop #31.	29 W. Kingsbridge Road.	Bronx	NY	10468	Air Force	3010	19A
Brooklyn Organizational Maintenance Shop #23.	355 Marcy Avenue	Brooklyn	NY	11206	Air Force	3010	19A
Brooklyn Organizational Maintenance Shop #24.	14 Street 8th Avenue.	Brooklyn	NY	11215	Air Force	3010	19A
Brooklyn Organizational Maintenance Shop #40.	1579 Bedford Avenue.	Brooklyn	NY	11225	Air Force	3010	19A
Carthage Organizational Maintenance Shop #14.	1 Park Drive	Carthage	NY	13619	Air Force	3010	19A
Farmingdale Organizational Maintenance Shop #43.	25 Baiting Place Road.	Farmingdale	NY	11735	Air Force	3010	19A
Peekskill Organizational Maintenance Shop #21 NYAR.	955 Washington Street.	Peekskill	NY	10566	Air Force	3010	19A
Peekskill Organizational Maintenance Shop #29.	Camp Smith	Peekskill	NY	10566	Air Force	3010	19A
Staten Island Organizational Maintenance Shop #36.	321 Manor Road	Staten Island	NY	10314	Air Force	3010	19A
Stewart Air National Guard Base.	Stewart International Airport.	Newburgh	NY	12550	Air Force	103c	19A
Syracuse Organizational Maintenance Shop #5.	1055 E. Genesee Street.	Syracuse	NY	13210	Air Force	3010	19A
Valhalla Organizational Maintenance Shop #22 HHC10.	Dana Road	Valhalla	NY	10595	Air Force	3010	19A

FEDERAL FACILITIES DOCKET—Continued

[Docket Additions]

Facility name	Facility address	City	State	Zip code	Agency	Reporting mechanism	Correction code
Westhampton Beach Air National Guard Facility.	Suffolk County Airport.	Westhampton Beach.	NY	11978	Air Force	3010	19A
Whitehall Organizational Maintenance Shop #15.	62 Poultney St	Whitehall	NY	12887	Air Force	3010	19A
Niagara Falls Facility	9400 Porter Road	Niagara Falls	NY		Army	103a	19A
FBP-Brooklyn	830 Third Ave Bldg 1.	Brooklyn	NY	11232	Justice	3010	19A
Binghamton Post Office.	115 Henry Street	Binghamton	NY	13902	Postal Service	3010	19A
Hicksville Post Office.	260 Engineers Drive	Hicksville	NY	11802	Postal Service	3010	19A
Aeroquip INOAC	1410 Motor Dr	Fremont	OH	43420		3010	19A
Krejci Dump Site	814 Hines Hill Rd	Boston Heights	OH	44236		3010	19A
Shenango Disposal Site, ORP.			OH		Corps of Engineers, Civil.	3016	19A
Perry Nuclear Power Plant.		Perry	OH		Energy	103a	19A
Lone Mountain Pollution Control Facility.	Junction Hwy 281 & 412.	Waynoka	OK			103a	19A
Atlas Missle Site #10		Mangum	OK	73554	Air Force	103c	19A
Atlas Missle Site #3		Snyder	OK	73566	Air Force	103c	19A
Atlas Missle Site #4		Cache	OK	73527	Air Force	103c	19A
Atlas Missle Site #5		Manitou	OK	73555	Air Force	103c	19A
Atlas Missle Site #6		Manitou	OK	73555	Air Force	103c	19A
Atlas Missle Site #8		Olustee	OK	73560	Air Force	103c	19A
Atlas Missle Site #9		Hollis	OK	73550	Air Force	103c	19A
National Institute for Petroleum & Energy Research.	220 N Virginia Ave	Bartlesville	OK	74003	Energy	3010	19A
Portland 3 Mile Canyon Site.	184 1.2 Mi W of Exit 147.	Arlington	OR	97812	Corps of Engineers, Civil.	3010	19A
Portland Moorings USAED.	8010 NW St Helens Rd.	Portland	OR	97210	Corps of Engineers, Civil.	3010	19A
BPA–Celilo Converter Station.	3920 Columbia View Dr E.	The Dalles	OR	97058	Energy	3010	19A
BPA—Oregon City	16885 Eaden Road	Oregon City	OR	97045	Energy	103a	19A
Allegheny County Department of Maintenance.	Old Freeport Rd Blawnox Gar.	Pittsburgh	PA	15238		3010	19A
Port Clinton Site	Rt 61	Port Clinton	PA	19549		3010	19A
Tennessee Gas Pipeline.	Turkey Run (Station 319).	Wyalusing	PA	18853		3010	19A
911th Tactical Airlift Group.	Greater Pittsburgh Intl Airpt.	Pittsburgh	PA	15231	Air Force	3010	19A
Pittsburgh Air National Gaurd.	Greater Pittsburgh Intnl Airpt.	Pittsburgh	PA	15231	Air Force	3010	19A
Keystone Training Area.	Greenwood Twp	Geneva	PA	16316	Army	103c	19A
Amtrak-Lancaster C&S.	55 McGovern Ave	Lancaster	PA	17602	Transportation	3010	19A
Aqueduct & Sewer Authority.	Road 3 Km 14.3 Barrio Obrero Station.	Santurce	PR	00916		103a	19A
Coventry Nike Control Area.	Off Read School House Road.	Coventry	RI	02816	Army	103c	19A
Hutto-Green Warehouse.	Pascallas St. & Valley Dr.	Blackville	SC	29817		3016	19A
Southern Architectural Woodwork.	7402 Fairfield Rd	Columbia	SC	29203		3010	19A
McEntire Air National Guard Base.	Mailstop 8	Eastover	SC	29044	Air Force	103c	19A
Hub City Inc	524 13th St West	Brookings	SD	57006		3010	19A
Fort Randall Project	Box 19	Pickstown	SD	57367	Corps of Engineers, Civil.	3010	19A
WAPA-Pierre Hydroelectric Plant.	I–90	Pierre	SD	57501	Corps of Engineers, Civil.	103a	19A
Fort Randall Project-Corps of Engineers.	Fort Randall Power Plant.	Pickstown	SD	57367	Corps of Engineers-Civil Works.	3010	19A
Pierre Hydroelectric Plant.	I–90	Pierre	SD	57501	Energy	103a	19A
McGhee Tyson Air National Guard Base.	McGhee Tyson Airport.	Knoxville	TN	37901	Air Force	103c 3010	19A

FEDERAL FACILITIES DOCKET—Continued

[Docket Additions]

Facility name	Facility address	City	State	Zip code	Agency	Reporting mechanism	Correction code
Ensley Engineer Yard-Corps of Engineers.	1726 Mithchell Rd	Memphis	TN	38109	Corps of Engineers-Civil Works.	3010	19A
Chickamauga Hydro Plant.	TN Hwy 153	Chattanooga	TN	37401	Tennessee Valley Authority.	3010	19A
Capital Wire & Cable.	910 10th St	Plano	TX	75086		3010	19A
Off-Specification Fertilizer Site.	Rural Walker County.		TX			3016	19A
Cotton Insects Research Laboratory.		Brownsville	TX	78520	Agriculture	103c	19A
Federal Grain Union Equity.	2631 Tidal Rd	Deer Park	TX	77536	Agriculture	3010	19A
Honey Bee Research Laboratory.		Weslaco	TX	78520	Agriculture	103c	19A
Atlas Missle Site #7		Odell	TX	79247	Air Force	103c	19A
Fort Worth Facility	10 M. SW Carswell AFB Radial 270 & 240.	Fort Worth	TX	76024	Air Force	103a	19A
Houston Army Reserve Center 02 (AMSA 4).	7077 Perimeter Park Drive.	Houston	TX	77041	Army	3010	19A
Ingleside Naval Air Station.	FM 1069 5 M S of City.	Ingleside	TX	78362	Navy	3010	19A
American Fork Canyon/Uinta National.		Pleasant Grove	UT	84601		103c	19A
Salt Lake City Medical Center.	500 Foothill Boulevard.	Salt Lake City	UT	84148	Veterans Administration.	3016	19A
Fauquier County Landfill.	Route 674	Fauquier	VA	22186		103c	19A
Goodwin Junkyard	Route 659 Kings Cove Road/Box 98.	Carrollton	VA	22314		103c 3010	19A
Lynn Haven Bay Site.		Lynn Haven Shores	VA	23451		103c	19A
Manchester Tank & Equipment Co.	Air Park Dr Rte 684	Petersburg	VA	23803		3010	19A
Strategic Systems Program Off.	1931 Jefferson Davis Hwy CM #3.	Arlington	VA	22202		3010	19A
Sutton Enterprises Inc.	1067 "A" Alexandria Lane.	Chesapeake	VA	23320		103c/3010	19A
Herndon Office	925 Springvale Road.	Herndon	VA	22070	Defense Mapping Agency.	103c	19A
Danville Housing Authority.	651 Cardinal Place	Danville	VA	24541	Housing and Urban Development.	3010	19A
Danville Housing Authority.	317 Grant St	Danville	VA	24541	Housing and Urban Development.	3010	19A
Defense Communication Agency.	South Courthouse Road.	Arlington	VA	22204	Navy	103c 3010	19A
Norfolk Facility	200 Ligon Street	Norfolk	VA		Navy	103a	19A
Norfolk Naval Aviation Depot.		Norfolk	VA		Navy	103a	19A
Southeastern Public Service.		Portsmouth	VA		Navy	103a	19A
LMC Farms	Rt. #1 Box 363	Mubton	WA	98935		3016	19A
Spokane Industrial Park.		Spokane	WA	99216		103c	19A
Okanagan National Forest: Alder Crk.		Twisp	WA	98856	Agriculture	103c	19A
Okanagan National Forest: Bonaparte.		Chesaw	WA	98844	Agriculture	103c	19A
Okanagan National Forest: Eight Mile Ranch.		Winthrop	WA	98862	Agriculture	103c	19A
Okanagan National Forest: Kerr.		Conconully	WA	98819	Agriculture	103c	19A
Okanagan National Forest: Lost Lake.		Chesaw	WA	98844	Agriculture	103c	19A
Okanagan National Forest: Minnie Mine.			WA		Agriculture	3016	19A
Okanagan National Forest: Twisp.		Twisp	WA	98856	Agriculture	103c	19A
Wenatchee National Forest: Stellko.		Ardenvoir	WA	98811	Agriculture	103c	19A
Centralia Army National Guard.	309 Byrd Street	Centralia	WA	98531	Army	3010	19A
Ephrata Army National Guard.	1st & East Street Corner.	Ephrata	WA	98823	Army	3010	19A

FEDERAL FACILITIES DOCKET—Continued

[Docket Additions]

Facility name	Facility address	City	State	Zip code	Agency	Reporting mechanism	Correction code
Montesano Army National Guard.	298 Clemons Road .	Montesano	WA	98430	Army	3010	19A
Yakima Army National Guard.	1702 Pacific Highway.	Yakima	WA	98901	Army	3010	19A
BPA-Bake Oven Substation.	Bake Oven Road	Maupin	WA		Energy	103c	19A
BPA-Cosmopolis	Arcadia Drive	Cosmopolis	WA	98537	Energy	103a	19A
BPA-Monroe	25414 Old Pipeline Road.	Monroe	WA	98272	Energy	103a	19A
BPA-Port Angeles	1400 E Park Street .	Port Angeles	WA	98362	Energy	103a	19A
Seattle Navy Facility	Pier 90	Seattle	WA	96698	Navy	103a	19A
West Virginia Air National Guard.	Yeager Airport	Charleston	WV	25311	Transportation	103c 3010	19A
Martinsburg Hospital	Route 9	Martinsburg	WV	25401	Veterans Administration.	103c	19A
BLM-Indian Creek Drums.		Near Buffalo	WY	82834	Interior	103c	19A
BLM-N.W. Pipeline Barrel Sp.	SE ¼ NW ¼ Sec 18 T16N R92W.	Carbon	WY	82324	Interior	3010	19A

FEDERAL FACILITIES DOCKET

[Docket Deletions]

Facility name	Facility address	City	State	Zip code	Agency	Reporting mechanism	Correction code
Indian Point/Duncan Canal	Kupreanof Island—Indian Point.		AK		Agriculture	3016 103c	6
Fort Greely		Fort Greely	AK	98733	Army	3016 103c	6
Elson Lagoon	East of Barrow	Barrow	AK	99723	Navy	103c	2
Gustavas Airport		Gustavas	AK	99826	Transportation	3016 103c	2
FWS-Hope Wildlife Area	4 Miles North off Hwy 32	Hope	AR	71801	Interior	103c	2
BIA-River Site #2	T3S R63 Sec 3	Gila River Indian Resv.	AZ	85247	Interior	103c	2
BIA-Teecnospos Dip Vat	US Hwy 160 Board Sch	Teecnospos	AZ		Interior	103c	6
Angeles National Forest	Los Pinetos Storage Rt 1	Saugus	CA	91350	Agriculture	103c 3010	1
Cleveland National Forest	12500 Pomerado Rd	San Diego	CA	92131	Agriculture	103c 3010	1
FS-California Copper Company.	Sec 1–5,9,10,12,25 T21N R13E.	Quincy	CA		Agriculture	103c	4
National Marine Fisheries Service.	3150 Paradise Dr	Tiburon	CA		Commerce	103c	1
BLM-Horse Corrals	Hwy 395 @ Viewland, 6 Mi NW of Wendel.	Wendel	CA	96136	Interior	103c	6
BLM-Kern Valley Sanitary Landfill.	T25S, R33E, N½ SW¼ Sec 35, MDM.	Kernville	CA		Interior	103c	6
Pasadena Postal Service	600 N Lincoln Ave	Pasadena	CA	91109	Postal Service	3010	1
Maritime Administration Suisun Bay Res Flt.	Lake Herman Rd Foot/ Suison B.	Benicia	CA	94510	Transportation	3010	6
BR-Engineering & Research Center.	Denver Federal Center, Bldg. 56.	Denver	CO	80225	Interior	3005 3010 103c	1
FWS-Bombay Hook National Wildlife Refuge.	Marshtown Road	Little Creek	DE	19977	Interior	103c	6
Gulf Breeze Environmental Research Laboratory.	Sabine Island	Gulf Breeze	FL	32561	EPA	3010 3016	1
NPS-Big Cypress National Preserve.	Star Route LL 11	Ochopee	FL	33943	Interior	3010	11
Atlantic Fleet Weapons Training Facility.	US Naval Station	FPO Miami	FL	34051	Navy	3016	6
Fort Lauderdale Naval Underwater Systems Center.	1650 Southwest 39th Street .	Fort Lauderdale	FL	33315	Navy	3010	1
W. Palm Beach Naval Underwater Systems Center.	801 Clematis Street	W. Palm Beach	FL	33402	Navy	3010	1
BLM-Feedlot Dump	T4SR3E SEC 26	Grandview	ID	83624	Interior	103c	3
Bureau of the Census	2255 Enterprise Dr	Westchester	IL	60153	Commerce	3010	1
Jeffersonville Federal Center	1201 E. 10th Street	Jeffersonville	IN	47130	Commerce	3010 3016	1
Site D11 Power Plant		Paducah	KY		Energy	103a	6
Kisatchie Work Center			LA		Agriculture	3016	4
Tom Nevers Head Naval Facility.	S E section	Nantucket	MA		Navy	103c	3
Pittsfield Post Office	212 Fenn Street	Pittsfield	MA	01201	Postal Service	3010	1
Springfield Post Office	1883 Main Street	Springfield	MA	01101	Postal Service	3010	1
Lincoln Park Post Office	1515 Fort St	Lincoln Park	MI	48146	Postal Service	3010	1
Saginaw Post Office	1233 S Washington	Saginaw	MI	48605	Postal Service	3010	1
Troy Postal Service	2844 Livernois	Troy	MI	48099	Postal Service	3010	1
Superior National Forest	Box 338	Duluth	MN	55801	Agriculture	3016	3
FS-QS Midwestern Laboratory.	4300 Goodfellow	St Louis	MO		Agriculture	3010 103c	1

FEDERAL FACILITIES DOCKET—Continued

[Docket Deletions]

Facility name	Facility address	City	State	Zip code	Agency	Reporting mechanism	Correction code
SEA IFA Research Laboratory.	3505 25th Avenue, P.O. Box 3209.	Gulfport	MS	39503	Agriculture	3005 3010 103c	1
NAD Burn Pit/Yard Dump	Sec 6 T6N R6W	Clay Center	NE	68933	Agriculture	103c	7
Nike Missile Battery	Cross Keys Rd	Sicklerville	NJ	08012	General Services Admin	3010	1
Fairton Federal Correctional Institution.	Fairton-Millville Rd	Fairton	NJ	08320	Justice	3010	1
Mid-State Correctional Facility.	Range Road	Wrightstown	NJ	08562	Justice	3010	1
New York International & Bulk Mail Center.	80 County Road	Jersey City	NJ	07307	Postal Service	3010	1
Bronx Naval & Marine Corps Reserve Center.	Fort Schuyler	Bronx	NY	10465	Army	3010	1
Bullville Army Reserve Center.	Route 17K	Bullville	NY	10915	Army	3010	10
Ronkonkoma Army Aviation Support Facility.	Hangar A. MacArthur Airport	Ronkonkoma	NY	11779	Army	3010	1
Freeport Naval Reserve Center.	112 Hanse Ave	Freeport	NY	11520	Navy	3010	1
Syracuse Naval Reserve Center.	5803 East Molloy Rd	Mattydale	NY	13211	Navy	3010	1
Plant #36	Shepard Lane	Evendale	OH	45241	Air Force	103c	3
Isabela Naval Communication Station.	PR–2 KM 116.2	Isabela	PR	00662	Navy	3010	1
Providence Medical Center	Chalkstone Avenue	Providence	RI	02908	Veterans Administration	3010	1
NPS-Tour Boat Facility	Concord St at end of Calhoun St.	Charleston	SC		Interior	103c	6
BIA-Pine Ridge Reservation	#118,119,59. Sec 12 T35N R45W.	Pine Ridge	SD	57770	Interior	3010	2
Concord Substation	Davidson Road	Chattanooga	TN	37402	Tennessee Valley Authority	103a	1
Fort Payne 46KV Substation	Godfrey Avenue	Fort Payne	TN		Tennessee Valley Authority	103a	1
Unidentified Site	US Forest Service Property	Huntsville	TX		Agriculture	103c	4
NOAA-Manchester Field Station.	7305 Beach St Drive East	Port Orchard	WA		Commerce	103c	4
Jackson Park Housing	Naval Hospital Bremerton	Bremerton	WA	98314	Navy	3016	6
North Bend Undersea Warfare Engineering Station.	T23N R9E S28 NE¼	North Bend	WA	98045	Navy	3010	2
Rawley Coast Guard Housing	Rte 3 Hwy 0	Two Rivers	WI	54241	Transportation	3010	4
BLM-Wyoming State Office	2515 Warren Ave	Cheyenne	WY	82003	Interior	3010	4

FEDERAL FACILITIES DOCKET

[Docket Corrections]

Facility name	Facility address	City	State	Zip code	Agency	Reporting mechanism	Correction codes
C Cape Lisburne Air Force Station.	11 ACW/CC	Elmendorf AFB	AK	99506	Air Force	3010 103c 3016	20A
O Cape Lisburne Air Force Station.	11 TCW/CC	Elmendorf AFB	AK	99506	Air Force	3010 103c 3016	
C Dewline Site Collinson.	290 miles SE of Barrow.	Barrow	AK	99723	Air Force	103c	22
O BLM–Collinson Point Dewline Site.	290 miles SE of Barrow.	Barrow	AK	99723	Interior	103c	
C Dewline Site LIZ–2	Kasegalik Lagoon-Chukchi Sea.	Point Lay	AK	99766	Air Force	3010 103c 3016	23
O Dewline Site LIZ–2	Kasegalik Lagoon-Chukchi Sea.	Point Lay	AK	99766	Air Force	3010 103c	
C Dewline Site LIZ–3	Kuk River & Chukchi Sea.	Wainwright	AK	99782	Air Force	3010 103c 3016	20A, 23
O Dewline Site L1Z–3	Kuk River & Chukchi Sea.	Wainwright	AK	99782	Air Force	3010 103c	
C Gold King Creek RRS.	T8S R2W Sec 22, 27	Valdez	AK	99686	Air Force	103c 3010 3016	23
O Gold King Creek RRS.	T8S R2W Sec 22, 27	Valdez	AK	99686	Air Force	103c	
C Kotzebue White Alice Site.	11 ACW/CC	Elmendorf AFB	AK	99506	Air Force	103c 3016 3010	20A
O Kotzebue White Alice Site.	NW Corner of Baldwin Peninsula.	Kotzebue	AK	99752	Air Force	103c 3016 3010	
C Tatalina Air Force Station.	11 TCW/CC	Elmendorf AFB	AK	99506	Air Force	3010 103c 3016	23
O Tatalina Air Force Station.	11 TCW/CC	Elmendorf AFB	AK	99506	Air Force	3010 103c	
C Fort Greely	Fort Greely Airport	Delta Junction	AK	99737	Corps of Engineers, Civil.	103c 3016	20A
O Big Delta	Fort Greely Airport	Delta Junction	AK	99737	Corps of Engineers, Civil.	103c 3016	

FEDERAL FACILITIES DOCKET—Continued

[Docket Corrections]

Facility name	Facility address	City	State	Zip code	Agency	Reporting mechanism	Correction codes
C BLM–Chandalar Dump.	T16S, R11E, Sec 9	Umiat Meridian	AK	99723	Interior	103c	20A
O BLM–Chandalar Dump.	T16S, R11E, Sec 9	Umiat Meridian	AK		Interior	103c	
C BLM–Fort Egbert Dump.	T1S, R33E, Sec 31	Eagle	AK	99738	Interior	103c	20A
O BLM–Fort Egbert Dump.	T1S, R32E, Sec 31	Fairbanks Meridian	AK		Interior	103c	
C BLM–Puntilla Air Navigation Site.	Puntilla Lake	Puntilla Lake	AK	99999	Interior	3016 103c	20A
O BLM–Duntilla Air Navigation Site.	Duntilla Lake	Duntilla Lake	AK	99999	Interior	3016 103c	
C FWS–Swanson River Oil.	Ski Hill Road	Soldotna	AK	99669–2139	Interior	3016 103c	20A
O FWS–Kenai National Wildlife Refuge.	Ski Hill Road	Soldotna	AK	99669–2139	Interior	3016 103c	
C NPS–Bering Land Bridge National Preserve.	P.O. Box 220	Nome	AK	99762	Interior	103c	20A
O NPS–Bering Land Bridge National Preserve.	Box 220	Nome	AK	99762	Interior	103c	
C Adak Naval Air Station.	51–54N, 176–45W	Adak Island	AK	99599	Navy	3005 3010 3016 103c 103a.	23
O Adak Naval Air Station.	51–54N, 176–45W	Adak Island	AK	99599	Navy	3005 3010 3016 103c	
C FAA–Air Route Traffic Center.	5400 Davis Highway	Anchorage	AK		Transportation	103c 3010	23
O FAA–Air Route Traffic Center.	5400 Davis Highway	Anchorage	AK		Transportation	103c	
C FAA-Middleton Island.	Middleton Island-NOR		AK		Transportation	3016 103c	20A
O Middleton Island	Middleton Island-NOR		AK		Transportation	3016 103c	
C FAA-Northway Staging Field.	Northway Village	Northway Village	AK	99764	Transportation	3016 103c 3010	23
O FAA-Northway Staging Field.	Northway Village	Northway Village	AK	99764	Transportation	3016 103c	
C Maxwell Air Force Base.	3800 Air Base Group Dee.	Maxwell AFB	AL	36112	Air Force	3010 103c 3016	23
O Maxwell Air Force Base.	3800 Air Base Group Dee.	Maxwell AFB	AL	36112	Air Force	3010 103c	
C Redstone Arsenal Missile Command.	CMDR USAMICOM DRSMI–K.	Huntsville	AL	35898	Army	3005 3010 3016 103c 103a.	20A
O Redstone Arsenal Missile Command.	CMDR USAMICOM DRSMI–K.	Huntsville	AL	35898	Army	3005 3010 3016 103c 103a.	
C National Air Radiation Environment Laboratory.	1504 Avenue A	Montgomery	AL	36115–2601	EPA	103c	20A
O ORP, EERF	1890 Federal Drive	Montgomery	AL	36109	EPA	103c	
C Wheeler Hydropower Plant.	Rt 2	Town Creek	AL	35672	Tennessee Valley Authority.	3010 103a	23
O Wheeler Hydropower Plant.	Rt 2	Town Creek	AL	35672	Tennessee Valley Authority.	3010	
C Williams Air Force Base.	82 ABG/DE	Williams Air Force Base.	AZ	85240	Air Force	3005 3010 3016 103c 103a.	23
O Williams Air Force Base.	82 ABG/DE	Williams Air Force Base.	AZ	85240	Air Force	3005 3010 3016 103c	
C Plant #42 (Rockwell International).	2501 E Ave. P	Palmdale	CA	93550–0678	Air Force	3005 3010 3016 103c	20A
O Plant #42 (Rockwell International).	20th St. & E Ave. O&M.	Palmdale	CA	93550–0678	Air Force	3005 3010 3016 103c	
C Riverbank Army Ammunition Depot.	5300 Claus Rd	Riverbank	CA	95367–0678	Army	3005 3010 3016 103 103a.	23c
O Riverbank Army Ammunition Depot.	5300 Claus Rd	Riverbank	CA	95367–0678	Army	3005 3010 3016 103c	
C Lawrence Livermore National Laboratory.	7000 East Ave	Livermore	CA	94550	Energy	3005 3010 3016 103c 103a.	23
O Lawrence Livermore National Laboratory.	7000 East Ave	Livermore	CA	94550	Energy	3005 3010 3016 103c	
C BLM-Adin Transfer Station.	1 mi SE of Adin; T.39N, R9E, Sec 27.	Adin	CA		Interior	103c 3016	23
O BLM-Adin Transfer Station.	1 mi SE of Adin; T.39N, R9E, Sec 27.	Adin	CA		Interior	103c	
C BLM-Aurora Canyon Millsite.	Nearest City Bridgeport.	Bridgeport	CA	93517	Interior	103c	23
O BLM-Aurora Canyon Millsite.	Nearest City Bridgeport.	Bridgeport	CA		Interior	103c	

FEDERAL FACILITIES DOCKET—Continued

[Docket Corrections]

Facility name	Facility address	City	State	Zip code	Agency	Reporting mechanism	Correction codes
C BLM-Blackrock Mine.	T3S, R31E, Sec 13 & 14 MDM.	Bishop	CA	93514	Interior	103c 3016	23,20A
O BLM-Blackrock Mine.	Nearest City Bishop	Bishop	CA		Interior	103c	
C BLM-Bodie Mine	T4N, R21E, Sec 9&8 MDM.	Bridgeport	CA	93517	Interior	103c 3016	23,20A
O BLM-Bodie Mine	Nearest City Bridgeport.	Bridgeport	CA		Interior	103c	
C BLM-Duck Flat	T36NR19E Sec7NWSE.		CA		Interior	103c 3016	23
O BLM-Duck Flat	T36NR19E Sec7NWSE.		CA		Interior	103c	
C BLM-Kern Valley Landfill.	T25S, R33E, Sec 35, N½SW¼MDM.	Kern County	CA		Interior	103c 3016	23,20A
O BLM-Kern Valley Landfill.		Kern County	CA		Interior	103c	
C BLM-Rinconda Mine	S½, Sec 21, T30S, R14E, Mt Diablo.	San Luis Obispo County.	CA		Interior	103c 3016	23
O BLM-Rinconda Mine.	S½, Sec 21, T30S, R14E, Mt Diablo.	San Luis Obispo County.	CA		Interior	103c	
C BLM-Salambo Mine	T25, R15E, Sec 32, NE¼, MDM.	Coulterville	CA	95311	Interior	103c 3016	23,20A
O BLM-Salambo Mine	Nearest City Coulterville.	Coulterville	CA		Interior	103c	
C BLM-Susanville Horse Corrals Site.	T29NR15ESec9 6 mi NW of Susanville.	Susanville	CA	96130	Interior	103c 3016	23,20A
O BLM-Susanville Site	T29NR15ESec9 6 mi NW of Susanville.	Susanville	CA	96130	Interior	103c	
C BLM-Swansea Site	T 16S,R. 37E., Sec 24, SE SW, Mt Diablo M.	Keeler	CA		Interior	103c 3016	23
O BLM-Swansea Site	T 16S,R.37E., Sec 24, SE SW, Mt Diablo M.	Keeler	CA		Interior	103c	
C Alameda Naval Air Station.	W End City of Alameda.	Alameda	CA	93550	Navy	3005 3010 3016 103c 103a.	23
O Alameda Naval Air Station.	W End City of Alameda.	Alameda	CA	93550	Navy	3005 3010 3016 103c	
C El Toro Marine Corps Air Station.	EEPB FAC Mgmt Dept.	Santa Ana	CA	92709	Navy	3005 3010 3016 103c 103a.	23
O El Toro Marine Corps Air Station.	EEPB FAC Mgmt Dept.	Santa Ana	CA	92709	Navy	3005 3010 3016 103c	
C Long Beach Naval Shipyard.	Terminal Island Naval Complex.	Long Beach	CA	90822	Navy	3005 3010 3016 103c 103a.	23
O Long Beach Naval Shipyard.	Terminal Island Naval Complex.	Long Beach	CA	90822	Navy	3005 3010 3016 103c	
C Monterey Naval Postgraduate School.	Del Monte Ave	Monterey	CA	93943	Navy	3010 3016	23
O Monterey Naval Postgraduate School.	Del Monte Ave	Monterey	CA	93943	Navy	3010	
C North Island Naval Air Station-Sere Camp/Warnes.	P.O. Box 14	San Diego	CA		Navy	103c 3016	23
O North Island Naval Air Station-Sere Camp/Warnes.	P.O. Box 14	San Diego	CA		Navy	103c	
C San Diego Naval Submarine Base.	140 Sylvester Rd, Naval Station Building 545.	San Diego	CA	92106	Navy	3010 3016 103c 103a	23
O San Diego Naval Submarine Base.	140 Sylvester Rd, Naval Station Building 545.	San Diego	CA	92106	Navy	3010 3016 103c	
C San Francisco Postal Service Vehicle Maintenance.	1300 Evans Ave	San Francisco	CA	94188–9721	Postal Service	103c 3010	20A
O San Francisco Postal Service Vehicle Maintenance.	1300 Evans Ave	San Francisco	CA		Postal Service	103c 3010	
C Rocky Mountain Arsenal.	Immed. N. Stapleton Intl Arpt.	Commerce City	CO	80022	Army	3005 3010 3016 103c 103a.	23
O Rocky Mountain Arsenal.	Immed. N. Stapleton Intl Arpt.	Commerce City	CO	80022	Army	3005 3010 3016 103c.	
C Knolls Atomic Power Laboratory-Windsor Site.	Prospect Hill Road	Windsor	CT	06095	Energy	3005 3010 3016 103c 103a.	23
O Knolls Atomic Power Laboratory-Windsor Site.	Prospect Hill Road	Windsor	CT	06095	Energy	3005 3010 3016 103c.	

FEDERAL FACILITIES DOCKET—Continued

[Docket Corrections]

Facility name	Facility address	City	State	Zip code	Agency	Reporting mechanism	Correction codes
C East Lyme Naval Underwater Systems Center.	Dodge Pond Field Station.	East Lyme	CT	06357	Navy	3010 3016	23
O East Lyme Naval Underwater Systems Center.	Dodge Pond Field Station.	East Lyme	CT	06357	Navy	3010	
C National Arboretum	3501 New York Avenue NE.	Washington	DC	20002	Agriculture	103c 3016	23
O National Arboretum	3501 New York Avenue NE.	Washington	DC	20002	Agriculture	103c	
C Walter Reed Army Medical Center.	6825 16th Street, NW	Washington	DC	20307–5001	Army	3016 103c 103a	23, 20A
O Walter Reed Army Medical Center.	16th Street, NW	Washington	DC	20307–5001	Army	3016	
C U.S. Soldiers and Airmens Home.	Michigan Ave. N.E.	Washington	DC	20317	Defense	3010 3016 103c	23, 20A
O Soldiers and Airmens Home.	Michigan Ave. N.E.	Washington	DC	20317	Defense	3010 3016	
C Customs Field Office.	1200 Pennsylvania Avenue.	Washington	DC	20004	General Services Admin.	3010 103c	23
O Customs Field Office.	1200 Pennsylvania Avenue.	Washington	DC	20004	General Services Admin.	3010	
C Washington Office	2nd and M Street, SE	Washington	DC	20407	General Services Admin.	3010 103c	23, 20A
O Washington	2nd and M Street, SW	Washington	DC	20407	General Services Admin.	3010	
C Anacostia Naval Station.	South Capital St/Anacostia Dr.	Washington	DC	20374	Navy	3010 103c 3016	23
O Anacostia Naval Station.	South Capital St/Anacostia Dr.	Washington	DC	20374	Navy	3010	
C Washington Naval Security Station.	3801 Nebraska Ave NW.	Washington	DC	20390	Navy	3010 103c	23
O Washington Naval Security Station.	3801 Nebraska Ave NW.	Washington	DC	20390	Navy	3010	
C Lewes Naval Facility.	Dept of the Navy	Lewes	DE	19958	Navy	3010 103c	23
O Lewes Naval Facility.	Dept of the Navy	Lewes	DE	19958	Navy	3010	
C Osceola National Forest: Site 1.	Highway 100	Lake City	FL	32055	Agriculture	3016 103c	23, 20A
O Osceola National Forest.	National Forests of Florida.	Unicorporated Lake City.	FL	32055	Agriculture	3016	
C Cape Canaveral Air Force Base.	6550 ABG/DEEV	Patrick AFB	FL	32925	Air Force	3005 3010 3016 103c 103a.	23
O Cape Canaveral Air Force Base.	6550 ABG/DEEV	Patrick AFB	FL	32925	Air Force	3005 3010 3016 103c.	
C Palatka Army Maintenance Support Activity–55M.	4300 St Johns Ave	Palatka	FL	32077	Army	3010 3005	23
O Palatka Army Maintenance Support Activity–55M.	4300 St Johns Ave	Palatka	FL	32077	Army	3010	
C Jacksonville Naval Supply Center.	P.O. Box 26938	Jacksonville	FL	32226–6938	Navy	103c 3005	20A
O Jacksonville Navy Fuel Depot.	Somers Road	Jacksonville	FL	32208	Navy	103c 3005	
C NTTC Corry Station		Pensacola	FL		Navy	103c 103a	23
O NTTC Corry Station		Pensacola	FL		Navy	103c	
C Panama City Coastal Systems Station.	Hwy 98 Code 6310MC.	Panama City	FL	32407	Navy	3005 3010 3016	20A
O Panama City Navy Coastal Systems Center.	Hwy 98 Code 6310MC.	Panama City	FL	32407	Navy	3005 3010 3016	
C Saufley Field NAS			FL		Navy	103c 3010	20A
O Saufley Field NETPSA.			FL		Navy	103c 3010	
C Augusta Army Maintenance Support Activity–54G.	3311 Wrightsboro Rd	Augusta	GA	30904	Army	3010 3005	23
O Augusta Army Maintenance Support Activity–54G.	3311 Wrightsboro Rd	Augusta	GA	30904	Army	3010	
C Fort Gordon and National Signal Center.	ATZHFE EC	Fort Gordon	GA	30905	Army	3005 3010 3016 103c 103a.	23
O Fort Gordon and National Signal Center.	ATZHFE EC	Fort Gordon	GA	30905	Army	3005 3010 3016 103c	

FEDERAL FACILITIES DOCKET—Continued

[Docket Corrections]

Facility name	Facility address	City	State	Zip code	Agency	Reporting mechanism	Correction codes
C Guam Naval Supply Depot.	Sumay Drive Supply Depot.	Naval Station	GU	96630	Navy	3010 3016	23
O Guam Naval Supply Depot.	Sumay Drive Supply Depot.	Naval Station	GU	96630	Navy	3010	
C Kaala Air Force Station.	Taxiway 5 & Kamakahi St.	Honolulu	HI	98653	Air Force	103c 3016	20A
O Kaala Air Force Station.	Taxiway 5 & Kamakahi St.	Honolulu	HI		Air Force	103c 3016	
C Johnston Atoll National Wildlife Refuge.	P.O. Box 50167	Honolulu	HI	96850	Army	3010 3016	21
O Johnston Atoll National Wildlife Refuge.	P.O. Box 50167	Honolulu	HI	96850	Air Force	3010 3016	
C Lualualei Naval Magazine.	Naval Magazine Demilitarization Furnace.	Westloch	HI	96860	Navy	3005 3010 3016 103c 103a.	23
O Lualualei Naval Magazine.	Naval Magazine Demilitarization Furnace.	Westloch	HI	96860	Navy	3005 3010 3016 103c	
C Pearl Harbor Naval Shipyard.		Pearl Harbor	HI	96860	Navy	3005 3010 3016 103c 103a.	23
O Pearl Harbor Naval Shipyard.		Pearl Harbor	HI	96860	Navy	3005 3010 3016 103c	
C Pearl Harbor Navy Public Works Center.	Naval Station Area	Pearl Harbor	HI	96860	Navy	3005 3010 3016 103c 103a.	23
O Pearl Harbor Navy Public Works Center.	Naval Station Area	Pearl Harbor	HI	96860	Navy	3005 3010 3016 103c	
C FWS-Howland Island National Wildlife Refuge.	Lat 1 N, Long 170 W	1 N, 170 W	HQ		Interior	3016 103c	23
O FWS-Howland Island National Wildlife Refuge.	Lat 1 N, Long 170 W	1 N, 170 W	HQ		Interior	3016	
C Iowa Army Ammunition Plant.	Hwy 79 off Middletown Road.	Middletown	IA	52638	Army	3005 3010 3016 103c 103a.	23
O Iowa Army Ammunition Plant.	Hwy 79 off Middletown Road.	Middletown	IA	52638	Army	3005 3010 3016 103c	
C BLM-Browns Gulch	T6S R7E Sec 10 W½	Bruneau	ID		Interior	103c	20A
O BLM-Browns Gulch	T6S R7E Sec 10 W½		ID		Interior	103c	
C BLM-Castleford Butte.	T10S R12E Sec 23	Castleford	ID		Interior	103c	20A
O BLM-Castleford Butte.	T10S R12E Sec 23		ID		Interior	103c	
C BLM-Montview	T8N R34E Sec 22 NWNW E of city.	Montview	ID		Interior	103c	20A
O BLM-Montview	T8N R34E Sec 22 NWNW.		ID		Interior	103c	
C BLM-Warrior Road	T35N R1W Sec 11 Nearest City Kona.	Kona	ID		Interior	103c	20A
O BLM-Warrior Road	T3S R1W Sec 11		ID		Interior	103c	
C Lawrenceville COE-Chicago District.	P.O. Box 195, Route 4.	Lawrenceville	IL	62439	Army	3010	20A
O Lawrenceville COE-Chicago District.	Rte 4 P O Box 195	Lawrenceville	IL	62439	Army	3010	
C Hanscom Air Force Base.	3245 ABG/DEEV	Bedford	MA	01731	Air Force	3005 3010 3016 103c 103a.	23
O Hanscom Air Force Base.	3245 ABG/DEEV	Bedford	MA	01731	Air Force	3005 3010 3016 103c	
C Chelsea Postal Service Incoming Mail Center.	307 Becham St	Chelsea	MA	02150	Postal Service	103c	20A
O Chelsea Postal Service Incoming Mail Center.	307 Becham St	Chelsea	MA		Postal Service	103c	
C Lowell Postal Service.	Post Office Square	Lowell	MA	01853	Postal Service	103c 3010	23, 20A
O Lowell Postal Service.	Post Office Square	Lowell	MA		Postal Service	103c	
C Martin's Airport Air National Guard.	Eastern Ave and Wilson Point Rd.	Baltimore	MD	21220–2788	Air Force	103c 3016	20A
O Martin's Airport Air National Guard.	Eastern Ave and Wilson Point Rd.	Baltimore	MD		Air Force	103c 3016	
C Aberdeen Proving Ground.	Attn STEAP-FE-M	Aberdeen	MD	21005	Army	3005 3010 3016 103c 103a.	23
O Aberdeen Proving Ground.	Attn STEAP-FE-M	Aberdeen	MD	21005	Army	3005 3010 3016 103c	
C Adelphi Laboratory Center.	2800 Powder Mill Rd	Adelphi	MD	20783	Army	3005 3010 3016 103c	20A
O Harry Diamond Laboratories-Adelphi.	2800 Powder Mill Rd	Adelphi	MD	20783	Army	3005 3010 3016 103c	

FEDERAL FACILITIES DOCKET—Continued

[Docket Corrections]

Facility name	Facility address	City	State	Zip code	Agency	Reporting mechanism	Correction codes
C Blossom Point Field Test Facility.	Blossom Point Rd	La Plata	MD	20646	Army	3016 103c	23, 20A
O Harry Diamond Laboratories-Blossom Point Facility.	Blossom Point Rd	La Plata	MD		Army	3016	
C National Institute of Standards and Technology.	Quince Orchard Rd	Gaithersburg	MD	20760	Commerce	3005 3010 103c	20A
O National Bureau of Standards.	Quince Orchard Rd	Gaithersburg	MD	20760	Commerce	3005 3010 103c	
C Oxford National Marine Fisheries Service.	US Dept of Marine Fisheries, Oxford Laboratory.	Oxford	MD		Commerce	103c	23
O Oxford National Marine Fisheries Service.	US Dept of Marine Fisheries, Oxford Laboratory.	Oxford	MD		Commerce		
C Defense National Stockpile Center.	710 Ordnance Rd	Baltimore	MD	21226	Defense Logistics Agency.	3005 3010 3016 103c	23, 22
O Curtis Bay Depot	710 Ordnance Road	Baltimore	MD	21226	General Services Admin.	3005 3010 3016	
C NCI-Frederick Cancer Research.	Fort Detrick	Frederick	MD	21701	Health and Human Services.	3010 3016 103c	23
O NCI-Frederick Cancer Research.	Fort Detrick	Frederick	MD	21701	Health and Human Services.	3010 3016	
C NIH-Bethesda	9000 Rockville Pike	Bethesda	MD	20892	Health and Human Services.	3005 3010 3016 103c 103a.	23
O NIH-Bethesda	9000 Rockville Pike	Bethesda	MD	20892	Health and Human Services.	3005 3010 3016 103c	
C FWS-Patuxent Wildlife Research Center.	Rt. 197 at Powdermill Road.	Laurel	MD	20708	Interior	3016 103c	21
O FWS-Patuxent Wildlife Research Center.	Rt. 197 at Powdermill Road.	Laurel	MD	20708	Interior	3016	
C Patuxent Wildlife Research Center.	Rt. 197 and Powdermill Road.	Laurel	MD	20708	Interior	103c 3010	21, 23
O Patuxent Wildlife Research Center.	Rt. 197 and Powdermill Road.	Laurel	MD	20708	Agriculture	103c, 3010	
C Goddard Space Flight Center.	Greenbelt Road	Greenbelt	MD	20771	NASA	3010 103c	23
O Goddard Space Flight Center.	Greenbelt Road	Greenbelt	MD	20771	NASA	3010	
C Indian Head Division, Naval Surface Warfare Center.	Rte 210 Maryland	Indian Head	MD	20640	Navy	3005 3010 3016 103c 103a.	20A
O Indian Head Naval Ordnance Station.	Rte 210 Maryland	Indian Head	MD	20640	Navy	3005 3010 3016 103c 103a.	
C National Naval Medical Center.	8901 Wisconsin Ave	Bethesda	MD	20814	Navy	3005 3010 3016 103c	23
O National Naval Medical Center.	8901 Wisconsin Ave	Bethesda	MD	20814	Navy	3005 3010 3016	
C Saint Inigoes Naval Electronic System Eng Activity.	St. Inigoes	Saint Inigoes	MD	20684	Navy	3010 103c	23
O Saint Inigoes Naval Electronic System Eng Activity.	St. Inigoes	Saint Inigoes	MD	20684	Navy	3010	
C Washington Naval Communication Unit.	Dangerfield & Commo Rd.	Clinton	MD	20735	Navy	3010 103c	23
O Washington Naval Communication Unit.	Dangerfield & Commo Rd.	Clinton	MD	20735	Navy	3010	
C White Oak Naval Surface Warfare Center.	10901 New Hampshire Ave.	Silver Spring	MD	20903	Navy	3005 3010 3016 103c 103a.	23
O White Oak Naval Surface Warfare Center.	10901 New Hamsphire Ave.	Silver Spring	MD	20903	Navy	3005 3010 3016 103c	
C Loring Air Force Base.	42CSG/CC	Limestone	ME	04751	Air Force	3005 3010 3016 103c 103a.	23
O Loring Air Force Base.	42CSG/CC	Limestone	ME	04751	Air Force	3005 3010 3016 103c	
C Portsmouth Naval Shipyard.	Seavy Island	Kittery	ME	03904	Navy	3005 3010 3016 103c 103a.	23
O Portsmouth Naval Shipyard.	Seavy Island	Kittery	ME	03904	Navy	3005 3010 3016 103c	
C Wurtsmith Air Force Base.	379 Combat Support Group/CC.	Oscoda	MI	48753	Air Force	3005 3010 3016 103c 103a.	23
O Wurtsmith Air Force Base.	379 Combat Support Group/CC.	Oscoda	MI	48753	Air Force	3005 3010 3016 103c	
C Camp Grayling	I-75	Grayling	MI	49738	Army	103c	20A

FEDERAL FACILITIES DOCKET—Continued

[Docket Corrections]

Facility name	Facility address	City	State	Zip code	Agency	Reporting mechanism	Correction codes
O Camp Grayling	I–75	Grayling	MI		Army	103c	
C Pontiac Storage Facility.	871 South Boulevard	Pontiac	MI	48503	Army	103c	20A
O Pontiac Storage Facility.	Address unreported	Pontiac	MI		Army	103c	
C Chippewa National Forest.	Rural Rt 3, Box 244	Cass Lake	MN	56633	Agriculture	3016 3010	23
O Chippewa National Forest.	Rural Rt 3, Box 244	Cass Lake	MN	56633	Agriculture	3016	
C Atkins Farm	1.5 Mi W on Hwy 16 Then S ¾ mi.	Canton	MO	63435	Agriculture	103c	23
O Atkins Farm	1.5 Mi W on Hwy 16 Then S ¾ mi.	Canton	MO		Agriculture	103c	
C Mark Twain National Forest.	401 Fairgrounds Road	Rolla	MO	65401	Agriculture	103c 3010	23
O Mark Twain National Forest.	401 Fairgrounds Road	Rolla	MO	65401	Agriculture	103c	
C MO Aviation Classification & Repair Activity Depot.	2501 Lester Jones Ave.	Springfield	MO	65803	Army	103c 3010	20A, 23
O MO-AVCRAD	2501 Lester Jones Ave.	Springfield	MO		Army	103c	
C Weldon Springs Ordnance Works (former).	Hwy 94 South	St. Charles	MO	63301	Army	3016 103c	20A
O Weldon Springs Training Area, Ft. Leonardwood.	Hwy 94 South	St. Charles	MO	63301	Army	3016 103c	
C Weldon Springs Ordnance Works (former).	St Hwy 94 2 Mi S of US 40.	St. Charles	MO	63301	Energy	3010 3016 103c	20A
O Weldon Springs Quarry/Pint/Pits.	St Hwy 94 2 Mi S of US 40.	St. Charles	MO	63301	Energy	3010 3016 103c	
C DeSoto National Forest Access Roads.	100 W. Capitol St., Suite 1141.	Jackson	MS	39269	Agriculture	103c 3016	23
O DeSoto National Forest Access Roads.	100 W. Capitol St., Suite 1141.	Jackson	MS	39269	Agriculture	103c	
C Fort Keogh Livestock and Range Research Laboratory.	Route 1, Box 2021	Miles City	MT	59301	Agriculture	3016,103c	23
O Fort Keogh Livestock and Range Research Laboratory.	Route 1, Box 2021	Miles City	MT	59301	Agriculture	3016	
C Glasgow Air Force Base.	19 Miles N.W. of Glasgow.	Glasgow	MT		Air Force	103c	20A
O Glasgow Air Force Base.			MT		Air Force	103c	
C BLM-Illegal Airstrip John Greytak.	Section 6 T11N R27E	Flatwillow	MT		Interior	103c	20A
O BLM-Illegal Airstrip John Greytak.	T11NR27ESec6		MT		Interior	103c	
C BR-Hungry Horse Dam.	Edge of Hungry Horse	Hungry Horse	MT	59919	Interior	3010 103c	23
O BR-Hungry Horse Dam.	Edge of Hungry Horse	Hungry Horse	MT	59919	Interior	3010	
C Nantahala National Forest-Graham County Landfill.	North of Snowbird Mountain.	Robbinsville	NC		Agriculture	3016 103c	20A, 23
O Nantahala National Forest.	Post & Otis Streets P.O. Box 2750.	Asheville	NC	28802	Agriculture	3016	
C Nantahala National Forest-Swain County Landfill.	SR 1311	Bryson City	NC	28713	Agriculture	103c	20A
O Nantahala National Forest Landfill.	Post & Otis Streets, Box 2750.	Asheville	NC	28802	Agriculture	103c	
C Technology Center	HWY 54 & Alexander Drive.	Research Triangle Park.	NC	27711	EPA	3005 3010 3016	23
O Technology Center	HWY 54 & Alexander Drive.	Research Triangle Park.	NC	27711	EPA	3005 3010	
C Holloman Air Force Base.	833 CSG/DE	Holloman AFB	NM	88330	Air Force	3005 3010 3016 103c 103a.	23
O Holloman Air Force Base.	833 CSG/DE	Holloman AFB	NM	88330	Air Force	3005 3010 3016 103c	
C Ross Aviation, Inc	Hangar 481	Kirtland AFB	NM	87117	Energy	103c 3016	23
O Ross Aviation, Inc	Hangar 481	Kirtland AFB	NM	87117	Energy	103c	
C BLM–AMAX Chemical.	Eddy County	Artesia	NM	88201	Interior	103c 3016	23
O BLM–AMAX Chemical.	Eddy County	Artesia	NM	88201	Interior	103c	

FEDERAL FACILITIES DOCKET—Continued

[Docket Corrections]

Facility name	Facility address	City	State	Zip code	Agency	Reporting mechanism	Correction codes
C BLM-Blanco Landfill	T29NR10WSec13	Blanco	NM	87412	Interior	103c 3016	23
O BLM-Blanco Landfill	T29NR10WSec13	Blanco	NM	87412	Interior	103c	
C BLM-Blue Canyon Allotment.	T20SR5WSec8	Hatch	NM	87937	Interior	103c 3016	23
O BLM-Blue Canyon Allotment.	T20SR5WSec8	Hatch	NM	87937	Interior	103c	
C BLM-Carlsbad Landfill.	T21SR27E Sec27NMPH.	Carlsbad	NM		Interior	103c 3016	23
O BLM-Carlsbad Landfill.	T21SR27E Sec27NMPH.	Carlsbad	NM		Interior	103c	
C BLM-Chaparral Landfill.	T26SR5ESec14	Chaparral	NM		Interior	103c 3016	23
O BLM-Chaparral Landfill.	T26SR5ESec14	Chaparral	NM		Interior	103c	
C BLM-Duval Company.	20 Miles East of Carlsbad.	Carlsbad	NM	88220	Interior	103c 3016	23
O BLM-Duval Company.	20 Miles East of Carlsbad.	Carlsbad	NM	88220	Interior	103c	
C BLM-Hatch Landfill	T14SR3WSec4LOT1	Hatch	NM	87937	Interior	103c 3016	23
O BLM-Hatch Landfill	T14SR3WSec4LOT1	Hatch	NM	87937	Interior	103c	
C BLM-Hill Landfill	T22SR1E Secs3&4NMPH.	Hill	NM		Interior	103c 3016	23
O BLM-Hill Landfill	T22SR1E Secs3&4NMPH.	Hill	NM		Interior	103c	
C BLM-Hyde Mine	35/32/46 & 108/41/26	Gallup	NM	87301	Interior	103c 3016	23
O BLM Hyde Mine	35/32/46 & 108/41/26	Gallup	NM	87301	Interior	103c.	
C BLM-I&W Oil Service Roswell.	T20SR31ESec17, 18	Loving	NM	87415	Interior	103c 3016	23
O BLM-I&W Oil Service Roswell.	T20SR31ESec17, 18	Loving	NM	87415	Interior	103c.	
C BLM-International Mineral and Chemical.	P.O. Box 71	Carlsbad	NM	88220	Interior	103c 3016	23
O BLM-International Mineral and Chemical.	P.O. Box 71	Carlsbad	NM	88220	Interior	103c.	
C BLM-La Mesa	T25 SR 2E Sec34	La Mesa	NM	88044	Interior	103c 3016	23
O BLM-La Mesa	T25 SR 2E Sec34	La Mesa	NM	88044	Interior	103c.	
C BLM-Lemitar Landfill.	T2SR1W Secs13&24	Lemitar	NM		Interior	103c 3016	23
O BLM-Lemitar Landfill.	T2SR1WSecs13&24	Lemitar	NM		Interior	103c.	
C BLM-Mesquite Landfill.	T24SR3ESec29NMPH	Mesquite	NM		Interior	103c 3016	23
O BLM-Mesquite Landfill.	T24SR3ESec29NMPH	Mesquite	NM		Interior	103c.	
C BLM-Orogrande Landfill.	T22SR8E Sec14SWSESW.	Orogrande	NM		Interior	103c 3016	23
O BLM-Orogrande Landfill.	T22SR8E Sec14SWSESW.	Orogrande	NM		Interior	103c.	
C BLM-Potash Company of America (PCA).	Eddy County	Carlsbad	NM	88220	Interior	103c 3016	23
O BLM-Potash Company of America (PCA).	Eddy County	Carlsbad	NM	88220	Interior	103c.	
C BLM-San Antonio Landfill.	T5SR1E Sec6NMPH	San Antonia	NM		Interior	103c 3016	23
O BLM-San Antonio Landfill.	T5SR1E Sec6NMPH	San Antonia	NM		Interior	103c.	
C BLM-Standard Transpipe Corp..	T17SR9E Sec18,19	Alamogardo	NM	88310	Interior	103c 3016	23
O BLM-Standard Transpipe Corp..	T17SR9E Sec18,19	Alamogardo	NM	88310	Interior	103c.	
C BLM-Thoreau Landfill.	T14NR13W Sec20NMPH.	Thoreau	NM		Interior	103c 3016	23
O BLM-Thoreau Landfill.	T14NR13W Sec20NMPH.	Thoreau	NM		Interior	103c.	
C BLM-Truth or Consequences Landfill.	T13SR4W Sec22NMPH.	Truth or Consequences.	NM		Interior	103c 3016	23
O BLM-Truth or Consequences Landfill.	T13SR4W Sec22NMPH.	Truth or Consequences.	NM		Interior	103c.	
C BLM-Velarde Landfill.	T22NR9E Sec20NMPH.	Velarde	NM	87582	Interior	103c 3016	23
O BLM-Velarde Landfill.	T22NR9E Sec20NMPH.	Velarde	NM	87582	Interior	103c.	
C BLM-Waterflow Landfill.	T30 NR 16W Sec35	Waterflow	NM	87421	Interior	103c 3016	23
O BLM-Waterflow Landfill.	T30 NR 16W Sec35	Waterflow	NM	87421	Interior	103c.	
C Cal West	West Frontage Road	Lemitar	NM	87801	Small Business Admin	3005 3010 103c	23

FEDERAL FACILITIES DOCKET—Continued

[Docket Corrections]

Facility name	Facility address	City	State	Zip code	Agency	Reporting mechanism	Correction codes
O Cal West	West Frontage Road	Lemitar	NM	87801	Small Business Admin	3005 3010.	
C Nellis Air Force Base.	554 OSW/DE	Nellis AFB	NV	89191	Air Force	3005 3010 3016 103c 103a.	23
O Nellis Air Force Base.	554 OSW/DE	Nellis AFB	NV	89191	Air Force	3005 3010 3016 103c.	
C Tonopah Test Range (Sandia National Laboratory).	P.O. Box 10359	Tonopah	NV	89049	Energy	3005 3010 103c 103a 3016.	23
O Tonopah Test Range (Sandia National Laboratory).	P.O. Box 10359	Tonopah	NV	89049	Energy	3005 3010 103c 103a	
C BLM-American Borate Company.	T18SR49ESec1	Nye	NV	89020	Interior	103c	20A
O BLM-American Borate Company.	T18SR49ESec1	Nye	NV		Interior	103c	
C Watervliet Arsenal	Broadway	Watervliet	NY	12189	Army	3005 3010 3016 103a	23
O Watervliet Arsenal	Broadway	Watervliet	NY	12189	Army	3005 3010 3016	
C Fisher's Island Naval Underwater Systems Center.	Fisher's Island	Fisher's Island	NY	06380	Navy	3010 3016	23
O Fisher's Island Naval Underwater Systems Center.	Fisher's Island	Fisher's Island	NY	06380	Navy	3010	
C West Sayville IFS Transmitter.	Cherry Ave	West Sayville	NY	11796	Transportation	3010 3016	23
O West Sayville IFS Transmitter.	Cherry Ave	West Sayville	NY	11796	Transportation	3010	
C Rickenbacker Air National Guard Base.	Rickenbacker ANGB	Rickenbacker ANGB	OH	43217	Army	103c	20A
O Rickenbacker Air National Guard Base.	Rickenbacker ANGB	Rickenbacker ANGB	OH		Army	103c	
C Femald Environmental Management Project.	7400 Willy Road Hamilton County.	Femald	OH	45030	Energy	3005 3010 3016 103c 103a.	20A
O Feed Material Production Center.	7400 Willy Road Hamilton County.	Femald	OH	45030	Energy	3005 3010 3016 103c 103a.	
C Plant Sciences and Water Conservation Laboratory.	1301 N. Western RD	Stillwater	OK	74076	Agriculture	3016 103c	20A, 23
O Plant Sciences and Water Conservation Laboratory.	1301 N. Western RD	PO Box 1029 Stillwater.	OK	74076	Agriculture	3016	
C FS-Willamette National Forest.	Highway 126 35 MI E OF CY.	Eugene	OR	97440	Agriculture	3016 103c	20A
O FS-Willamette National Forest.	Box 10607	Eugene	OR	97440	Agriculture	3016 103c	
C Ochoco National Forest.	Highway 26 12 MI E OF CY.	Prineville	OR	97754	Agriculture	103c	20A
O Ochoco National Forest.	T14S R20E WM Sec 20 SW¼.	Ochoco National Forest.	OR		Agriculture	103c	
C Willamette Falls Locks.	West Linn	West Linn	OR	97068	Corps of Engineers, Civil.	103c 3016	20A
O Willamette	West Linn	West Linn	OR	97068	Corps of Engineers, Civil.	103c 3016	
C Defense Distribution Region East.	Harrisburg	New Cumberland	PA	17070	Defense Logistics Agency.	3005 3010 3016 103c	22
O New Cumberland Army Depot.	Harrisburg	New Cumberland	PA	17070	Army	3005 3010 3016 103c	
C Bettis Atomic Power Laboratory.	PO Box 109 Bettis RD	West Mifflin Borough	PA	15122–0109	Energy	3005 3010 3016 103c	23
O Bettis Atomic Power Laboratory.	PO Box 109 Bettis RD	West Mifflin Borough	PA	15122–0109	Energy	3005 3010 3016	
C PETC	PO Box 10940	Pittsburgh	PA	15236	Energy	3010 103c	23
O PETC	PO Box 10940	Pittsburgh	PA	15236	Energy	3010.	
C Pittsburgh Postal Service.	7th & Grant Streets	Pittsburgh	PA		General Services Administration.	103a	21
O Pittsburgh Postal Service.	7th & Grant Streets	Pittsburgh	PA		Postal Service	103a	
C BM-Bruceton	626 Cochrans Mill	Bruceton	PA	15025	Interior	3010 103c	23
O BM-Bruceton	626 Cochrans Mill	Bruceton	PA	15025	Interior	3010	
C FWS-John Heinz National Wildlife Refuge.	Off Folcroft Ave	Folcroft	PA	19032	Interior	3016 103c	20A
O FWS-Tinicum National Environmental Center.	Off Folcroft Ave	Folcroft	PA	19032	Interior	3016 103c	
C Philadephia Navy Aviation Supply Office.	700 Robbins Ave	Philadelphia	PA	19111	Navy	3010 103c	23

FEDERAL FACILITIES DOCKET—Continued

[Docket Corrections]

Facility name	Facility address	City	State	Zip code	Agency	Reporting mechanism	Correction codes
O Philadelphia Navy Aviation Supply Office.	700 Robbins Aves	Philadelphia	PA	19111	Navy	3010	
C Warminster Naval Air Warfare Center.	NAVFAC-Northdiv.Code 114.	Warminster	PA	19112	Navy	3005 3010 3016 103c	20A
O Warminster Naval Air Defence Command.	NAVFAC-Northdiv.Code 114.	Warminster	PA	19112	Navy	3005 3010 3016 103c	
C Philadelphia Medical Center.	University and Woodland Ave.	Philadelphia	PA	19104	Veterans Administration.	3010 103a 3016	23
O Philadephia Medical Center.	University and Woodland Ave.	Philadephia	PA	19104	Veterans Administration.	3010 103a	
C Atlantic Fleet Weapons Training Fac. Inner Range.		Vieques	PR	00765	Defense	3005 3010 3016	23
O Atlantic Fleet Weapons Training Fac. Inner Range.		Vieques	PR	00765	Defense	3005 3010	
C Davisville Naval Construction Battalion Center.	Off Quionessett Rd	North Kingstown	RI	02871	Navy	3016 103c 103a	23
O Davisville Naval Construction Battalion Center.	Off Quionessett Rd	North Kingstown	RI	02871	Navy	3016 103c	
C Myrtle Beach Air Force Base.	354 CSG/DE	Myrtle Beach	SC	29577	Air Force	3005 3010 3016 103a	23
O Myrtle Beach Air Force Base.	354 CSG/DE	Myrtle Beach	SC	29577	Air Force	3005 3010 3016	
C Training Center and Fort Jackson.	Jackson Blvd	Fort Jackson	SC	29207	Army	3005 3010 3016 103a	23
O Training Center and Fort Jackson.	Jackson Blvd	Fort Jackson	SC	29207	Army	3005 3010 3016	
C NPS-Charleston Harbor Site.	Int. of Concord & Calhoun Streets.	Charleston	SC	29402	Interior	103c	20A
O NPS-Charleston Harbor Site.		Charleston	SC		Interior	103c	
C Beaufort Marine Corps Air Station.	Lafrene Road	Beaufort	SC	29904	Navy	3005 3010 3016 103c 103a.	23
O Beaufort Marine Corps Air Station.	Lafrene Road	Beaufort	SC	29904	Navy	3005 3010 3016 103c.	
C Parris Island Marine Corps Recruit Depot.	Marine Corps Recruit Depot.	Parris Island	SC	29905	Navy	3005 3010 3016 103a	23
O Parris Island Marine Corps Recruit Depot.	Marine Corps Recruit Depot.	Parris Island	SC	29905	Navy	3005 3010 3016	
C Allen Fossil Plant	2574 Plant Rd.	Memphis	TN	38109	Tennessee Valley Authority.	3005 3010 3016 103c 103a.	20A
O Allen Fossil Plant (Allen Steam Plant).	2574 Plant Rd.	Memphis	TN	38109	Tennessee Valley Authority.	3005 3010 3016 103c 103a.	
C Johnsonville Steam Plant.	US Hwy 70 E	New Johnsonville	TN	37134	Tennessee Valley Authority.	103c 3010 103a 3005	23
O Johnsonville Steam Plant.	US Hwy 70 E	New Johnsonville	TN	37134	Tennessee Valley Authority.	103c 3010 103a	
C Knoxville Garage	4216 Greenway	Knoxville	TN	37902	Tennessee Valley Authority.	103c 3010 3005	23
O Knoxville Garage	4216 Greenway	Knoxville	TN	37902	Tennessee Valley Authority.	103c 3010	
C Conservation and Production Research Laboratory.	½ Mile W., T-40 S.	Bushland	TX	79012	Agriculture	3016 103c	23
O Conservation and Production Research Laboratory.	½ Mile W., T-40 S.	Bushland	TX	79012	Agriculture	3016	
C Dyess Air Force Base.	96 CSG/CC	Abilene	TX	79607	Air Force	3005 3010 3016 103c 103a.	23
O Dyess Air Force Base.	96 CSG/CC	Abilene	TX	79607	Air Force	3005 3010 3016 103c	
C Kelly Air Force Base.	SA-ALC/EM	San Antonio	TX	78241	Air Force	3005 3010 3016 103c 103a.	23
O Kelly Air Force Base.	SA-ALC/EM	San Antonio	TX	78241	Air Force	3005 3010 3016 103c	
C Corpus Christi Naval Air Station.	Ocean Drive & Saipan St Bldg 22 Public Works Dpt.	Corpus Christi	TX	78419	Navy	3005 3010 3016 103c 103a.	23
O Corpus Christi Naval Air Station.	Ocean Drive & Saipan St Bldg 22 Public Works Dpt.	Corpus Christi	TX	78419	Navy	3005 3010 3016 103c	
C Arlington	File Repository 1232 SE.	Arlington	VA	22202	Commerce	3010 103c	23

FEDERAL FACILITIES DOCKET—Continued

[Docket Corrections]

Facility name	Facility address	City	State	Zip code	Agency	Reporting mechanism	Correction codes
O Arlington	File Repository 1232 SE.	Arlington	VA	22202	Commerce	3010	
C John H. Kerr Reservoir.	Route 1, Box 76ervoir	Boydton	VA	23917–9801	Corps of Engineers, Civil.	3010 103c 3016	23
O John H. Kerr Reservoir.	Route 1, Box 76ervoir	Boydton	VA	23917–9801	Corps of Engineers, Civil.	3010 103c	
C Chesapeake Naval Security Group Activity.	Northwest	Chesapeake	VA		Navy	103c 3010	23
O Chesapeake Naval Security Group Activity.	Northwest	Chesapeake	VA		Navy	103c	
C Portsmouth Naval Hospital.	US Navy	Portsmouth	VA	23708	Navy	3010 3016 103c	23
O Portsmouth Naval Hospital.	US Navy	Portsmouth	VA	23708	Navy	3010 3016	
C Williamsburg Naval Supply Center Cheatham Annex.	Naval Supply Center, Norf.	Williamsburg	VA	23185	Navy	3005 3010 3016 103c	23
O Williamsburg Naval Supply Center Cheatham Annex.	Naval Supply Center, Norf.	Williamsburg	VA	23185	Navy	3005 3010 3016	
C Yorktown Naval Supply Center.	Naval Supply Cntr. Fuel D.	Yorktown	VA	23690	Navy	3005 3010 103c 3016	23
O Yorktown Naval Supply Center.	Naval Supply Cntr. Fuel D.	Yorktown	VA	23690	Navy	3005 3010 103c	
C Washington National Airport.	Alexandria	Alexandria AMA 124	VA	20001	Transportation	3005 3010 3016 103c	23
O Washington National Airport.	Alexandria	Alexandria AMA 124	VA	20001	Transportation	3005 3010 3016	
C Columbia Basin Project AEC Zone 2,4–D Site.	321 C St. NW	Ephrata	WA	98823	Energy	3016	20A
O Columbia Basin Project AEC Zone 2,4–D Site.			WA		Energy	3016	
C BR-Smith Wasteway.	5 Mi. E. of Pasco	Pasco	WA		Interior	3016 103c	20A, 23
O BLM-Smith Wasteway.			WA		Interior	3016	
C Bangor Submarine Base.	Clear Creek Rd	Bremerton	WA	98315–5000	Navy	3005 3010 3016 103c 103a.	23
O Bangor Submarine Base.	Clear Creek Rd	Bremerton	WA	98315–5000	Navy	3005 3010 3016 103c	
C Jackson Park Housing.	Boone Rd	Bremerton	WA	98312	Navy	3010 3016	23, 20A
O Bremerton Regional Medical Center.	Boone Rd	Bremerton	WA	98312	Navy	3010	
C Keyport Naval Undersea Warfare Eng Station.	Code 073 Hwy 306, E End.	Keyport	WA	98345	Navy	3005 3010 3016 103c 103a.	23
O Keyport Naval Undersea Warfare Eng Station.	Code 073 Hwy 306, E End.	Keyport	WA	98345	Navy	3005 3010 3016 103c	
C Winfield Locks & Dams.	RFD #1 Box 530	Red House	WV	25168	Corps of Engineers, Civil.	103c 3010	20A
O Windfield Locks & Dams.	RFD #1 Box 530	Red House	WV	25168	Corps of Engineers, Civil.	103c 3010	
C Allegany Ballistics Laboratory.	West Virginia Secondary Route 9.	Rocket Center	WV	26726	Navy	3005 3010 3016 103c	20A
O Allegheny Ballistics Laboratory.	West Virginia Secondary Route 9.	Rocket Center	WV	26726	Navy	3005 3010 3016 103c	

FEDERAL FACILITIES DOCKET

[SEA Status Facilities]

Facility name	Facility address	City	State	Zip code	Agency	Reporting mechanism
BLM-Red Devil Mine Waste Ponds.	L61–10–12 L149–56–48		AK		Interior	3016 103c
BLM-Sagwon Airstrip	T5R4ESec10–11	Sagwon	AK	99513	Interior	3016 103c
Dewline Site Bar-Main	Barter Isl., ½ mi E of NE Shr.	Kaktovik	AK	99747	Air Force	103c
Dewline Site LIZ–2	Kasegalik Lagoon-Chukchi Sea.	Point Lay	AK	99766	Air Force	3010 103c 3016
Dewline Site LIZ–3	Kuk River & Chukchi Sea	Wainwright	AK	99782	Air Force	3010 103c 3016

FEDERAL FACILITIES DOCKET—Continued

[SEA Status Facilities]

Facility name	Facility address	City	State	Zip code	Agency	Reporting mechanism
Dewline Site POW–1	Lonely, Pitt Point, E of Smith Bay.	Lonely	AK	99999	Air Force	3010 103c
Dewline Site POW–2	Simpson Lagoon-Beaufort Bay.	Oliktok	AK	99599	Air Force	3010 103c
Dewline Site POW–MAIN	Point Barrow Between N Salt Lagoon & Imikpuk.	Point Barrow Station	AK	99723	Air Force	3010 103c
FWS-Brownlow Point Dewline Site.	Barrow, 265 mi SE	Barrow	AK	99723	Interior	103c 3016
FWS-Demarcation Point Dewline.	Barrow, 380 mi SE	Barrow	AK	99723	Interior	103c 3016
Aviation Center and Fort Rucker.	Bldg 1404	Fort Rucker #36362–5000.	AL	36362	Army	3005 3010 3016 103c
Bellefonte Nuclear Plant	Off US Hwy 72	Hollywood	AL	36401	Tennessee Valley Authority.	3005 3010 103c
Browns Ferry Nuclear Plant.	US Hwy 72	Athens	AL	35611	Tennessee Valley Authority.	3010
Colbert Fossil Plant	Off US Hwy 72 W	Tuscumbia	AL	35674	Tennessee Valley Authority.	3005 3010 103c
Guntersville Hydropower Plant.	Off US Hwy 431, 11 mi. NW of Guntersville.	Guntersville	AL	35976	Tennessee Valley Authority.	3010
Maxwell Air Force Base	3800 Air Base Group Dee.	Maxwell AFB	AL	36112	Air Force	3010 103c 3016
Muscle Shoals Power Stores.	AL Hwy 133	Muscle Shoals	AL	35660	Tennessee Valley Authority.	3005 3010 3016 103a
National Fertilizer and Environmental Research Center.	Wilson Dam Road	Muscle Shoals	AL	35660	Tennessee Valley Authority.	3005 3010 3016 103c
Redstone Arsenal Missile Command.	Cmdr USAMICOM DRSMI–K.	Huntsville	AL	35898	Army	3005 3010 3016 103c 103a
Widows Creek Fossil Plant	Off US Hwy 72 W	Stevenson	AL	35772	Tennessee Valley Authority.	3005 3010 103c
Wilson Hydropower Plant	AL Hwy 133	Florence	AL	35660	Tennessee Valley Authority.	3010
Guam Naval Magazine	Apra Hbr Hts Area by Fena Resv.	Apra Harbor	AQ	96910	Navy	103c
Combustion Research Facility.	Nctr Bldg. 45	Jefferson #72070	AR	72079	EPA	3005 3010 3016
Eaker Air Force Base	97 CSG/DEEV	Eaker AFB	AR	72315–5000	Air Force	3005 3010 3016 103c
Fort Chaffee	Building 239	Fort Chaffee	AR	72905	Army	3005 3010 3016 103c
FWS-Hope Wildlife Area	4 miles north off Hwy 32	Hope	AR	71801	Interior	103c
Millwood Reservation	Route 1	Ashdown	AR		Corps of Engineers, Civil	103c
Fort Huachuca	RCRA Units	Fort Huachuca	AZ	85613	Army	3010 3016 103c 103a
Sky Harbor International Airport.	2001 S. 32nd St	Phoenix	AZ	85034	Air Force	3010
Civil Engineering Laboratory.	NCBC	Port Hueneme	CA	93043	Navy	3010 103a
Crows Landing Naval Air Logistics Force.	NALF Crows Landing	Crows Landing	CA	95313	Navy	3010 3016
Fallbrook Naval Weapons Station Annex.	Seal Beach	Fallbrook	CA	92028	Navy	103c
Imperial Beach Naval Communications Station.	Outlying Landing Field Bldg 162 Rt 75 & Palm Ave.	Imperial Beanch	CA	92032	Navy	3005 3010 103c 103a
Lawrence Berkeley Laboratory.	1 Cyclotron Rd	Berkeley	CA	94720	Energy	3005 3010 3016
Norwalk Defense Fuel Supply Center.	15306 Norwalk Blvd	Norwalk	CA	90650	Defense Logistics Agency.	3010 3016 103c
Oakland Naval Regional Medical Center.	8750 Mountain Blvd	Oakland	CA	94627	Navy	3010 103c
Plant #19	4297 Pacific Coast Hwy	San Diego	CA	92101–5001	Air Force	103c 3016 3010
Point Sur Naval Facility	Naval Facility Point Sur	Big Sur	CA	93920	Navy	3010
San Diego Naval Facilities Engineering Command.	Western Division	San Diego	CA	92136	Navy	103c
Sierra National Forest	1130 O St. Room 3017	Fresno	CA	93721	Agriculture	103c 3016
Skaggs Island Naval Security Group Activity.	Skaggs Island	Sonoma	CA	95476	Navy	3010 3016
Stanford Linear Accelerator Center.	2575 Sandhill Rd	Menlo Park	CA	94305	Energy	3010 3016 103c 103a
BLM-Fremont	T48NR12ESec19	Cata Paxi	CO		Interior	103c
BLM-Montrose County Dump.	T48NR19WSec22	Montrose	CO		Interior	103c
BLM-Placerville Tram Site	T44NR11WSec35 Hwy 62.	Placerville	CO	81430	Interior	103c
BLM-San Miguel Landfill #1.	T44NR15WSec26	Nataurita	CO		Interior	103c
BLM-San Miguel Landfill #2.	T44NR17WSec 18	Slick Rock	CO		Interior	103c
BLM-Sawpit Tram Site (ore storage).	T43NR10WSec 18	Saw Pit	CO	81435	Interior	103c

FEDERAL FACILITIES DOCKET—Continued

[SEA Status Facilities]

Facility name	Facility address	City	State	Zip code	Agency	Reporting mechanism
BLM-Town of Mesa Landfill.	T19SR96WSec 22	Molina	CO		Interior	103c
BR-Loveland	910 Van Buren	Loveland	CO	80537	Interior	3010 103c
Central Direct Fed. Division Materials-FHWA.	6th St., Bldg. 52, DFC	Denver	CO	80225	Transportation	3005 3010 103c
Colorado Springs Academy.	AFA/DE	Colorado Springs	CO	80840	Air Force	3010 103c
Denver Bulk Mail Center	7755 E. 56th Ave	Denver	CO	80238	Postal Service	3016 103c
Fort Carson	DFAE Bldg. 304, AFZC–FE–EQ.	Ft. Carson	CO	80913	Army	3005 3010 3016 103c
Grand Junction Projects Office.	3597 B–¾ Rd PO2567	Grand Junction	CO	81502–5504	Energy	3016 103c
GS-Denver, NWOL	5293 Ward Rd	Denver	CO	80225	Interior	3010
National Enforcement Investigation Center.	DFC	Denver	CO	80225	EPA	3010
NPS-Denver Service Center.	755 Parfet St., Box 25287.	Denver	CO	80225	Interior	3016 103c
Peterson Air Force Base	1003 SSG/CC	Peterson AFB	CO	80914	Air Force	3005 3010 103c
Solar Energy Research Institute.	1617 Cole Blvd	Golden	CO	80401	Energy	3005 3010 3016 103c
Transportation Test Center	21 Miles NE Pueblo Mem Airport.	Dot Test Track Rd	CO	81001	Transportation	3005 3010 3016
WAPA-Power Operations	1800 S. Rio Grande Ave	Montrose	CO	81401	Energy	103c
East Lyme Naval Underwater Systems Center.	Dodge Pond Field Station	East Lyme	CT	06357	Navy	3010 3016
Knolls Atomic Power Laboratory-Windsor Site.	Prospect Hill Road	Windsor	CT	06095	Energy	3005 3010 3016 103c 103a
New London Naval Underwater Systems Center.	New London Laboratory	New London	CT	06320	Navy	3010 103c
Stratford Engine Plant	550 South Main Street	Stratford	CT	06497	Army	3005 3010 3016
Bureau of Engraving & Printing.	14th & C Sts SW	Washington	DC	20228	Treasury	3005 3010 103c 103a
Customs Field Office	1200 Pennsylvania Avenue.	Washington	DC	20004	General Services Admin	3010 103c
Fort McNair	350 P Street, S.W	Washington	DC	20319	Army	3010 103c
U.S. Soldiers and Airmens Home.	Michigan Ave. N.E	Washington	DC	20317	Defense	3010 3016 103c
Washington Naval Research Laboratory.	4555 Overlook Ave	Washington	DC	20375	Navy	3005 3010 3016 103c 103a
Canal Site	Main St, North St Georges.	Newcastle	DE	19733	Corps of Engineers, Civil	3016 103c
AFA 49–A Orlando	8601 Ave. B McCoy NTC Annex.	Orlando	FL	32812	Army	3005 3010
Avon Park Air Force Base	56 Combat Support Group/DE.	MacDill AFB	FL	33608	Air Force	3005 3010 3016
BLM-Olustee Dump	Hwy 90 & Olustee Battlefield R.	Olustee	FL		Interior	103c
Cape Canaveral Air Force Base.	6550 ABG/DEEV	Patrick AFB	FL	32925	Air Force	3005 3010 3016 103c 103a
Colonel Frank M. Williams Army Reserve Center.	11700 NW 27th Ave	Miami	FL	33167	Army	3005 3010
Eglin Air Force Base	3200 SPTW/DEV	Eglin AFB	FL	32542	Air Force	3005 3010 3016 103c 103a
Fort Lauderdale Naval Underwater Systems Center.	1650 Southwest 39th Street.	Fort Lauderdale	FL	33315	Navy	3010
Gulf Breeze Environmental Research Laboratory.	Sabine Island	Gulf Breeze	FL	32561	EPA	3010 3016
Hurlburt Field	834 CSG/CC	Hurlburt Field	FL	32544	Air Force	3005 3010 103c
Kennedy Space Center	NASA Mail Code DF–EMS.	Kennedy Space Center	FL	32899	NASA	3005 3010 3016 103c 103a
Key West Coast Guard Station.		Key West	FL	33040	Transportation	3010
Key West Naval Air Station.	Naval Air Station	Key West	FL	33042	Navy	3005 3010 3016 103c
Lt. Clarence Lovejoy Army Reserve Center.	4823 N Hubert Ave	Tampa	FL	33614	Army	3005 3010
Lynn Haven Defense Fuel Support Point.	W End of 10th Street	Lynn Haven	FL	32444	Defense Logistics Agency.	3010 3016 103c
MacDill Air Force Base	56 Combat Support Group/DE.	MacDill AFB	FL	33608	Air Force	3005 3010 3016 103c
Mayport Naval Air Station	PO Box 265 Naval Station.	Mayport	FL	32228	Navy	3005 3010 3016 103c 103a
Miami Beach Coast Guard Base.	100 Macarthur Cswy	Miami Beach	FL	33139	Transportation	3005 3010
NPS-Everglades National Park.	Route 9336	Homestead	FL	33030	Interior	3010
Osceola National Forest: Site 1.	Highway 100	Lake City	FL	32055	Agriculture	3016 103c

FEDERAL FACILITIES DOCKET—Continued

[SEA Status Facilities]

Facility name	Facility address	City	State	Zip code	Agency	Reporting mechanism
Palatka Army Maintenance Support Activity-55M.	4300 St. Johns Ave	Palatka	FL	32077	Army	3010 3005
Panama City Coastal Systems Station.	Hwy 98 Code 6310MC	Panama City	FL	32407	Navy	3005 3010 3016
Patrick Air Force Base	6550 ABG/DEEV	Patrick AFB	FL	32925	Air Force	3005 3010 3016 103c 103a
Pinellas Plant	7887 Bryan Dairy Rd	Largo	FL	34649-2900	Energy	3005 3010 3016
St. Petersburg Coast Guard Station.	600 8th Ave SE	St. Petersburg	FL	33701	Transportation	3010
Tampa Defense Fuel Support Point.	Box 13736	Tampa	FL	33611	Defense Logistics Agency.	3010 3016 103c
Tyndall Air Force Base	4756 CSG/DE	Tyndall AFB	FL	32403	Air Force	3005 3010 3016 103c
W. Palm Beach Naval Underwater Systems Center.	801 Clematis Street	W. Palm Beach	FL	33402	Navy	3010
Wildlife Research Field Station.	2820 E. University Ave	Gainesville	FL	32601	Agriculture	103c
Atlanta Medical Center	1670 Clairmont Road	Decatur	GA	30033	Veterans Administration	3005 3010 3016
Augusta Army Maintenance Support Activity-54G.	3311 Wrightsboro Rd	Augusta	GA	30904	Army	3010 3005
Dobbins Air Force Base	94 CSG/DE	Marietta	GA	30069	Air Force	3016 103c
Fort Gillem	Attn AFZK-EH-C	Forest Park	GA	30330	Army	3005 3010 3016 103c
Fort Gordon and National Signal Center.	ATZHFE EC	Fort Gordon	GA	30905	Army	3005 3010 3016 103c 103a
Fort Stewart	24th Infantry Div AFZP-DEN-E.	Fort Stewart	GA	31314	Army	3005 3010 3016 103c
Hunter Army Airfield	24th Infantry Div AFZP-DEN-E.	Fort Stewart	GA	31314	Army	3005 3010 3016 103c
Kings Bay Naval Submarine Base.	GA State Hwy Spur	Kings Bay	GA	31547	Navy	3005 3010 3016 103c 103a
Moody Air Force Base	347 CSG/DE	Moody AFB	GA	31669	Air Force	3005 3010 3016 103c
Plant #6 (Lockheed)	86 S Cobb Drive Zone 54	Marietta	GA	30063	Air Force	3005 3010 3016
Guam Naval Hospital	Naval Hosp Guam	Naval Hosp Guam	GU	96638	Navy	103c
Pearl Harbor Naval Submarine Base.		Pearl Harbor	HI	96860	Navy	3010 103a
Pearl Harbor Naval Supply Center.	Naval Base	Pearl Harbor	HI	96860	Navy	3005 3010 103c 3016
Pearl Harbor Navy Public Works Center.	Naval Station Area	Pearl Harbor	HI	96860	Navy	3005 3010 3016 103c 103a
WAPA-Hinton	PO Box 1012	Hinton	IA	51024	Energy	3005 3010 3016
BLM-Blue Dome Unauthorized Dump.	T10NR30ESec30	Blue Dome	ID	83464	Interior	103c
BLM-Central Cove Landfill	T3NR4WSec8,9	Caldwell	ID		Interior	3016 103c
BLM-Champaigne Creek Mine.	T3N R24E Sec15	Grouse	ID	83242	Interior	3016 103c
BLM-Delamar Silver Mine	T.15.S.R.35.E	Owyhee	ID		Interior	103c
BLM-Elk City	T29NR8ESec23	Elk City	ID	83525	Interior	3016 103c
BLM-Howe Dumpsite	T6NR29ESec31	Howe	ID	83244	Interior	103c
BLM-Menan Unauthorized Dump.	T6NR38ESec26&27	Madison	ID		Interior	103c
BLM Morgan's Pasture	T1N R35E Sec 33 & 34	Shelly	ID	83274	Interior	3010 103c
BLM-Owyhee Co. Grandview Landfill.	T6SR4ESec14	Bruneau	ID	83604	Interior	103c
BLM-Owyhee Co. Marsing/Homedale Landfill.	Johnson Rd. T4N R5W S32 SW¼.	Marsing-Homedale	ID	83639	Interior	103c
BLM-Owyhee Co. Wilson Creek Landfill.	T1SR34ESec13	Marsing	ID	83639	Interior	103c
BLM-Pesticide Dump Site, Reynolds.	T2SR3W Sec31	Reynolds	ID	83650	Interior	103c
BLM-Pesticide Dumpsite Sec. 5.	Boise Dist Sec. 5	Murphy	ID	83650	Interior	103c
BLM-Pullman Mine	T29N R4W S14	Cottonwood	ID	83522	Interior	103c
BLM-Springfield Dumpsite	T3SR32ESec12	Springfield	ID	83277	Interior	103c
BLM-Springfield Unauthorized Dumpsite.	T35NR32ESec15	Springfield	ID	83277	Interior	103c
BR-Minidoka Dam	Rt. 4, Box 292	Rupert	ID	83350	Interior	3010 3016
Danville Medical Center Hospital.	1900 E Main St	Danville	IL		Veterans Administration	103c
Fermi National Accelerator Laboratory.	Route 16 & 59 Kane County.	Batavia	IL	60510	Energy	3005 3010 3016 103c
Former Jeffersonville Quartermaster Depot.	Located on Sagrams Property, Clark County.	Jeffersonville	IN	47130	Army	3016 103c
New Haven Defense Logistics Agency Depot.	State Rt. 14	New Haven	IN	46774	Defense Logistics Agency.	3010
Atchison Defense Industrial Plant Equipment Facility.	Old Rte 1	Atchison	KS	66002	Army	103c

FEDERAL FACILITIES DOCKET—Continued

[SEA Status Facilities]

Facility name	Facility address	City	State	Zip code	Agency	Reporting mechanism
Region 7, Environmental Services Division Lab.	25 Funston Road	Kansas City	KS	66115	EPA	3005 3010 3016 103c
Fort Campbell	AFZB–FE–ECE	Fort Campbell	KY	42223	Army	3005 3010 3016 103c
Lexington Blue Grass Depot Activity.	US Hwy 421	Richmond	KY	40475	Army	3005 103c
Lexington-Bluegrass Army Depot.	Haley Rd	Lexington	KY	40511	Army	3005 3010 3016 103c 103a
Louisville Naval Ordnance Station.	Southside Dr. MDS 42	Louisville	KY	40214	Navy	3005 3010 3016
Paducah Gaseous Diffusion Plant.	PO Box 1410 Hobbs Road.	Paducah	KY	42001	Energy	3005 3010 3016 103a
FWS-Lacassine National Wildlife Refuge.	Route 1	Lake Arthur	LA	70549	Interior	103c
Martin Marietta Aerospace	13800 Old Gentilly Road	New Orleans	LA	70129	NASA	3005 3010 3016 103c
New Orleans Naval Air Station.	32 Belle Chase Hwy	Belle Chasse	LA	70037	Navy	3010 103c 103a
SPR-Weeks Island	2 mi NW of Cypremont	Cypremont	LA	70560	Energy	103c
SPR-West Hackberry Site	3.8 mi W of Hackberry, Hwy 390.	Hackberry	LA		Energy	103c
Bedford Hospital Wells 76 & 77.	Westview Street	Lexington	MA	02173	Veterans Administration	3010 103c
Boston Postal Service	135 A Street	Boston	MA	02210	Postal Service	3010
Woods Hole Coast Guard Base.	Little Harbor Road	Falmouth	MA	02543	Transportation	3010
Adelphi Laboratory Center	2800 Powder Mill Rd	Adelphi	MD	20783	Army	3005 3010 3016 103c
Annapolis Naval Academy	Annapolis Naval Complex	Annapolis	MD	21402	Navy	3005 3010 3016 103c
Defense National Stockpile Center.	710 Ordnance Road	Baltimore	MD	21226	Defense Logistics Agency.	3005 3010 3016 103c
Goddard Space Flight Center.	Greenbelt Road	Greenbelt	MD	20771	NASA	3010 103c
National Institute of Standards and Technology.	Quince Orchard Rd	Gaithersburg	MD	20760	Commerce	3005 3010 103c
National Naval Medical Center.	8901 Wisconsin Ave	Bethesda	MD	20814	Navy	3005 3010 3016 103c
NIH-Bethesda	9000 Rockville Pike	Bethesda	MD	20892	Health and Human Services.	3005 3010 3016 103c 103a
Casco Bay Defense Fuel Support Point.	Rt 123	South Harpswell Neck	ME	04079	Defense Logistics Agency.	3010 3016 103c
Gouldsboro Naval Security Group Activity.	Bldg 41 (operations site)	Gouldsboro	ME	04624	Navy	103c
Seal Island	C/O Seal Island National Wildlife Refuge.	Milbridge	ME	04658	Defense	103c
Searsport Defense Fuel Support Point.	Trundy Road Box 112	Searsport	ME	04974	Defense Logistics Agency.	3010 3016 103c
Winterharbor Naval Security Group Activity.	Route 186	Winterharbor	ME	04693	Navy	3010 103c
Ann Arbor Motor Vehicle Emission Laboratory.	2565 Plymouth Road	Ann Arbor	MI	48105	EPA	3010
Harrisville Defense Fuel Support Point.	US Hwy 23	Harrisville	MI	48740	Defense	103c
Tank Automotive Command.	6501 E. 11 Mile Rd, Macomb County.	Warren	MI	48090	Army	3005 3010 3016 103c
Minneapolis-St. Paul Bulk Mail Center.	3165 S. Lexington Ave	St. Paul	MN	55121	Postal Service	3010
BM-Rolla Research Center	1300 Bishop Ave	Rolla	MO	65401	Interior	103c
Defense Mapping Agency—FEE.	3200 S. Second Street	St. Louis	MO	63118	Defense Mapping Agency	3010
Defense Mapping Agency—FEE.	8900 S. Broadway	St. Louis	MO	63118	Defense Mapping Agency	3010
MO Aviation Classification & Repair Activity Depot.	2501 Lester Jones Ave	Springfield	MO	65803	Army	103c 3010
Mobile Incinerator	SE¼NW¼NW¼ Sec 20	McDowell	MO	65769	EPA	3010 103c
Schuster Farm	Sec 58 S17 T55N R33W	Gower	MO		Agriculture	103c
St. Louis	1222 Spruce	St. Louis	MO	63103	General Services Admin.	3005 3010
Engineering Environmental Waterway Laboratory.	PO Box 631	Vicksburg	MS	39180	Army	3005 3010 3016 103c
John C. Stennis Space Center.	SSC Bldg. 1100	Stennis Space Center	MS	39529	NASA	3005 3010 3016 103c
BLM-Jet Fuel Refinery Site.	T14NR31E 4 mi E of Mosby.	Mosby	MT		Interior	103c
BLM-Roundup Landfill	1.5 miles northwest of Roundup.	Roundup	MT		Interior	103c
BLM-Sluice Gulch Leaking Adit.	T6SR15WSec5		MT		Interior	103c
BLM-Thorium City Waste Dump.	T105R15WSec21, 22, 27, 28.	Grant	MT	59734–3016	Interior	3016 103c
BLM-Tungsten Mill Tailings.	T45W9WSec4, 5, 9	Glen	MT	59732	Interior	103c
FWS-Charles M. Russell Refuge.	T21N, R2E, Sec. 15	Turkey Joe Landing	MT	59457	Interior	3010 103c

FEDERAL FACILITIES DOCKET—Continued

[SEA Status Facilities]

Facility name	Facility address	City	State	Zip code	Agency	Reporting mechanism
Malmstrom Air Force Base	Facility 1501 Perimeter Rd.	Great Falls	MT	59402	Air Force	3005 3010 3016 103c 103a
Albemarle Army Reserve Center.	1816 E. Main St	Albemarle	NC	28001	Army	3010 103c
Asheville Army Reserve Center.	224 Louisiana	Asheville	NC	28806	Army	3010 103c
Brevard Army Reserve Center.	E. French Broad St	Brevard	NC	28712	Army	3010 103c
Charlotte #1 Army Reserve Center.	1300 Westover Dr	Charlotte	NC	28205	Army	3010 103c
Cherry Point Marine Corps Air Station.	NC Hwy 101	Cherry Point	NC	28533	Navy	3005 3010 3016 103c
Durham #1 Army Reserve Center.	1228 Carrol St	Durham	NC	27701	Army	3010 103c
Durham #2 Army Reserve Center.	724 Foster St	Durham	NC	27701	Army	3010 103c
Fort Macon Coast Guard Station.	PO Box 237	Atlantic Beach	NC	28512	Transportation	3010 103c
Garner Army Reserve Center.	2017 Garner St	Garner	NC	27529	Army	3010 103c
Greensboro Army Reserve Center.	1120 Church St	Greensboro	NC	27405	Army	3010 103c
Greenville Army Reserve Center.	1391 N. Mem Dr	Greenville	NC	27834	Army	3010 103c
Hickory Army Reserve Center.	1500 12th Street NW	Hickory	NC	28601	Army	3010 103c
High Point Army Reserve Center.	156 Parris Ave	High Point	NC	28307	Army	3010 103c
Lumberton Army Reserve Center.	1400 Carthage Rd	Lumberton	NC	28358	Army	3010 103c
Morehead City Army Reserve Center.	405 Fisher St	Morehead City	NC	28557	Army	3010 103c
Nantahala National Forest-Swain County Landfill.	SR 1311	Bryson City	NC	28713	Agriculture	103c
National Institute of Environmental Health Science.	S on Alexander Dr	Research Triangle Park	NC	27709	Health and Human Services.	3005 3010 103c
National Marine Fisheries Service.	Pivers Island off US Hwy 70 West.	Beaufort	NC	28512	Commerce	3010 3016
Pope Air Force Base	317 CSG/CC	Pope AFB	NC	28308	Air Force	3005 3010 103c 3016
Raleigh Army Reserve Center.	3115 Western Blvd	Raleigh	NC	27606	Army	3005 3010 103c
Rocky Mount Army Reserve Center.	804 Fairview Rd	Rocky Mount	NC	28701	Army	3010 103c
Salisbury Army Reserve Center.	1825 Woodleaf Rd, PO Box 1927.	Salisbury	NC	28114	Army	3010 103c
Seymour Johnson Air Force Base.	4 CSG/DE	Seymour Johnson AFB	NC	27531	Air Force	3005 3010 3016 103c
Technology Center	Hwy 54 & Alexander Drive.	Research Triangle Park	NC	27711	EPA	3005 3010 3016
Wilmington Army Reserve Center.	2144 Lakeshore Dr	Wilmington	NC	28401	Army	3010 103c
Concrete Missile Early Warning Station.	DET 1 57 AD/DE	Concrete	ND	58221	Army	103c 3010 3005
Grand Forks Defense Fuel Support Point.	Grand Forks AFB 42D Street.	Grand Forks	ND	58201	Defense Logistics Agency.	3010 3016 103c
Minot Air Force Base	41 CSG/CC	Minot AFB	ND	58705	Air Force	3005 3010 3016 103c
North Dakota Agricultural Experiment Station.	1605 W. College St	Fargo	ND	58105	Agriculture	3010 3016 103c
Lincoln Naval Reserve Center.	1625 N 10th St	Lincoln	NE	68508	Navy	103c
Omaha Naval and Marine Corps Reserve Center.	Fort Omaha	Omaha	NE	68102	Navy	103c
Section 5 Impoundment	SW¼NW¼SE¼ of Sec 5.	Glenvil Township	NE		Agriculture	103c
Newington Defense Fuel Support Point.	Patterson Lane	Newington	NH	03801	Defense Logistics Agency.	3010 3016 103c
Bayonne Military Ocean Terminal.	Foot of 32nd Street	Bayonne	NJ	07002	Army	3005 3010 3016 103c 103a
East Orange Medical Center.	Tremont Ave	East Orange	NJ	07019	Veterans Administration	3010
Fort Monmouth	Tinton & Pinebrook	Tinton Falls	NJ	07724	Army	3010 3016 103c
FWS-Great Swamp National Wildlife Refuge.	RD 1, Box 152	Basking Ridge	NJ	07920	Interior	3016 103c
Hillsborough Supply Depot	Route 206	Hillsborough TWP	NJ	08853	Veterans Administration	103c
Lyons Medical Center	Knollcraft Road	Lyons	NJ	07939	Veterans Administration	3010 103c
NOAA/NMFS/NEFC	Sandy Hook Laboratory	Highlands	NJ	07732	Commerce	3005 3010
NPS-Gateway National Recreational Area.	Fort Hancock	Sandy Hook—Brooklyn	NJ	07732	Interior	3010 3016 103c

FEDERAL FACILITIES DOCKET—Continued

[SEA Status Facilities]

Facility name	Facility address	City	State	Zip code	Agency	Reporting mechanism
SFC NV Brittan Army Reserve Center.	39th and Federal Street	Camden	NJ	08105	Army	3010
Somerville Depot	Route 206	Somerville	NJ	08876	General Services Administration.	103c
Storck Army Reserve Center.	Shore Road	Northfield	NJ	08225	Army	3010
Stryker Reserve Center	2150 Nottingham Way	Trenton	NJ	08619	Army	3010
BLM-Flora Vista Landfill	T30NR12WSec3	Flora Vista	NM	87415	Interior	3016 103c
BLM-Hyde Mine	35/32/46 & 108/41/26	Gallup	NM	87301	Interior	103c 3016
BLM-South Farmington Sanitary Landfill.	T29NR13WSec20	Farmington	NM	87401	Interior	3016 103c
BLM-Standard Transpipe Corp.	T17SR9ESec18,19	Alamogardo	NM	88310	Interior	103c 3016
BLM-Waterflow Landfill	T30 NR 16W Sec35	Waterflow	NM	87421	Interior	103c 3016
Cibola National Forest	Cibola National Forest	Magdalena	NM	87825	Agriculture	103c
Fort Wingate Depot Activity.	10 Miles East of Gallup on I-10.	Gallup	NM	87310	Army	3005 3010 3016 103c
Gasbuggy	T29N, R4W S36; 55 M E. of Farmington.	Dulce (NEAR)	NM		Energy	103c
La Bajada Mine	1.25 mi upstream from La Bajada.	La Bajada	NM		Agriculture	103c
Lovelace Inhalation Toxicology Research Institute.	Bldg. 9200, Kirtland AFB East.	Albuquerque	NM	87185	Energy	103c 3016
BLM-Henderson Landfill	T21S R63E Section 28, 29.	Henderson	NV		Interior	103c
BLM-Rio Tinto Copper Mine.	Sec 10 & 11 T45N R53E MDM.	Mountain City	NV	89831	Interior	103c
Tonopah Test Range (Sandia National Laboratory).	PO Box 10359	Tonopah	NV	89049	Energy	3005 3010 103c 103a 3016
Aids to Navigation Team	7063 Lighthouse Drive	Saugerties	NY	12477	Transportation	3010
Bellmore Maintenance Facility.	2755 Maple Ave	Bellmore	NY	11710	Army	3010
BLM-Pennsylvania Ave/ Fountain Ave Landfills.	Pennsylvania Ave, Shore Pkwy.	Brooklyn	NY	11207	Interior	3010
Brooklyn Information Agency.	29th & 3rd Ave, Door 15	Brooklyn	NY	11232	General Services Admin.	3010
Brooklyn Naval and Marine Corps Reserve Center.	Floyd Bennett Field	Brooklyn	NY	11234	Navy	103c
Colonie Interim Storage Site.	1130 Central Ave	Colonie	NY	12205	Energy	3005 3010 3016
Emmanuel Cellard Federal Bldg. 225CA.	225 Cadman Plaza	Brooklyn	NY	11201	General Services Admin.	3010
Federal Building	252 7th Ave	New York	NY	10001	General Services Admin.	3010
Fort Hamilton	Ft Hamilton	Brooklyn	NY	11252	Army	3010 103c
Fort Totten	Bayside	Queens	NY	11359	Army	3010 103c
FWS-Iroquois National Wildlife Refuge.	Casey Rd	Alabama	NY	14003	Interior	3016 103c
FWS-Montezuma National Wildlife Refuge.	3395 Route 5 & 20 East	Seneca Falls	NY	13148	Interior	3010 3016 103c
Hancock Field	Taft and Thompson Roads.	North Syracuse	NY	13212	Air Force	3010 3016 103c
Merchandise Control Sales Section.	6 World Trade Center	New York	NY	10048	General Services Admin.	3010
Mitchel Field Housing Facility.	NAVSTA New York Housing Office, Bldg. 19, West Road, Mitchel Field.	Garden City	NY	11530	Navy	103c
Mitchel Manor Housing Facility.	NAVSTA New York Housing Office, 85 A Mitchel Avenue.	East Meadow	NY	11554	Navy	103c
New York	201 Varick St	New York	NY	10014	General Services Admin.	3010
New York Naval Station	207 Flushing Ave	Brooklyn	NY	11251	Navy	3010 103c
Niagara Falls Air Force Reserve Facility.	914 TAG/DE PO Box F LaSalle Station.	Niagara Falls IAP	NY	14304	Air Force	3005 3010 3016 103c
NPS-Gateway National Recreational Area.	Floyd Bennett Field	Brooklyn	NY	11234	Interior	103c
Plant #38	Porter & Balmer Rds	Porter Twp	NY	14131	Air Force	3005 3010 3016 103c
Plum Island Animal Disease Center.	Plum Island	Orient Point	NY	11957	Agriculture	3016 103c
Roosevelt Army Reserve Center.	101 Oak St	Hempstead	NY	11550	Army	3010
Support Center Governor's Island.	C/O US Coast Guard Group.	Governor's Island	NY	10004	Transportation	3010 103c
Verona Defense Fuel Support Point.	Main St	Verona	NY	13478	Defense Logistics Agency.	3010 3016 103c
Watervliet Arsenal	Broadway	Watervliet	NY	12189	Army	3005 3010 3016 103a

FEDERAL FACILITIES DOCKET—Continued

[SEA Status Facilities]

Facility name	Facility address	City	State	Zip code	Agency	Reporting mechanism
West Point Military Academy.	Stewart Army Subpost	West Point	NY	10996	Army	3016
West Point Military Academy.	RT 9W—Bldg 733	West Point	NY	10996	Army	3005 3010 3016 103c
Andrew W. Breidenbach Environmental Research Center.	26 W. St. Clair Street	Cincinnati	OH	45268	EPA	3005 3010 3016
Center Hill Hazardous Waste Engrg Research Lab.	5595 Center Hill Road	Cincinnati	OH	45268	EPA	3005 3010 3016
Cincinnati Defense Fuel Support Plant.	4820 River Rd Hamilton County.	Cincinnati	OH	45233	Defense Logistics Agency.	3010 3016 103c
Columbus Defense Construction Supply Center.	3990 E. Broad St. Franklin County.	Columbus	OH	43215	Army	3005 3010 3016 103c
Electronic Supply Center	1507 Wilmington Pike, Montgomery County.	Dayton	OH	45444	Defense	3010 3016 103c
Lima Defense Plant Representative Office.	Defense Logistics Agency, DPRO General Dynamics—Lima, 1155 Buckeye Rd.	Lima	OH	45804–1898	Army	3010 3016 103c
Testing and Evaluation Facility.	1600 Gest Street	Cincinnati	OH	45203	EPA	3005 3010 3016
BIA-Caddo County Landfill #1.	SE/4 Sec7 T5N R11W SW/4 Sec8.	Apache	OK		Interior	103c
BLM-Minexco Millsite	T9SR42ESec8	Baker	OR	97814	Interior	3016 103c
BLM-Slides Dump Site	T15SR48Sec35,LOTS1,2	Ontario	OR	97914	Interior	3016 103c
Willamette Falls Locks	West Linn	West Linn	OR	97068	Corps of Engineers, Civil	103c 3016
Bettis Atomic Power Laboratory.	P.O. Box 109 Bettis Rd	West Mifflin Borough	PA	15122–0109	Energy	3005 3010 3016 103c
Chas Kelly Support Center	US Army	Oakdale	PA	15071	Army	3010 103c
Greater Pittsburgh International Airport.	911 TAG/DE	Pittsburgh	PA	15231	Air Force	3016 103c
NPS-Gettysburg National Military Park.	RD 1	Gettysburg	PA	17325	Interior	103c
NPS-Valley Forge National Historic Park.	Rte 23	Valley Forge	PA	19481	Interior	103c 3010
Philadelphia Defense Personnel Support Center.	2800 S 20th St	Philadelphia	PA	19101	Army	3005 3010 3016
Borinquen Coast Guard Air Station.	Ramey Air Force Base	Aquadilla	PR	00604	Transportation	3010 103c
Camp Garcia #1	Vieques	Vieques	PR	00765	Navy	103c
Celba Naval Station	Roosevelt Roads	Celba	PR	00635	Navy	3005 3010 3016 103c
Fort Allen	Route 1	Juana Diaz	PR	00665	Army	103c
Roosevelt Roads Naval Station.	Villa Verde St., Drydock and Repair Facility.	Miramar	PR	00903	Navy	3005 3010 3016
Beavertail Point Radar Station.	OFF Beavertail Rd	Jamestown	RI	02835	Defense	3016
Beaufort Marine Corps Air Station.	Lafrene Road	Beaufort	SC	29904	Navy	3005 3010 3016 103c 103a
Beaufort Naval Hospital	SC Highway 280	Beaufort	SC	29902	Navy	3010
Charleston Naval Shipyard	Viaduct Road	Charleston	SC	29408	Navy	3005 3010 3016
Charleston Air Force Base	437 ABG/CC	Charleston AFB	SC	29404	Air Force	3005 3010 3016 103c
Charleston Defense Fuel Supply Point.	N Rhett Ave	Hanahan	SC	29406	Defense Logistics Agency.	3010 3016
Charleston Naval Weapons Station South Annex.	Remount Road	North Charleston	SC	29406	Navy	103c
Myrtle Beach Air Force Base.	354 CSG/DE	Myrtle Beach	SC	29577	Air Force	3005 3010 3016 103a
Parris Island Marine Corps Recruit Depot.	Marine Corps Recruit Depot.	Parris Island	SC	29905	Navy	3005 3010 3016 103a
Shaw Air Force Base	363 CSG/DE	Shaw AFB	SC	29152	Air Force	3005 3010 3016 103c
Training Center and Fort Jackson.	Jackson Blvd	Fort Jackson	SC	29207	Army	3005 3010 3016 103a
Silver King Mines Inc	US Hwy. 18	Edgemont	SD	57735	Tennessee Valley Authority.	3010 103c
Allen Fossil Plant	2574 Plant Rd	Memphis	TN	38109	Tennessee Valley Authority.	3005 3010 3016 103c 103a
Arnold Engineering Development Center.	TN Hwy 127	Arnold Air Force Base	TN	37389 3010	Air Force	3005 3010 3016 103c 103a
Bull Run Fossil Plant	Edgemoor Rd., 6 mi SE of Oak Ridge.	Oak Ridge	TN	37930	Tennessee Valley Authority.	3010
Cumberland Fossil Plant	TN Highway 149 South	Cumberland City	TN	37050	Tennessee Valley Authority.	3010
Hartsville Site	TN Hwy 25	Hartsville	TN	37050	Tennessee Valley Authority.	3010
Holston Army Ammunition Plant.	West Stone Drive	Kingsport	TN	37660	Army	3005 3010 3016 103c
John Sevier Fossil Plant	TN Hwy 70E	Rogersville	TN	37134	Tennessee Valley Authority.	3005 3010 103c

FEDERAL FACILITIES DOCKET—Continued

[SEA Status Facilities]

Facility name	Facility address	City	State	Zip code	Agency	Reporting mechanism
Kingston Fossil Plant	Off I-40 East	Kingston	TN	37763	Tennessee Valley Authority.	3005 3010 103c
Memphis Naval Air Station	Millington-Arlington Road	Millington	TN	38054	Navy	3005 3010 3016 103c
Sequoyah Nuclear Plant	Hixson Pike Rd	Daisys	TN	37319	Tennessee Valley Authority.	3005 3010 103c
Watts Bar Nuclear Plant	TN Hwy 68	Spring City	TN	37381	Tennessee Valley Authority.	3005 3010 103c
Air Defense Center & Fort Bliss.	Pershing Drive	Fort Bliss	TX	79916	Army	3005 3010 3016 103c 103a
Canyon Lake Recreation Area.	North Side of Canyon Lake (By Dam).	San Antonio	TX	78234	Army	103c
Corpus Christi Army Maintenance Support Activity.	2022 Saratoga	Corpus Christi	TX	78415	Army	3005 3010 103c
Dyess Air Force Base	96 CSG/CC	Abilene	TX	79607	Air Force	3005 3010 3016 103c 103a
Galveston Coast Guard Base.	Ferry Road	Galveston	TX	77550	Transportation	3010
Houston Laboratory	6608 Homwood Dr	Houston	TX	77074	EPA	3010 103c
L.B. Johnson Space Center.	2101 NASA Road	Houston	TX	77058	NASA	3005 3010 3016 103a
NPS-Padre Island National Seashore Bone Yard.	Park Road 22	Corpus Christi	TX	78418	Interior	3010 3016 103c
Unidentified Site	US Forest Service Property.	Huntsville	TX		Agriculture	103c
BLM-Chevron Red Wash Unit.	T7SR7ESec22	Vernal	UT	84078	Interior	3016 103c
BLM-Desert Mound Mine	T35NR13WSec35	Cedar City	UT	84720	Interior	3016 103c
BLM-Frye Canyon Tailing	T36SR16ESec34	Hite	UT	84511	Interior	3016 103c
BLM-Ore Buying Station-MOAB.	T26SR22E Sec6PARCLABC.	MOAB	UT	84532	Interior	3016 103c
Arlington Hall Station	US Army	Warrenton	VA	22186	Army	3010 103c
Arlington Marine Corps Battalion Headquarters Arl.	Henderson Hall	Arlington	VA	22214	Navy	103c
Oyster Point Development Corp.	610 Thimble Shoals Blvd	Newport News	VA	23601	Air Force	103c
Roanoke Navy and Marine Corps Reserve.	5301 Barnes Ave	Roanoke	VA	24019	Navy	3010 103c
BLM-Enlo Powerhouse aka Similkameen.	T40NR27ESec13	Oroville	WA	98844	Interior	103c
BR-Grand Coulee Dam Project.	PO Box 620	Grand Coulee	WA	99133	Interior	3010 3016
FS-Forest Production Laboratory.	502 Walnut Street	Madison	WI	53705	Agriculture	3005 3010
WAPA-Casper Field BR	W of Mt View on Spider Rd.	Mills	WY	82644	Energy	103c

[FR Doc. 93-1052 Filed 2-4-93; 8:45 am]

BILLING CODE 6560-50-M

federal register

Friday
February 5, 1993

Part III

Department of Transportation

Coast Guard

33 CFR Part 150, et al.
Response Plans; Interim Final Rules

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 150 and 154

[CGD 91-036]

RIN 2115-AD82

Response Plans for Marine Transportation-Related Facilities

AGENCY: Coast Guard, DOT.

ACTION: Interim final rule.

SUMMARY: The Coast Guard is establishing regulations requiring response plans for marine transportation-related (MTR) facilities including deepwater ports, certain Coast Guard-regulated onshore facilities, marinas, tank trucks, and railroad tank cars. This interim final rule (IFR) also establishes additional response plan requirements for facilities located in Prince William Sound, Alaska, permitted under the Trans-Alaska Pipeline Authorization Act (TAPAA). This IFR addresses all MTR facilities that could reasonably be expected to cause substantial harm to the environment by discharging oil into or on the navigable waters of the United States, adjoining shorelines, or the exclusive economic zone. Regulations requiring facility response plans and discharge removal equipment are mandated by the Federal Water Pollution Control Act (FWPCA), as amended by the Oil Pollution Act of 1990. The purpose of requiring facility response plans and discharge removal equipment is to enhance private sector planning and response capabilities to minimize the environmental impact of spilled oil.

DATES: Effective Date. This interim final rule is effective February 5, 1993, except for §§ 154.1110 through 154.1140 of subpart G. Sections 154.1110 through 154.1140 are effective August 18, 1993.

The Director of the **Federal Register** approves as of February 5, 1993, the incorporation by reference of certain publications listed in the regulations.

Comment Closing Date. Comments on this interim final rule, as requested below, must be received on or before April 6, 1993.

ADDRESSES: Comments must be in writing and may be mailed to the Executive Secretary, Marine Safety Council (G-LRA/3406) (CGD 91-036), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, or may be delivered to Room 3406 at the above address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. For information concerning comments, the telephone number is (202) 267-1477. Comments on collection of information requirements must be mailed also to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

The Executive Secretary maintains the public docket for this rule. Comments will become part of this docket and will be available for inspection or copying at Room 3406, U.S. Coast Guard Headquarters.

A copy of the material listed in "Incorporation by Reference" of this preamble is available for inspection in room B-718, U.S. Coast Guard Headquarters.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Walter (Bud) Hunt, Project Manager, Oil Pollution Act (OPA 90) Staff, (G-MS-1), (202) 267-6740. This telephone is equipped to record messages on a 24-hour basis.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, this interim final rule is being issued without a prior notice of proposed rulemaking and it becomes effective on February 5, 1993. Timely exercise of the Coast Guard's statutory responsibilities under the Oil Pollution Act of 1990 (OPA 90) (Pub. L. 101-380) requires this action and to do otherwise would be contrary to the public interest.

Section 4202(a) of OPA 90 amended section 311(j) of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C. 1321(j)) to establish requirements for marine transportation-related (MTR) facility response plans. Section 4202(b)(4) of OPA 90 specifies an implementation schedule for these provisions. MTR facility response plans must be submitted to the Coast Guard by February 18, 1993, and MTR facilities must be operating in compliance with their plans by August 18, 1993. MTR facilities not complying with these dates are prohibited from handling, storing, or transporting oil after the applicable dates. OPA 90 also established a statutory deadline for the publication of regulations to implement response plan requirements. These regulations were to be published by August 18, 1992. Because of the statutory deadline for submission of response plans and the need to assist the regulated community to prepare response plans, any further delays in issuing these regulations would create a hardship on the regulated community and prevent timely enforcement of the response plan provisions of OPA 90. Therefore, it has been determined that good cause exists for omitting prior notice and comment on the proposed rule and making the rule effective immediately.

The Coast Guard did publish an advance notice of proposed rulemaking (ANPRM) on these regulations in the March 11, 1992 **Federal Register** (57 FR 8708). The ANPRM discussed the background, statutory requirements of section 311(j) of the FWPCA, and possible regulatory approaches. In addition, the ANPRM posed questions for public comment. The Coast Guard received 116 comments. Each of the comment letters was considered in developing these regulations.

Request for Comments

Although a further opportunity for public comment had not been provided prior to issuing this interim final rule, additional public input is now requested. The Coast Guard is particularly interested in comments that are based on experience gained in preparing response plans that meet the requirements of this rule.

Accordingly, persons wishing to comment may do so by submitting written comments to the address listed under **ADDRESSES.** Commenters should include their names and addresses, identify this rulemaking (CGD 91-036) and the specific section of this proposal to which each comment applies, and give the reason for each comment. The Coast Guard requests that all comments and attachments be submitted in an unbound format suitable for copying and electronic filing. If not practical, a second copy of any bound material is requested. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self addressed postcard or envelope.

Comments should be submitted on or before the Comment Closing Date listed in the "**DATES**" section in this preamble in order to receive timely consideration; however late comments will be considered to the extent practicable. The rule may be changed based upon the comments received.

The Coast Guard plans no public hearing at this time. Persons may request a public hearing by writing to the Marine Safety Council at the address under "**ADDRESSES.**" Requests should indicate why a public hearing is considered necessary. If the Coast Guard determines that the opportunity for oral presentations will aid this rulemaking, it will hold a public hearing at a time and place announced by a later notice in the **Federal Register.**

Drafting Information

The principal persons involved in drafting this document are Lieutenant

Commander Walter (Bud) Hunt, Project Manager, and Jacqueline Sullivan, Project Counsel, Oil Pollution Act (OPA 90) Staff, (G–MS–1).

Background and Purpose

In recent years several catastrophic oil spills have threatened the marine environment of the United States. Among these were the EXXON VALDEZ in Prince William Sound, Alaska, the AMERICAN TRADER in California's coastal waters, the MEGA BORG in the Gulf of Mexico, and the major discharge from the Ashland Oil Terminal into the Monongahela River at Floreffe, Pennsylvania. These spills had extensive impact on the marine environment, including the loss of fish and wildlife.

In response to these disasters and others, Congress passed the Oil Pollution Act of 1990 (OPA 90) (Pub. L. 101–380). Section 4202(a) of OPA 90 amended section 311(j) of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C. 1321(j)). It set out the requirements for facility response plans and periodic inspections of discharge-removal equipment in sections 311 (j)(5) and (j)(6), respectively. Section 4202(b)(4) of OPA 90 established an implementation schedule for these provisions.

As amended, section 311(j)(5) of the FWPCA requires owners or operators of certain facilities to submit response plans to the President. This requirement applies to facilities that could reasonably be expected to cause substantial harm to the environment by discharging oil or a hazardous substance into or on the navigable waters of the United States, adjoining shorelines, or the exclusive economic zone.

As amended, section 311(j)(5) also directs the President to issue regulations implementing the new FWPCA requirements for facility response plans. This authority has been delegated by Executive Order 12777 (3 CFR, 1991 Comp.; 56 FR 54757) to the Administrator of the Environmental Protection Agency (EPA), the Secretary of the Department of the Interior (DOI), and the Secretary of the Department of Transportation (DOT).

Under Executive Order 12777, the EPA is drafting regulations for non-transportation-related fixed onshore facilities. DOI's Minerals Management Service is drafting regulations for response plans for non-transportation-related offshore facilities and transportation-related pipelines linking oil production platforms to onshore facilities. The DOT is drafting regulations for transportation-related onshore facilities, and deepwater ports subject to the Deepwater Ports Act of 1974, as amended (33 U.S.C. 1501, *et seq.*). The Secretary of Transportation, in 49 CFR 1.46(m) (57 FR 8581; Mar. 11, 1992), further delegated the authority for regulating MTR facilities to the Commandant of the Coast Guard. Thus, the Coast Guard has drafted these regulations for MTR facilities. The Research and Special Programs Administration will issue separate regulations for non-marine transportation-related onshore facilities. Since several Federal agencies are drafting regulations requiring facility response plans, these agencies have been meeting to discuss and coordinate development of the regulations.

This rule addresses only MTR facilities that handle, store, or transport oil. Response plans for MTR facilities that handle, store, or transport hazardous substances will be the subject of a separate rulemaking at a later time.

A separate NPRM has been published in the **Federal Register** addressing vessel response plans. See CGD 91–034/CGD 90–068, (57 FR 27514, June 19, 1992).

Section 311(j)(5) of the FWPCA requires the preparation and submission of response plans from all onshore facilities that could reasonably be expected to cause substantial harm to the environment by discharging oil into or on the navigable waters, adjoining shorelines, or exclusive economic zone. Response plans submitted for those onshore facilities that could cause significant and substantial harm to the environment by such discharges must meet additional review and approval requirements. OPA 90 does not define the distinction between "substantial harm" and "significant and substantial."

The OPA 90 Conference Report (Report 101–653) states that the President is to develop nationwide criteria to determine those facilities which could reasonably be expected to cause substantial harm to the environment and are therefore required to submit plans. The report also states that the criteria should result in a broad requirement for facility owners or operators to prepare and submit response plans.

OPA 90 mandated several deadlines for MTR facility response plans. After February 18, 1993, an MTR facility required to have a response plan may not handle, store, or transport oil unless a plan has been submitted to the Coast Guard. After August 18, 1993, a facility required to have a response plan may not handle, store, or transport oil unless it is operating in compliance with the plan, and in the case of a facility for which a response plan must be reviewed, it has been approved by the Coast Guard.

The Coast Guard will authorize an MTR facility which could reasonably be expected to cause significant and substantial harm to the environment and has submitted a response plan to continue to operate for up to 2 years from plan submission without agency approval of the response plan. However, the owner or operator of the facility must certify that he or she has ensured by contract or other means acceptable to the Coast Guard the availability of private personnel and equipment adequate to respond, to the maximum extent practicable, to a worst case discharge or substantial threat of such a discharge.

Section 311(j)(5) of the FWPCA requires that, in a facility response plan, an owner or operator identify and ensure by contract or other means approved by the President the availability of private personnel and equipment sufficient to remove, to the maximum extent practicable, a worst case discharge and to mitigate or prevent substantial threat of such a discharge. A worst case discharge for a facility is defined in section 311(a)(24) of the FWPCA, as amended by section 4201 of OPA 90, as the largest foreseeable discharge in adverse weather conditions. The statute does not further define a "foreseeable discharge" or "adverse weather."

A major objective of the OPA 90 amendments to section 311(j)(5) of the FWPCA is to create a national planning and response system. Certain worst case discharges, such as those also involving a fire or explosion at the facility, could require the use of both private and public response resources.

Section 5005 of OPA 90 establishes requirements for response plans for MTR facilities located in Prince William Sound, Alaska, which are permitted under the Trans-Alaska Pipeline Authorization Act (TAPAA) (43 U.S.C. 1651, *et seq.*). This section requires a level of preparedness for facilities in Prince William Sound which is in addition to the requirements of section 311(j) of the FWPCA. These statutory requirements are intended to provide an even greater margin of safety in Prince William Sound by requiring prepositioned response equipment; an oil spill removal organization; special training for residents; periodic inspections, testing, and certification of response equipment; and exercises for the trained personnel and spill removal equipment.

Response Plans for Marine Transportation-related (MTR) Facilities

Marine transportation-related facilities are defined in the rule as any onshore facility, including piping and any structure used to transfer oil to or from a vessel, and any deepwater port subject to regulation under 33 CFR part 150.

Substantial Harm Facilities

This rule requires the owners or operators of all MTR facilities which could reasonably be expected to cause substantial harm to the environment to prepare and submit a response plan. Generally, fixed and mobile facilities (tank trucks and railroad tank cars) that are used, or intended to be used for, transferring oil, in bulk, to or from a vessel with a capacity of 250 barrels or more, fall within this substantial harm category.

Fixed and mobile MTR facilities that are capable of transferring oil, in bulk, only to or from a vessel with a capacity of less than 250 barrels (such as marinas and tank trucks fueling recreational vessels) could not reasonably be expected to cause substantial harm to the environment and will not be required to prepare and submit response plans. However, if the COTP determines that a worst case discharge from a specific facility could reasonably be expected to cause substantial harm to the environment, that facility will be required to prepare and submit a response plan to the COTP.

The Coast Guard believes that mobile facilities that are used for, or intended to be used for, transferring oil, in bulk, to or from a vessel with a capacity of 250 barrels or more are as reasonably likely to cause substantial harm to the environment as are fixed facilities when conducting oil transfer operations to vessels. When mobile MTR facilities conduct operations alongside or over navigable waters, discharges from these operations are likely to enter the water before effective containment actions can be initiated on the shore or pier.

Mobile facilities that are used for, or intended to be used for transferring oil, in bulk, to or from a vessel with a capacity of 250 barrels or more are classified as substantial harm facilities. These facilities, which under 33 CFR 154 are already required to have an operations manual and a valid letter of adequacy issued by the cognizant COTP, will be required to prepare and submit response plans but will not be required to execute a formal contract for pollution response resources. These response plans will be required to identify response contractors or response resources they are likely to employ in the event of a worst case discharge. They will also be required to store limited amounts of containment boom and sorbent materials that will be required to be ready for deployment within 1 hour after notification of a discharge of oil. This reduced response planning standard recognizes that these mobile MTR facilities represent a lesser threat to the environment than large fixed MTR facilities.

Significant and Substantial Harm Facilities

This rule requires the owners or operators of deepwater ports and large fixed MTR facilities that could reasonably be expected to cause significant and substantial harm to the environment in the event of a worst case discharge to prepare and submit their response plans for approval by the Coast Guard. Large fixed MTR facilities are those facilities that are capable of transferring oil, in bulk, to or from a vessel with a capacity of 250 barrels or more. These facilities may operate for up to 2 years pending approval of a submitted response plan provided that the facility owner or operator certifies that private personnel and equipment are available, by contract or other approved means, to respond, to the maximum extent practicable, to a worst case discharge or substantial threat of a discharge.

The Coast Guard is placing most fixed MTR facilities regulated under 33 CFR 154.100(a) in the category of significant and substantial harm. Section 154.100(a) makes part 154 applicable to each fixed facility that is capable of transferring oil in bulk to or from a vessel with a capacity of 250 or more barrels. These facilities are placed in this category based on their proximity to navigable waters, adjoining shorelines, or the exclusive economic zone; their oil storage capacity; and the nature of their operations.

Deepwater ports, regulated under 33 CFR part 150, are also covered by the rule. As an offshore facility, a deepwater port must prepare and submit a response plan for review and approval under section 311(j)(5). For MTR facilities that can be reasonably expected to cause significant and substantial harm, the rule provides that once the Coast Guard has reviewed a plan, it will return for amendment any plan that does not meet the requirements set forth under the provisions of the amended section 311(j)(5) of the FWPCA. It also requires the Coast Guard to approve any plan that does comply with those provisions.

Adjustments to Facility Classification

The rule will permit any MTR facility owner or operator believing that his or her facility would not cause substantial or significant and substantial harm as a result of a worst case discharge of oil, to request the cognizant Coast Guard Captain of the Port (COTP) to reclassify the facility. The COTP, when reviewing this information, will consider factors such as the type and age of the facility, spill history, location of public and commercial water intakes, and other relevant factors. A procedure is included for appealing the COTP determination.

Equipment Availability and Criteria

This rule establishes the criteria for worst case discharge and requires MTR facilities to identify private personnel and equipment available, by contract or other approved means, sufficient to remove, to the maximum extent practicable, a worst case discharge and to mitigate and prevent a substantial threat of such a discharge. Separate guidance is being developed that includes inspection requirements for the major pieces of equipment required to contain and clean up oil discharges.

The Coast Guard proposed, in its vessel response plan NPRM (57 FR 27514, June 19, 1992), certain criteria for determining the amount of equipment required to respond to a discharge of oil. Many comments were received by the Coast Guard on the criteria proposed in the vessel response plan NPRM. The criteria in that NPRM have been modified and where appropriate, this rule uses the same criteria for facility response plans to provide consistency between the two regulations. The criteria provide guidelines and standards for non-persistent oils and Group II through Group IV persistent oils which both the MTR facility owner or operator and the Coast Guard COTP will apply in determining whether a facility has sufficient equipment to respond to a specified spill scenario.

This rule requires that a response plan for an MTR facility identify only private response resources. These resources will comprise the majority of personnel and equipment available for the national planning and response system. Furthermore, the equipment, training, and experience of these organizations will be essential to any successful pollution response effort. The integration and coordination of public and private response resources will be addressed in the applicable Area Contingency Plans.

This rule also addresses response plan requirements for TAPAA facilities in Prince William Sound, Alaska. These additional requirements appear in Subpart G of this rule.

Advance Notice of Proposed Rulemaking

The Coast Guard published an Advance Notice of Proposed Rulemaking (ANPRM) on this rule in the March 11, 1992 Federal Register (57 FR 8708). The ANPRM discussed the background, statutory requirements of section 311(j) of the FWPCA, and possible regulatory approaches. In addition, the ANPRM posed questions for public comment. The Coast Guard received 116 comments. Each of the comment letters was considered in developing this rule.

Though there is a wide disparity of positions in the comments on the MTR facilities response plan ANPRM, a number of issues seem to have engendered the most concern.

A recurring concern expressed in the responses was the need to avoid conflicting regulations. Many commenters from industry feel that existing Spill Prevention, Control, and Countermeasures (SPCC) plans required by EPA under 40 CFR 112 and operations manuals required by the Coast Guard under 33 CFR 154 are completely adequate and that further requirements will constitute over-regulation. State government agencies expressed concern that the new regulations may conflict with existing or pending State regulations, despite the statutory requirement that Federal laws and regulations not preempt State response planning laws. Many comments reflected a desire for the new regulations to be flexible.

The Coast Guard believes that this rule provides the maximum flexibility practicable in establishing requirements for response plans. The Federalism section of this IFR contains a discussion on the issue of preemption.

Comments from private terminal operators called for regulations that were less stringent than State regulations. Members of industry expressed concern that they will be required to prepare for circumstances which are simply too unlikely to occur. They feel that this will cost too much and some small facilities are concerned that they may not be able to comply. Some mentioned that they may be able to acquire the required equipment but may not have the manpower at the facility to deploy it.

All response plans must meet the statutory requirements set out in OPA 90. However, this IFR does provide for reduced requirements for mobile MTR facilities, fixed facilities that handle, store, or transport Group V petroleum oils, and fixed facilities that handle, store, or transport non-petroleum oils.

Many comments address the lack of definition of the terms "substantial harm" to the environment and "significant and substantial harm" to the environment, "average most probable discharge," and "worst case discharge." The definition of these terms will substantially affect them.

Accordingly, the Coast Guard has provided definitions for these terms in this IFR and provided for individual determinations, where appropriate.

Many commenters stated that the Coast Guard should require all plans to be submitted, reviewed, and approved. However, OPA 90 specifically requires only significant and substantial harm facilities to submit response plans for review and approval. Facilities which fall in the category of substantial harm must still submit response plans to the Coast Guard; but those plans do not require formal approval. They may be reviewed by the COTP and deficiencies will need to be corrected.

Some comments mentioned that a good way to increase prevention efforts would be to provide incentives in the form of less stringent response requirements. Most agreed that the qualified individual identified in the plan should be on a local level, and that multiple-terminal operators should have some kind of local response plan even if they maintain a corporate plan as well. Most comments requested that one lead agency be responsible for approving plans and that the Coast Guard is probably the most appropriate agency. Several mentioned that facilities handling edible oil should be exempt from the regulations. They also felt that the regulations should be consistent with the vessel response plan regulations and the area contingency plans. Some requested public hearings, particularly in Alaska.

There was a great deal of disagreement about the certification of contractors and equipment, and frequency of drills. Commenters also disagreed over whether facility response personnel should be required to do more than just control and report a spill. There were comments on whether the response plan should be an annex to the operations manual or a separate document in itself. Many disagreed about the possibility of lending equipment; most think some lending should be allowed, although that would be impossible for some areas, such as American Samoa and Alaska, particularly during bad weather.

Louisiana Offshore Oil Port Inc. (LOOP) provided comments on the ANPRM regarding the application of OPA 90-mandated response planning requirements to its facility. LOOP INC. contends that the response plan regulations should not apply to LOOP as it is regulated under the Deepwater Port Act (DPA) of 1974 (33 U.S.C. 1501–1524). As a deepwater port, the Coast Guard recognizes that LOOP is regulated under 33 CFR part 150 and must prepare an operations manual in accordance with 150.105. However, section 311(j)(5) of the FWPCA, as amended by 4202(b)(4) of OPA 90, requires all offshore facilities to prepare and submit response plans to the President. Deepwater ports are included in the statutory definition of offshore facilities. The authority to impose response plan requirements on deepwater ports was specifically delegated to DOT under section 2(d)(2) of Executive Order 12777 (56 FR 54757; Oct. 22, 1991). This authority was subsequently delegated to the Coast Guard (57 FR 8581; March 11, 1992). These facilities must prepare response plans meeting the requirements of section 311(j)(5) of the FWPCA and the Coast Guard must review the plans and approve them when they meet the requirements for a response plan.

Recommendations of Oil Spill Response Plan Negotiated Rulemaking Committee

To gather information for the Vessel Response Plan NPRM, the Coast Guard established an Oil Spill Response Plan Negotiated Rulemaking Committee (56 FR 58202, November 18, 1991). Meeting dates of the Committee were published on January 10, 1992 (57 FR 1139). Committee sessions were held between January 8th and March 27th, 1992. After its last meeting, the Committee provided the Coast Guard with a final report.

The Coast Guard used information in this final report to develop the vessel response plan NPRM. To maintain consistency between the two regulations, this rule uses certain concepts contained in the vessel response plan NPRM. Thus, this rule contains certain conclusions found in the Committee's final report.

Copies of the Committee's final report and all documents considered by the Committee during its meetings are in the public docket for that rulemaking (CGD 91–034).

Navigation and Vessel Inspection Circular 7-92, Interim Guidelines for Development and Review of Response Plans for Marine Transportation-Related Facilities Including Deepwater Ports

Given the statutory deadline for the submission of response plans by facility owners or operators, the Coast Guard promulgated Navigation and Vessel Inspection Circular (NVIC) 7-92 dated September 23, 1992. The NVIC provided guidance to the marine industry for preparing response plans for certain facilities, as required by the OPA 90 amendments to the FWPCA. The Coast Guard will accept a response plan based on the NVIC to meet the February 18, 1993 submission deadline, as well as a response plan meeting this interim final rule. The owner or operator of a facility that submits a response plan based on the NVIC, shall so indicate that in a letter accompanying the plan submission. Only then will the plan be reviewed for approval based on the provisions contained in the NVIC. However, any response plan submitted after February 18, 1993 must meet the requirements of this interim final rule. After August 18, 1993, all facilities must be operating in compliance with their plan and "significant and substantial harm" facilities must have an approved plan or have been authorized by the Coast Guard in writing to operate pending approval of a submitted plan.

Discussion of Amendments

To implement the requirements of section 311(j)(5) of the FWPCA, as amended, the Coast Guard is defining those MTR facilities required to prepare and submit oil spill response plans and establishing the format and the content of those plans. These plans are necessary to ensure the availability of sufficient spill response resources. The following is a section-by-section summary of the rule.

33 CFR Part 150, Subpart A—General

Section 150.129 Response Plans

This rule amends 33 CFR part 150 to require the owner or operator of a deepwater port to prepare and submit a response plan to the COTP. As an offshore facility, a deepwater port must prepare and submit a response plan under section 311(j)(5). The response plan must be prepared and submitted for review and approval in accordance with 33 CFR part 154, subpart F. The Coast Guard has previously addressed the contention of LOOP INC. that OPA 90 response planning regulations should not be applied to that facility.

33 CFR Part 154, Subpart A—Response Plans

Section 154.100 Applicability

The rule amends § 154.100 by revising paragraph (a) and adding paragraph (c). Paragraph (a) is revised to clarify that only those mobile facilities that are actually being used or are intended to be used to transfer oil, in bulk, to or from a vessel with a capacity of 250 barrels or more are required to prepare and submit facility response plans. The revision to paragraph (a) and addition of paragraph (c) allows the COTP to apply this subpart to all MTR facilities not originally categorized as "substantial harm" facilities as defined in subpart F.

Section 154.106 Incorporation by Reference

This section incorporates by reference four standard test methods developed by the American Society for Testing and Materials (ASTM). These test methods are acceptable means to evaluate the performance capabilities of oil booms and recovery devices for purposes of §§ 154.1045, 154.1047, and 154.1049 as discussed below. ASTM is in the process of updating these standards as well as developing new standards for response equipment performance evaluation. The Coast Guard is an active participant in this process and will revise this section as necessary to reflect applicable standards subsequently adopted by ASTM and determined appropriate by the Coast Guard.

33 CFR Part 154, Subpart F—Response Plans

Section 154.1010 Purpose

This section describes the purpose of this rule and notes that the requirements set forth in the rule are for planning purposes only. The requirements are not performance standards. They are intended to be used by an MTR facility owner or operator to develop a plan for responding to the facility's worst case discharge in adverse weather to the maximum extent practicable. Actual conditions during a spill event may not permit the arrival of the resources within the prescribed timelines; however, actual conditions may also permit faster response times in some situations.

The development of a response plan and the necessary training and drills to ensure its proper implementation, is a means that prepares the MTR facility owner or operator for an emergency situation. The response plans are not to help government response agencies better prepare, but, to help ensure the facility owner or operator is prepared. The intent is to have the owner or operator critically review the potential risk to the marine environment for an accidental oil discharge from the facility. The requirements for these plans are intended to focus owners and operators on: the risk to the marine environment; what actions they can employ to mitigate the risk; and considering the risk, development of a plan that aggressively responds to a spill from the facility. The response plan requirements are intended to ensure that the facility owner or operator has asked himself or herself the hard questions of: What is the risk? What private sector resources are available? Where and how do I rapidly address and resolve the problems this spill has caused to the marine environment?

Section 154.1015 Applicability

The requirements of this subpart apply to MTR facilities that handle, store, or transport oil, in bulk, and that could reasonably be expected to cause substantial harm or significant and substantial harm to the environment by discharging oil into or on the navigable waters, adjoining shorelines, or exclusive economic zone. These facilities must prepare and submit a facility response plan to the COTP. Significant and substantial harm facilities must also have their response plans approved by the COTP. Significant and substantial harm facilities represent a subset of the facilities that are designated as substantial harm facilities. Fixed MTR facilities that are capable of transferring oil, in bulk, to or from vessel with a capacity of 250 barrels or more could reasonably be expected to cause significant and substantial harm to the environment.

The rule provides that mobile MTR facilities capable of transferring oil to or from vessels with a capacity of 250 or more barrels of oil could reasonably be expected to cause substantial harm to the environment in the event of a worst case discharge of oil. These facilities must prepare and submit a facility response plan to the COTP.

The Coast Guard made these initial determinations based on the facility's capacity and proximity to navigable waters, adjoining shorelines, or the exclusive economic zone. However, a facility owner or operator who does not agree with the initial classification may request review of the facility's classification by the COTP in accordance with 33 CFR 154.1075. The COTP will review information on the facility and other relevant factors to determine if the facility could reasonably be expected to cause substantial or significant and substantial

harm to the environment by a worst case discharge from the facility. The COTP determination may be appealed to the District Commander and Commandant.

Section 154.1016 Upgrade Facility Classification

This section provides the COTP with the authority to apply the requirements of subpart F to any facility that is not specified as a substantial harm or significant and substantial harm facility in § 154.1015. This section also provides the COTP with the authority to reclassify any substantial harm facility to a significant and substantial harm facility.

The COTP may determine that a specific fixed MTR facility capable of transferring oil only to or from vessels with a capacity of less than 250 barrels, such as a marina, and therefore subject to regulation under 33 CFR 154.100(b), could reasonably be expected to cause substantial harm to the environment. The COTP may also determine that a specific mobile MTR facility capable of transferring oil to or from vessels with a capacity of less than 250 barrels could also reasonably be expected to cause substantial harm to the environment. The Coast Guard expects that COTPs will infrequently reclassify facilities in this manner.

This section provides that reclassification of facilities will be based on a consideration of all relevant factors including, but not limited to, the type and quantity of oils handled in bulk, facility spill history, age of facility, proximity to public and commercial water supply intakes, and proximity to areas of economic importance and environmental sensitivity. Facility owners or operators may also appeal this reclassification in accordance with § 154.1075 in this IFR.

Section 154.1017 Response Plan Submission Requirements

This section requires any significant and substantial harm facility specified in § 154.1015(c) to prepare and submit a response plan that meets the requirements of §§ 154.1030, 154.1035, and 154.1045, 154.1047, or 154.1049, as appropriate, to the COTP for review and approval. It also requires any substantial harm facility specified in § 154.1015(b) to prepare and submit a response plan to the COTP that meets the requirements of §§ 154.1030, 154.1040, and 154.1045, 154.1047, or 154.1049, as appropriate. Additionally, a mobile facility must prepare and submit a response plan that meets the requirements of § 154.1041.

Section 154.1020 Definitions

This section adds definitions that are based on the FWPCA, other regulations, or devised by the Coast Guard to define terms used in subpart F. The following definitions are only applicable to this subpart.

Adverse weather. The definition was proposed in the Vessel Response Plan NPRM. Adverse weather means the weather conditions to be used during the planning process to identify equipment and systems required for the response plan. The specific weather conditions for planning are found in §§ 154.1045, 154.1047, and 154.1049.

Average most probable discharge. The definition is based on a review of historical facility spill data. This review showed that, from 1985 to 1989, 95 percent of the oil spills from facilities in the coastal zone were 50 barrels (2100 gallons) or less. This includes all facility discharges including spills from routine operations. The definition uses the lesser of 50 barrels or 1 percent of the worst case discharge as the average most probable spill. Using the lesser of the two values will lessen the regulatory burden on small volume facilities while maintaining sufficient response planning.

Captain of the Port (COTP) Zone. The definition describes the area specified in 33 CFR Part 3 and, where applicable, the seaward extension of that zone to the outer boundary of the exclusive economic zone (EEZ).

Contract or other approved means. The definition means the five methods described in § 154.1028.

Exclusive economic zone (EEZ). The definition is based on section 1001(8) of OPA 90. It describes this zone as defined in Presidential Proclamation 5030 of March 10, 1983. This zone extends 200 miles from the territorial sea baseline unless a maritime boundary with another country is closer than 200 miles.

Facility that could reasonably be expected to cause significant and substantial harm. The definition describes a fixed MTR facility which must prepare and submit a response plan to the COTP for review and approval. In general, this facility is capable of transferring oil in bulk to or from a vessel with a capacity of 250 barrels or more and is typically a large fixed MTR facility. This category also includes any facility specifically designated by the COTP in § 154.1016.

Facility that could reasonably be expected to cause substantial harm. The definition describes an MTR facility which must prepare and submit a response plan to the COTP. In general, this facility is a mobile facility that is used or intended to be used to transfer oil, in bulk, to or from a vessel with a capacity of 250 barrels or more. This category also includes any facility specifically designated by the COTP in § 154.1016.

Great Lakes. The definition was taken from 46 CFR 10.103.

Higher volume port area. The Coast Guard has identified ports within which it believes greater response capability is necessary. The Coast Guard based its determination on a study of relative volumes of persistent and non-persistent oil handled, stored, or transported in the port areas. The Coast Guard evaluated the 1987 and 1988 U.S. Army Corps of Engineers reports on "Waterborne Commerce of the United States." These reports provide statistics for 34 port areas. The volumes of persistent and non-persistent oils were compiled for the listed ports. Analysis of this data indicated that 15 port areas had oil volumes significantly greater than others. The decision to choose 15 port areas was based on the distinct break that occurs between ports areas at the point selected. A report describing the methodology used for this determination is in the public docket.

Inland area. The definition is based on the existing boundaries used in 33 CFR part 80 and 46 CFR part 7. It defines a boundary for identifying response times and determining equipment operability criteria.

Marine transportation-related facility. The definition includes any onshore facility, including piping and any structures used for the transfer of oil to or from a vessel, and any deepwater port subject to regulation under 33 CFR part 150. Included in this definition are large fixed onshore facilities, small fixed onshore facilities (such as marinas), mobile facilities (tank trucks and railroad tank cars), and deepwater ports.

The definition of the transportation-related portion of the facility and the non-transportation-related portion is provided in the 1971 Memorandum of Understanding between the Environmental Protection Agency and the Department of Transportation. In this section of the IFR the Coast Guard further defines the marine-transportation-related portion of the facility. For the purpose of response planning, the Coast Guard has identified the first valve inside the secondary containment as separating the marine transportation-related segment of the facility from the non-transportation-related segment. For below ground storage tanks or tanks without secondary containment the separation between facilities may be a valve or

pump located on or adjacent to the tanks. The definition also provides for the COTP and the appropriate Federal official to agree to a specific location or point on the facility to be used to separate the marine transportation-related portion from the non-transportation-related portion of the facility.

Maximum extent practicable. The definition is derived from the Vessel Response Plan NPRM definition. It is the planned capability to respond to a worst case discharge in adverse weather. The appropriateness of this planned capability is limited by available technology and the practical and technical limits on an individual facility owner or operator. Specific criteria for determining this capability are described in §§ 154.1045, 154.1047, and 154.1049.

Maximum most probable discharge. The definition is based on historical spill data which showed that, from 1985 to 1989, 99 percent of the oil spills from facilities in the coastal zone were approximately 1,200 barrels or less. The definition establishes the maximum most probable discharge volume as 1,200 barrels or 10 percent of the volume of the worst case discharge, whichever is less. Using the lesser of the two values will lessen the regulatory burden on small volume facilities while maintaining sufficient response planning.

Nearshore area. The definition is the area extending from the boundaries established in 33 CFR part 80 and 46 CFR part 7 seaward 12 miles. It defines a boundary of an area used for identifying response times and determining equipment operability criteria. This area, because it is close to shore, requires planning for rapid response times and protective actions.

Non-persistent or Group I oil. To provide consistency between this rule and the vessel response plan rulemaking, the definition is drawn from the International Oil Pollution Compensation Fund guidelines. These guidelines use distillation percentages to distinguish between the physical characteristics of persistent and non-persistent oils. Non-persistent oils tend to be more volatile and evaporate very rapidly. The response equipment and methods required for these oils are typically different than those required for persistent oils. While each type of oil must be evaluated, generally gasoline, naphtha, kerosene, jet fuel, gas oil, automotive diesel, and number 2 diesel fuel will meet this definition. The International Tanker Owners Pollution Federation (ITOPF) classifies non-persistent oils as Group I as indicated in appendix C of this part. The Coast Guard is soliciting comments on these classifications of non-persistent oils.

Non-petroleum oil. The definition means oil of any kind that is not petroleum-based. It includes, but is not limited to, animal and vegetable oils.

Ocean. The definition is used to determine response plan equipment operability criteria for all waters seaward of inland areas.

Offshore area. The definition is taken from the Vessel Response Plan NPRM. It defines the boundaries of an area generally located beyond 12 nautical miles to 50 nautical miles from boundaries established in 33 CFR part 80 and 46 CFR part 7. It is used for identifying response times and determining equipment operability criteria. This area is farther from shore than the nearshore area and thus the risk to the shoreline is reduced. The reduced risk for this area is reflected in the planning criteria for MTR facilities.

Oil. The definition means oil of any kind or in any form, including, but not limited to, petroleum oil, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredge spoil.

Oil spill removal organization. The definition includes any for-profit or not-for-profit contractor, cooperative, or in-house response resources established in a geographic area to provide required response resources.

Operating area. The definition is used to define the geographic location in which a facility is handling, storing, or transporting oil. The five operating areas are Rivers and canals, Inland area, Nearshore, Great Lakes, and Offshore. These areas are further defined in the rule. The operating area classification may not be changed by the COTP.

Operating environment. This term is used to define the conditions in which the response equipment is designed to function. The four operating environments are Rivers and canals, Inland area, Great Lakes, or Oceans. These areas are further defined in the rule. The COTP may reclassify a specific body of water in the ACP to better reflect conditions expected to be encountered during response activities. See § 154.1045 for additional information on reclassification.

Operating in compliance with the plan. This term means operating in compliance with the provisions of this subpart including, ensuring the availability of the response resources by contract or other approved means, and conducting the necessary training and drills.

Persistent oil. The definition is the same as that proposed in the vessel response plan NPRM. It recognizes that persistent oils tend to emulsify and do not dissipate as rapidly as non-persistent oils. This affects the equipment and methods required to respond to the discharge. The definition covers all oils that do not meet the criteria for classification as non-persistent oils. Persistent oil includes marine diesel, number 4 and 6 oils, lubricating oils, asphalt, other residual fuel oils, and crude oil. The ITOPF classifies these as Group II, Group III, Group IV, or Group V. It reflects the variability in dissipation and emulsification of persistent oils. The Coast Guard is soliciting comments on these classifications of persistent oil.

Qualified individual and alternate qualified individual. The definition means a person located in the United States who meets the requirements of § 154.1026.

Response activities. The definition refers to any actions necessary to minimize or mitigate damage to the public health and welfare and environment caused by an oil spill. These activities include, but are not limited to, the containment and removal of oil from the land, water and shorelines and the temporary storage and disposal of recovered oil.

Response resources. The definition describes the personnel, equipment, supplies, and any other capability a facility owner or operator may need in order to perform the response activities identified in the response plan.

Rivers and canals. The definition is taken from the vessel response plan NPRM. It defines a boundary in the inland area where shallow draft vessels primarily operate. It is in this rule for use in identifying response times and determining equipment operability criteria. The definition uses the controlled navigable depth of 12 feet or less as the method of identifying these waterways. Most of these waterways are in protected areas and reflect conditions different from those found in other waterways. The use of 12 feet or less limits the waterways covered by this definition to those where non-oceangoing vessels operate, such as the Intracoastal Waterways, Western Rivers Systems, and other similar areas. It is included in this rule in an attempt to maintain consistency between this rule and the proposed rule on vessel response plan requirements. The Coast Guard is soliciting comments on whether this is a reasonable method to differentiate between bodies of water that have different response plan factors.

Spill management team. The definition describes the personnel that will staff the organizational structure

that a facility owner or operator must identify in a response plan. This team will manage the response actions of the facility owner or operator and the oil spill removal organizations identified in a plan.

Substantial threat of a discharge. The definition is included because facility owners or operators are required to plan for incidents that may not result in an oil discharge. This definition is consistent with the definition used in the Coast Guard's proposed vessel response plan rulemaking and is intended to establish a similar level of threatened discharge for a vessel and a facility and maintain consistency between the two regulations.

Worst case discharge. The definition means, in the case of an onshore facility and deepwater port, the largest forseeable discharge in adverse weather conditions meeting the requirements of § 154.1029.

Section 154.1025 Operating Restrictions and Interim Operating Authorization

The owner or operator of any facility classified or designated by the COTP as a facility that could reasonably be expected to cause substantial harm or significant and substantial harm to the environment under this subpart shall submit a response plan. The owner or operator of a facility that could reasonably be expected to cause significant and substantial harm to the environment is required to have a response plan approved by the Coast Guard before the facility may handle, store, or transport oil.

Section 4202(b)(4) of OPA 90 implements this requirement in two steps. Response plans must be submitted no later than February 18, 1993, for MTR facilities operating prior to that date. Such facilities must be operating in full compliance with their submitted response plan by August 18, 1993. An MTR facility beginning operations between February 18 and August 18, 1993, must submit a response plan prior to handling, storing, or transporting oil, and must also be operating in compliance with their submitted response plan by August 18, 1993. New MTR facilities beginning operations after August 18, 1993, must prepare and submit response plans not less than 60 days prior to handling, storing, or transporting oil.

While the above dates implement the statutory requirements for MTR facilities to operate with either submitted or approved response plans, section 311(j)(5)(F) of the FWPCA allows the Coast Guard to authorize an MTR facility requiring plan approval to operate for up to 2 years after a plan is submitted for approval if the owner or operator provides written certification that he or she has identified private personnel and equipment available, by contract or other approved means, to respond, to the maximum extent practicable, to a worst case discharge. This provides an interim period in which the facility may continue to operate while the plan approval process is completed, and recognizes that the Coast Guard may be unable to complete the plan review and approval process before August 18, 1993. Any deficiencies noted in the submitted plan shall be corrected in accordance with § 154.1070.

This interim rule provides this 2-year authorization to operate, from the date of submission of plans requiring approval, if the owner or operator certifies that he or she has identified response resources available, by contract or other approved means, required by this subpart. This certification will normally occur as part of the initial plan submission, but because all required response resources may not be in place by the February 18, 1993 deadline for submission of plans, MTR facility owners or operators may submit this certification separately prior to August 18, 1993, or they may note the response resources that are not in place when they submit their plan in February 1993. Information contained in the plan does not need to be repeated.

The Coast Guard is still studying the issue of whether the two-year operating provision allowed for in 311(j)(5) of the FWPCA is for initial submission only, or if it will also apply to future plan revisions and required resubmissions. The Coast Guard intends to clarify this issue prior to publishing the Final Rule.

Under the rule, an MTR facility may not continue to operate if the Coast Guard determines that the response resources included in the certification do not substantially meet the requirements of this subpart, the identified response resources are no longer covered by a contract or other approved agreement with the facility owner or operator, the facility is not operating in compliance with the submitted plan, or the 2-year period expires.

Section 154.1026 Qualified Individual and Alternate Qualified Individual

This section of the rule describes the specific requirements that must be met for the primary and alternate qualified individual(s). Section 311(j)(5) of the FWPCA specifies that anyone acting in this capacity must have the full authority to implement removal action. The qualified individual must be located in the United States, be available on a 24-hour basis, and have full written authority to: (1) Activate and contract with response resource(s) identified in the plan, and if necessary, contract with response resources not identified in the plan; (2) serve as liaison with the Federal On-Scene Coordinator (OSC); and (3) obligate funds for response activities.

The rule provides for both a primary and an alternate qualified individual. These individuals must speak and understand English and be able to arrive at the facility in a reasonable time. Identifying a qualified individual in the response plan does not preclude the facility owner or operator from substituting other qualified persons from a higher organizational level during a larger, more significant spill. While the term qualified individual is used, the facility's owner or operator may also designate an organization to carry out these responsibilities. However, the designated organization must have identified specific individuals to act as the qualified individual and the alternate. The facility owner or operator must identify the organization and its 24-hour contact number(s) in the response plan.

A person does not become a responsible party under the FWPCA by being designated a qualified individual for response plan purposes. Under 311(c)(4), a person other than a responsible party is not liable for removal costs or damages which result from actions taken or omitted in the course of rendering care, assistance, or advice consistent with the National Response Plan or as otherwise directed by the President. Notwithstanding, such a person whose acts or omissions are grossly negligent, or who engages in willful misconduct may, as a result, become liable for the resulting removal costs or damages. The qualified individual is not, however, responsible for the adequacy of response plans prepared by the owner or operator, nor is the qualified individual responsible for contracting response resources beyond the authority delegated from the owner or operator.

The Coast Guard does not wish to restrain the appropriate activities of a qualified individual or to hamper plan preparers in identifying such individuals. However, the Coast Guard has no authority to grant immunity to any person, including qualified individuals designated for response plan purposes.

Section 154.1028 Methods of Ensuring the Availability of Response Resources by Contract or Other Approved Means

This section provides five methods that a facility owner or operator can use to establish evidence of compliance. The first three methods are a written contractual agreement, certification by the owner or operator of their response capabilities, or active membership in a local or regional spill removal organization.

The fourth method of identifying response resources requires the written acknowledgment of an arrangement for response resources between the facility owner or operator and the response contractor or oil spill removal organization. This written agreement clearly identifies the resources and services to be provided in response to a discharge and that these resources are available in the specified response times. The identified resources are subject to the same verification as other plan requirements including drills, tests, and response times. This method is provided as an alternative for use by all MTR facilities for ensuring the availability of response resources.

The fifth method is acceptable for substantial harm facilities and for MTR facilities that handle, store, or transport Group V persistent oils and non-persistent oils. This method entails identifying an oil spill removal organization or response contractor that is willing to respond to a discharge from the facility. It requires the oil spill removal organization or response contractor to supply a letter to the facility stating that they are willing to respond to a discharge at the facility and that they have specified resources. Although this method does not establish a contract between the facility owner or operator and the response contractor, normal market forces provide sufficient assurance, for planning purposes, that resources will be available to respond to the discharge that could reasonably be expected from the facilities. This method of identifying response resources reduces the potentially high economic impact on segments of the marine industry which provide essential services to the marine community while addressing the harm that could reasonably be expected to the environment in the event of a discharge from these facilities.

Section 154.1029 Worst Case Discharge

This section addresses MTR facilities or, more commonly, the MTR segment of a complex facility as defined in § 154.1020. A complex facility is a facility which is regulated under Section 311(j) of the FWPCA by two or more Federal agencies. It generally consists of an MTR segment and a non-transportation-related segment. The Coast Guard recognizes that the storage tanks located in the non-transportation-related segment of the facility may provide a larger worst case discharge than the transportation-related portion of the facility. However, since the EPA is tasked with regulating the non-transportation-related portion of the facility under E.O. 12777, the Coast Guard will concentrate on the marine transportation-related segment which represents the most immediate threat of discharge.

The Coast Guard is concerned about the worst case discharge that is reasonably foreseeable from the MTR facility or the dock and piping used to convey oil to the non-transportation-related portion of the facility. The worst case discharge scenario accounts for the time to detect the spill and the time to secure the operation. It also accounts for the residual oil that remains in the piping after the operation has been shut down. It also assumes that all pipelines between the dock and storage tank will fail. When preparing a worst case discharge scenario for the MTR facility, the owner or operator will attempt to limit the discharge volume by relying upon fail-safe features designed into the operation such as leak detection and mechanical methods of isolating segments of the pipeline. It is the Coast Guard's experience that these features do not always work as expected or that the required human interface with these features is lacking at the most critical time. The use of any single valve in a pipeline to create smaller segments should not be a factor in preparing for a worst case discharge. Facility owners or operators should plan for the discharge of not less than two segments of any single pipeline, one on each side of the valve. For planning purposes, where a valve or valves are used to create smaller piping segments, these two segments must be segments with the largest volume in the MTR portion of the piping. Where no intermediate valves are present in the piping, the worst case discharge must deal with the entire volume of oil in the piping.

The COTP has the discretion to accept that a facility can operate only a limited number of the total pipelines at a dock at a time. In those circumstances, the worst case discharge must include the drainage volume from the piping normally not in use in addition to the drainage volume and volume of oil discharged during discovery and shut down of the oil discharge from the operating piping.

The use of remote pressure loss devices should not be relied upon to alert the facility owner or operator to the loss of oil from the pipeline. Human monitoring and surveillance of the pipeline should also be a factor when estimating the time to discover and secure a discharge.

The Coast Guard is soliciting comments on these definitions of a worst case discharge.

The EPA is also preparing a definition of worst case discharge for the purposes of response planning for the non-transportation-related portion of the facility. This definition will appear in a separate rulemaking by the EPA.

Section 154.1030 General Response Plan Contents

This section of the rule lists the general requirements for all response plans. Response plans must be prepared in English. The general response plan requirements include seven sections: introduction; emergency response action plan; hazard evaluation; discussion of spill scenarios; training and drills; plan review and update procedures; and appendices for additional information. Facility owners or operators are encouraged to use checklists, flowcharts, and other methods to facilitate the use of response plans in an emergency.

The required response plans must address the responsibilities of facility personnel to notify appropriate government and company officials and to minimize or mitigate an oil discharge from the facility; management of the response by the facility owner or operator; and pre-spill identification of response resources by the facility owner or operator. The facility owner or operator is also required to list all sensitive areas that may be impacted by a worst case discharge. In addition to identifying the sensitive areas that a worst case discharge from the facility could impact, the plan must describe in detail response strategies for protecting and cleaning these areas. The responsible Coast Guard COTP will evaluate these strategies and determine if the plan adequately addresses protective measures to safeguard the areas identified.

The Coast Guard encourages facility owners or operators to submit response plans in a specific format. Since many MTR facility owners or operators already have response plans, the rule provides for acceptance of existing plans in a different format if the plan is supplemented with a cross-reference section identifying the location of the

applicable sections to facilitate review and use in an emergency. The plan must include all the information required in §§ 154.1035, 154.1040, and 154.1041, as appropriate. In addition to the information required in each section of the response plan, it may contain additional appropriate information.

A response plan must be consistent with the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) (40 CFR part 300) and applicable Area Contingency Plans (ACP). The Coast Guard will review the plan for consistency. Section 154.1045 requires the MTR facility owner or operator to identify certain response resources listed in the ACP that are available, by contract or other approved means, by February 1998.

The Coast Guard recognizes that many areas will not have completed their ACP before the response plans required under this rule are submitted. Existing local contingency plans (LCPs) already address certain response scenarios including sensitive environmental areas and protection strategies. Until ACPs are completed, existing LCPs will serve as the foundation for initial facility response plan review. A facility response plan submitted after February 18, 1993 need only be consistent with the ACP or LCP in effect 6 months prior to the response plan submission. Approved plans will not be subject to revision for the sole purpose of ensuring consistency with an ACP completed after August 18, 1992. Copies of the current ACP or LCP are available from the Coast Guard OSC.

Section 154.1035 Specific Requirements for Facilities That Could Reasonably Be Expected To Cause Significant and Substantial Harm to the Environment

Introduction and plan content. The introduction section requires information on the MTR facility including: identification of the owner or operator, a description of the geographic area covered, table of contents, and record of page changes.

Emergency Response Action Plan. The emergency response action plan section contains 5 subsections which discuss notification procedures, spill mitigation procedures, response activities, areas sensitive to oil spills, and waste disposal.

The notification procedures subsection contains information on notifications that must be made in the event of an oil discharge. This subsection of the plan must summarize notification requirements, identify notification responsibilities, and outline the information which would be provided. It will contain the procedures for notifying the qualified individual designated to represent the facility's owner or operator. Much of this information can be provided in checklist format.

The notification procedures subsection must contain a copy of the notification sheet listing information to be supplied to the National Response Center (NRC) when making the notification required under 33 CFR 153.203. The information on the notification sheet includes the following: involved parties, incident description, materials released, remedial action, impact, additional information, and caller notification. Much of this information is available and can be prepared prior to any spill at the facility. By collecting this information in advance of actual notification, the notification process will be faster and provide accurate information.

The facility's spill mitigation procedures subsection shall summarize the actions to be taken by facility personnel in the case of an actual discharge or substantial threat of an oil discharge. Checklists or other simple procedures are appropriate for this subsection. This subsection requires the facility owner or operator to identify personnel actions necessary to: assess the problem or situation; do an emergency shutdown of the affected operation, including the sequence of steps to stop operations; and transfer oil within the facility during an emergency. It requires a listing of equipment and the responsibilities of facility personnel in responding to an average most probable discharge. It also lists the volume of oil discharged during an average most probable discharge, maximum most probable discharge, and a worst case discharge.

The facility's response activities subsection requires the facility owner or operator to address actions taken to manage the response to an actual or threatened discharge. This section addresses facility personnel responsibilities to initiate response actions; responsibilities and authorities of the designated qualified individual and alternate qualified individual; and procedures for coordinating response actions with those of the predesignated Federal On-Scene Coordinator. It also identifies the organizational structure that would be used to manage response efforts. Recognizing the need for an organizational infrastructure, the rule requires that each response plan contain certain organizational elements that are essential to the successful management of a response operation. The rule does not require the use of the Incident Command System (ICS). It allows the facility owner or operator to develop his or her own organizational structure provided that the organizational elements listed are addressed. The structure must be compatible with the organization embodied in the NCP. Some owners or operators will be able to staff their organizational structure with in-house response resources; others will rely on contracted support. Either method is acceptable. The rule requires identification of the personnel necessary to staff this organizational structure for the first 7 days of a response.

The facility's response activities subsection also requires that the response plan identify the response resources that are available, by contract or other approved means, as described in § 154.1028, to respond to the average most probable discharge, maximum most probable discharge and worst case discharge, to the maximum extent practicable. Section 154.1045 of the rule describes the procedures for determining these response resources.

This subsection also requires that the facility owner or operator identify the location of equipment, personnel, and support services available to meet response resource requirements. The Coast Guard will establish a process for response contractor classification in a separate guidance document and will incorporate any provisions that affect these requirements in the rules for response plans for MTR facilities.

The sensitive areas subsection requires the owner or operator to: List the areas of economic importance and environmental sensitivity that could be impacted by a spill; include a map showing these areas and depicting response actions; and describe these actions. Appendix D of this subpart contains information which will assist the facility owner or operator in defining the sensitive areas that might be impacted by a spill from the facility. Additional information on sensitive areas will be provided in the Area Contingency Plans required by OPA 90.

The rule also requires that specific amounts of equipment be under contract, to protect sensitive areas within specified distances of the facility. In lieu of the specified distances, the response plan may specify protection for fewer sensitive areas provided that an oil spill trajectory analysis predicting reduced areas of impact is provided in the plan. Response equipment would be necessary to protect sensitive areas in this reduced area. However, based on historical information or a spill trajectory, the COTP may require that

additional sensitive areas also be protected. The response plan would also identify equipment for other sensitive areas that may be impacted. This equipment would not have to be under contract. Notwithstanding the response equipment operating criteria listed in Table 1 Appendix C, the equipment specified to protect sensitive areas must be appropriate for use in and around the areas to be protected.

A final subsection in the Facility's Emergency Response Action Plan section will outline the procedures for the disposal of wastes generated as a result of a response to a discharge. The facility owner or operator shall provide information on the location of appropriate disposal sites and plan disposal activities.

Hazard Evaluation. This section in the CFR is reserved for future development. At this time, facility owners and operators need not develop any planning materials for this section.

Spill Scenarios. This section in the CFR is reserved for future development. At this time, facility owners and operators need not develop any planning materials for this section.

Training and Drills. The rule requires response plans to include a section to address training and drills. Training procedures and programs will ensure that all personnel with responsibilities under the plan are trained as specified in § 154.1050. Personnel training for specific mitigation or response actions may vary greatly and the response plan must take this into account. The drill program of the owner or operator will list and describe the drills which the facility owner or operator will carry out to ensure that the plan will function in an emergency as specified in § 154.1055.

Plan review and update procedures. This section is required to address review and update of the plan by the MTR facility owner or operator. This includes meeting the requirements of § 154.1065, as well a describing the procedures for review after plan use to evaluate effectiveness.

Appendices. The response plan must contain an appendix with specified facility information. This appendix will contain a physical description of the facility and diagrams of the facility layouts. It must also identify the first valve on facility piping separating the transportation-related from the non-transportation related segment of the facility. In this appendix, it may be appropriate to include information concerning leak detection systems, piping and tank integrity testing program(s), security during an emergency spill response, and the relationship between this response plan and other programs or response plans. The appendix must also contain material safety data sheets for oils and hazardous materials handled at the facility, and identify hazards likely to be encountered if oils and hazardous substances come in contact. The appendix must also contain firefighting procedures and extinguishing agents effective with fires involving the oil(s) and hazardous materials handled, stored, or transported at the facility.

A separate appendix will also be provided for a listing of contacts which may provide assistance during a response. This is required as a separate appendix since it is likely to require routine revisions. The list of contacts shall include: Federal, State, and local government agencies, the qualified individual, and the providers of the identified response resources which are available by contract or other approved means.

Also required are separate appendices for a list of response equipment, a communications plan, a site-specific safety and health plan, and a list of definitions and acronyms. It will not be necessary to list response equipment when using an oil spill removal organization classified by the Coast Guard. The contractor classification program is under development and guidance is in preparation.

Section 154.1040 Specific Requirements for Facilities That Could Reasonably be Expected to Cause Substantial Harm to the Environment

This section is similar to the specific response plan requirements detailed in § 154.1035. The requirements in § 154.1040 were developed to lessen the regulatory burden and economic impact on substantial harm facilities—a category which consists primarily of mobile facilities. The requirements differ by not requiring contracts with oil spill removal organizations, not requiring an organizational structure to manage response actions, and requiring only 200 feet of containment boom for initial response to an oil discharge. The rule includes a requirement for a substantial harm facility owner or operator to have on file a letter from an oil spill removal organization stating that they will respond to an average most probable, maximum most probable, and worst case discharge from the facility. It is not intended that this letter infer a contractual agreement between the parties but that the facility owner or operator has identified specific response resources and that those resources will respond to discharges from the facility. The Coast Guard does not anticipate that the spill response contractor will charge the facility owner or operator a retainer fee. This is more relaxed than the requirements in §§ 154.1035 and 154.1045 which require that a contractual agreement exist between the facility owner or operator and the response contractor(s) or oil spill removal organization(s).

Section 154.1040 also requires reduced amounts of containment boom relative to the amounts required in § 154.1035. It also specifies that adequate sorbent material shall be maintained for initial response. While the relaxed response planning standards in § 154.1040 lessen the regulatory burden, they provide for adequate planning to minimize the impact on the environment in the event of a worst case discharge from a substantial harm facility.

Section 154.1041 Specific Response Information to be Maintained on Mobile MTR Facilities

This section describes the response plan information to be carried aboard mobile MTR facilities. The nature of operations of these facilities makes it impractical to require the operator of a mobile facility to maintain a copy of a comprehensive response plan in each mobile facility for which he or she is responsible. This is particularly true for railroad tank cars. Thus, the operator of a mobile facility is required only to maintain certain information from the response plan which identifies the manner in which a response to an oil discharge will be conducted; identifies who will respond to a discharge; and identifies the persons and agencies to be notified of an oil discharge. The facility owner or operator is required to maintain the comprehensive plan.

Section 154.1045 Response Plan Development and Evaluation Criteria for Facilities That Handle, Store, or Transport Group I Through IV Petroleum Oils

This section describes response resource requirements for the average most probable discharge, maximum most probable discharge, and worst case discharge to the maximum extent practicable. Appendix C contains a detailed explanation of the requirements. This section reflects the similarities in physical properties exhibited by Groups I through IV oils which results in their floating on water. Examples of these groups of petroleum oils range from gasoline to most crude oils and heavy bunker oil. Petroleum oils which are likely to sink due to their physical properties and non-petroleum oils are handled separately in §§ 154.1047 and 154.1049, respectively.

Section 311(j)(5) of the FWPCA requires planning for the worst case discharge only. This rule requires the planners to address the average most probable and the maximum most probable discharges which are more likely to occur than the worst case discharge. Dealing with smaller discharges may require equipment that is not appropriately planned for when only worst case discharges are addressed. Section 311(j)(1) of the FWPCA, which addresses prevention and containment of oil discharges from facilities, authorizes the Coast Guard to require planning for these smaller discharge volumes.

The rule allows the MTR facility owner or operator to rely on equipment available at other facilities, provided its use has been arranged by contract or other approved means and it can arrive within the required response times. The rule does not discourage the lending of equipment. However the owner or operator of a facility remains responsible for having response equipment at the facility in the appropriate time. The COTP may determine that mobilizing response resources to an area beyond the response time specified in the regulation may invalidate the plan.

The rule requires a "significant and substantial harm" facility owner or operator to provide 1,000 feet of containment boom or containment boom equal to twice the length of the largest vessel that regularly conducts oil transfers at the facility, whichever is greater. The containment boom length of twice the length of the vessel is taken from the vessel response plan notice of proposed rulemaking. The Coast Guard is requiring facility owners or operators to contract for response resouces for average most probable discharges from the facility. This requirement is consistent with 33 CFR 154.545 which already requires facilities to have access to discharge containment equipment to control an oil discharge whether from a vessel or facility.

The Coast Guard is requiring an approach to planning for the worst case discharges which considers the following factors: the loss of some oil to the environment due to evaporation and natural dissipation based on the type of oil; emulsification which may affect the quantity of material to be recovered; provisions for close-to-shore response, shoreline protection, shoreline cleanup capabilities, and firefighting capabilities; and limits of available response technologies and private removal capabilities.

Caps on the Quantity of Planned Response Resources for Group I through IV Petroleum Oils

The Coast Guard is placing a cap on the quantity of response resources which individual owners or operators are required to contract for in advance. This in no way limits the amount of resources which owners or operators may have to provide during an actual spill response. This recognizes the limits of currently available technology and private removal capabilities. Recognizing the importance of early arrival of response equipment at the scene of a discharge and the need for tiering equipment arriving at the scene to reflect local, regional, and national response capabilities, the Coast Guard is requiring that equipment mobilization occur within the first 3 days of a discharge, when oil recovery is most likely. The Coast Guard is also requiring that the owner or operator identify additional response resources above the Tier 3 cap when the worst case discharge planning volume exceeds the cap for the contracted response resources. These additional resources must be capable of arriving on scene not later than the time indicated in the Tier 3 response times in section 154.1045. No contract or other approved means is required to ensure the availability of these resources.

The rule provides that the caps established for contracted response resources are increased at appropriate intervals that roughly correspond with response plan review periods. This takes into account future developments in such things as: increased availability of mechanical recovery devices; improved equipment efficiencies or designs; improved technology to address large spill volumes; high rate response techniques such as dispersants and in-situ burning, when approved by the Regional Response Team; and other techniques, such as bioremediation, if quantifiable.

The rule states that the Coast Guard will initiate a review of the scheduled increase in caps before the effective date of the scheduled increase. The purpose of the review is for the Coast Guard to determine if the scheduled increase remains practicable. The Coast Guard will also establish the specific cap for the next scheduled 5 year interval. All future increases will become effective as scheduled unless the Coast Guard determines that they are not practicable.

Determining and Evaluating Required Response Resources

The rule describes the methods to be followed to determine the response resources that must be identified for response to an average most probable, maximum most probable, and worst case discharge from the facility to the maximum extent practicable. It requires that facility owners or operators consider weather conditions during preparation of a plan. Many of these conditions are area-specific and require the owner or operator to refer to the applicable ACP for information on ice conditions, debris, temperature ranges, and weather-related visibility in which response resources must function. The rule refers to Table 1 of Appendix C of this part for evaluating the operability of booms and oil recovery devices. These criteria are based on information from the "World Catalog of Oil Spill Response Products—Third Edition." Table 1 uses significant wave height as the primary criteria for evaluating operability of recovery equipment in different environments. Additional design criteria are included for booms. The criteria are used to evaluate equipment operability under specified conditions. They reflect conditions that may limit mechanical recovery, but would not necessarily limit other response methods or affect normal operations of a facility.

Identified equipment must be capable of operating safely in the significant wave height criteria in Table 1 of Appendix C. The criteria reflect limitations of equipment design, rather than limitations imposed by the specific operating environment. Because these criteria may not reflect the actual conditions in a given geographic area, the COTP may reclassify specific bodies of war within his or her COTP zone to a more or less stringent operating environment to reflect actual conditions. A body of water may be reclassified as a more stringent operating environment when prevailing wave conditions exceed the significant wave height criteria over 35 percent of the year. A body of water may be reclassified as a less stringent operating environment if prevailing wave conditions do not exceed the significant wave height criteria for the less stringent operating environment over 35 percent of the year. It is anticipated that reclassifications will be identified in the ACP. The classification for a given body of water affects requirements for response equipment. The Coast Guard solicits comments on the use of 35 percent as the standard for reclassifying an operating environment.

Average Most Probable Discharge

The rule requires all MTR facility owners or operators to identify response resources for the average most probable

discharge, including sufficient boom and an appropriate means of deploying it. They must account for the possibility of multiple discharges during transfers. Response plans must also identify the availability of oil recovery equipment and sufficient storage capacity capable of arriving at a spill within 2 hours of discovery of the discharge.

Appendix C of this part contains procedures for determining these response resources. The rule requires MTR facility owners or operators to have response resources either at the facility or available under contract or other approved means, to meet the 2 hours response time. This will ensure the prompt availability of equipment where it is most commonly needed.

Maximum Most Probable Discharge

Section 154.1045 sets the level of response resources that must be identified and available, by contract or other aproved means, to respond to a facility's maximum most probable discharge. The rule addresses approximately 99 percent of the discharges from MTR facilities. It establishes the maximum most probable discharge at 1,200 barrels or 10 percent of the worst case discharge, whichever is lower. In higher volume port areas and the Great Lakes, these response resources must be capable of arriving at the scene of a discharge within 6 hours of its discovery and within 12 hours in all other river and canal, inland, nearshore, and offshore areas. Response plans must identify sufficient containment boom, oil recovery devices, and oil storage capacity for this planning volume. Appendix C of this part contains procedures for determining the amount of response resources to meet the requirements.

Worst Case Discharge

The rule requires MTR facility owners or operators to identify sufficient response resources to respond to a worst case discharge to the maximum extent practicable. Appendix C of this part contains detailed information for calculating the planning volume for each response tier, as discussed below, and for determining the response resources which must be identified to meet these requirements. Response plans must specify the location, type, and quantity of response resources.

The requirements for response to a worst case discharge to the maximum extent practicable are based on tiering of response resources. The rule establishes three tiers which will allow for the identification of response resources from outside the area of the facility to meet the requirements. On-scene arrival times for each tier are as follows: for higher volume port areas (except TAPAA facilities located in Prince William Sound) and the Great Lakes, the Tier I of response resources must be capable of arriving at the scene of a discharge within 6 hours of its discovery. Response resources for Tier 2 must be capable of arriving within 30 hours and Tier 3 within 54 hours. These time limits do not apply in Prince William Sound because § 154.1135 of this rule establishes separate response times for the Sound. For all other areas, Tier 1 response resources must be capable of arriving on scene within 12 hours from the time a spill is discovered. Response resources for Tier 2 must be capable of arriving within 36 hours and Tier 3 within 60 hours. The plain must account for notification, mobilization, and travel time. The Coast Guard is soliciting comments on this approach to tiering response resources.

The Coast Guard, recognizing the value of planning for rapid arrival of response resources to the scene, is establishing maximum arrival times. Although this treats response resources that are capable of arriving early the same as those arriving just before the end of the maximum time limit, the Coast Guard recognizes that it is in the best interest of the facility owner or operator to have these resources on scene as early as possible. The Coast Guard solicits comments on methods to recognize the early arrival of oil recovery devices and other response equipment.

Notification and Initial Mobilization of Response Resources

Notification of Tier 1 resources must occur within 30 minutes of the discovery of a discharge, and such resources must be capable of being mobilized within a 2-hour period after notification. While all resources must be "capable" of being mobilized within that period, the plan can account for resources not needed in the initial stages of a response, such as temporary storage capacity. For example, a storage barge required to sustain on-water oil recovery operations after 8 hours need not be mobilized within 2 hours. These planning criteria apply only to the Tier 1 resources. Tier 2 and Tier 3 resources must be mobilized as necessary to arrive on scene within the specified time. These times are not performance standards, rather they are planning criteria that must be considered when identifying resources.

Alternative Response Techniques

The Coast Guard recognizes the value of alternative response techniques such as dispersant application and in-situ burning. It also realizes that these techniques are not usually allowed in areas that would be impacted by discharges from most onshore facilities. As a consequence, the rule provides that MTR facilities located in areas with preapproval for year-round dispersant use, handling Groups II or III persistent petroleum oils, may identify dispersant resources in their response plans. To receive credit for up to 25 percent of the required on water recovery capability, the dispersant resources must be identified by the facility owner or operator and further ensure their availability through contract or other approved means. This provision applies to the Louisiana Offshore Oil Port (LOOP) and single point mooring buoys where petroleum product is transferred from a vessel to an onshore facility. The dispersants must be appropriate for the type of oil handled by the facility and be available in sufficient quantities to treat 25 percent of the worst case discharge. Dispersant resources must be capable of arriving on scene within 12 hours of discovery of a discharge. The requirement to plan for the use of dispersants is consistent with those of the Minerals Management Service for outer continental shelf exploration and production activities under 30 CFR 250.42. The identification of resources required to use dispersants does not imply that their use will be approved during a spill response. The existing NCP provides specific procedures for the authorization of dispersants or other chemical countermeasures during a spill and it is anticipated that the revised NCP will have similar provisions. Many areas have been identified by the Regional Response Team for the use of dispersants with approval from the Federal On-Scene Coordinator under certain conditions.

The Coast Guard has included the use of dispersants as a planning option for other facilities because it believes that dispersants may have a role in responsing to a worst case discharge from some MTR facilities. This may also provide incentives for the expansion of dispersant capability in the United States. The listing of dispersants in a response plan does not constitute an approval by the Federal On-Scene Coordinator to use dispersants.

Under certain circumstances, the dispersant capability may be used as credit against worst case discharge resource requirements. Appendix C of this part contains information on circumstances under which plan credit may occur.

Firefighting Capability

The Coast Guard considers firefighting capability important in dealing with a worst case discharge. It also recognizes that many MTR facilities maintain firefighting resources at the facility or can rely upon local industrial and government firefighting agencies. The rule requires MTR facility owners or operators to contract for firefighting resources if the facility does not have access to sufficient local firefighting resources. It will also provide for an in-house expert to work with the fire department for the facility's oil fires and to also verify that sufficient well-trained firefighting resources are available with a reasonable response time for a worst case scenario. The rule does not establish specific response times or equipment requirements. The Coast Guard is soliciting comments on this approach to response planning.

Protection of Sensitive Areas

The rule requires an MTR facility owner or operator to identify response resources that are available, by contract or other approved means, for protection of sensitive areas as well as for shoreline clean-up. Resources for these activities must be identified in advance. Since a facility owner or operator is planning for up to a worst case discharge scenario, he or she must be able to evaluate those sensitive areas that may be affected by a worst case discharge from the facility. A facility owner or operator shall also be able to accurately identify the areas that require special concern or response. Thus, the rule requires the facility owner or operator to list all areas of economic importance and environmental sensitivity identified in the ACP which are potentially impacted in the first 3, 4, or 6 days, depending on the geographic area, after a discharge. The owner or operator must describe in the response plan all response actions and appropriate equipment necessary to protect these areas. These actions must be depicted on a map or chart with a legend of these activities. The rule also requires the facility owner or operator to contract for response resources to protect sensitive areas that are lesser distances from the facility that may be affected. For example, a facility owner or operator will be required to determine the amount and type of boom required to protect areas of environmental sensitivity and economic importance and will also be required to contract for or have under employment sufficient support resources such as personnel, boats, anchoring equipment, etc. to deploy this equipment in affected areas. The owner or operator, after evaluating the oil movement and if the circumstances warranted it, could propose the moving of boom from one area to another. This could reduce his or her inventory, but still provide adequate protection for the area of potential impact. The Coast Guard retains final authority to decide if the facility is adequately providing protection of sensitive areas and sufficient cleanup resources and could require additional resources.

The Coast Guard solicits comments on the use of a 3 day (Rivers and canals), 4 day (Nearshore, Inland, Great Lakes), and 6 day (Offshore) planning requirement for protection of areas of environmental sensitivity and economic importance.

Shoreline Clean-Up

The rule also requires MTR facility owners or operators to identify response resources that are available, by contract or other approved means, that are capable of carrying out shoreline cleanup operations. In lieu of a contract, a facility owner or operator is permitted to enter into a written agreement with a response contractor or oil spill removal organization that specifically identifies the services and response resources to be provided for a shoreline clean-up.

Because it is difficult to determine the amount of oil that would most likely impact the shoreline, and therefore the required response resources in advance, the Coast Guard requires the use of a qualitative evaluation based on a planning volume of oil that could reach the shoreline. This evaluation method takes into account the area in which a facility operates and the type and volumes of oil handled. Table 2 of Appendix C of this part includes factors to be considered for potential shoreline impact that are used in determining the planning volume. Appendix C of this part also describes how this planning volume is calculated. The Coast Guard solicits comments on alternative methods to evaluate the quantity of required shoreline cleanup capability.

The requirement to identify or contract for specified quantities of boom, support equipment, and shoreline cleanup capability that becomes effective on February 18, 1993, serves as an interim requirement until February 18, 1998. As noted, accurate identification of response resources required to perform shoreline protection or cleanup must be based on the area potentially affected. This information may be further developed in an ACP. In February 1998, the 5-year anniversary established for response plan resubmission will begin to occur for many MTR facilities. When in place, the ACP will help identify the response capability necessary to implement geographic-specific response strategies. A facility owner or operator is required to identify response resources that are available, by contract or other approved means, to provide the capability identified in the applicable ACP. The rule indicates that this requirement must be met by any facility that submits or resubmits a response plan 6 months after the appropriate ACP has identified these response resources.

The Coast Guard has established in this rule a limit, or cap, to the response resources that a facility owner or operator must contract for in advance. The intent of contracting in advance is to ensure that adequate capability exists to respond to oil spills. In many areas of the country, adequate capability may not currently exist. Requiring contracts provides incentives for the private sector to expand capabilities in these areas. It is not practicable or always necessary to require facility owners or operators to contract in advance with every response resource that exists in a given area. There are areas of the country, primarily the larger ports, where the total capability may exceed the caps. It must be recognized that these contracts ensure a baseline capability, but do not limit the response resources that would be brought to an actual oil discharge. Facility owners or operators will be expected to activate the response resources necessary for the particular circumstances of the spill, even if they exceed the response resources identified in the plan.

Table 5 in appendix C of this part of the rule lists the caps for 1993 and 1998. These caps are based on the effective daily recovery rate (as calculated using the procedure in appendix C of this part) of response resources that must be identified in a response plan. They are based on an assessment of response capability that, in the Coast Guard's opinion, can be provided nationwide by 1993. The Coast Guard will conduct an evaluation of the February 1998 cap increase before it becomes effective to determine if it remains practicable. At that time the Coast Guard will also establish a cap for 2003. Setting nationwide criteria is intended to provide an incentive to improve overall response capability in the United States. While some areas of the country may have capability that exceeds the caps, the 25 percent increase in these caps from 1992 to 1998 will provide an incentive for those areas to expand capability. The 5-year interval is intended to correspond with the

required resubmittal interval for response plans. The Coast Guard solicits comments on whether fixed dates should be utilized for this increase to be in place, or whether it should be tied to the date when an individual facility owner must resubmit his or her plan after the effective date of the cap increase. The Coast Guard also solicits comments on the specific caps for 1993 and 1998.

Section 154.1047 Response Plan Development and Evaluation Criteria for Facilities that Handle, Store, or Transport Group V Petroleum Oils

This section of the rule requires that owners or operators of facilities that handle, store, or transport Group V petroleum oils must identify procedures and equipment necessary to respond to a worst case discharge of these oils to the maximum extent practicable. The owner or operator must ensure the availability of this equipment through contract or other approved means. At a minimum, the owner or operator of the facility must obtain a letter from an oil spill removal organization stating that they will respond to a worst case discharge from the facility. It is not intended that this letter infer a formal contractual agreement between the parties but that the owner or operator has identified specific response resources and that those resources will respond to a worst case discharge from the facility.

Unlike the rules for Groups I through IV petroleum oils, the Coast Guard has not specified the required amount of response equipment. Petroleum oils in Group V are considered sinking oils due to their physical characteristics. Traditional response techniques of containing the spread of oil on the surface of the water are often ineffective. The owner or operator of an MTR facility handling these oils must identify strategies for responding to such discharges and sources of equipment and supplies necessary to locate, recover, or mitigate such discharges. The rule lists the types of equipment that must be identified in the response plan and specifies the response times for this equipment to arrive at the facility.

The Coast Guard solicits information that may be useful in determining the types and quantities of equipment necessary to respond to a discharge of Group V petroleum oils. It also requests information on new or innovative response techniques that will be appropriate for sinking oils.

The rule also requires the owner or operator of an MTR facility that handles, stores, or transports Group V persistent oils to contract for firefighting resources should the facility not have access to sufficient local firefighting resources.

Section 154.1049 Response Plan Development and Evaluation Criteria for Facilities That Handle, Store, or Transport Non-Petroleum Oils

This section of the rule requires that owners or operators of MTR facilities that handle, store or transport non-petroleum oils identify the procedures and equipment necessary to respond to a worst case discharge of these oils to the maximum extent practicable. The rule does not include specific requirements for identifying the amount of response resources. As with Group V persistent oils, the owner or operator must ensure the availability of this equipment through contract or other approved means. At a minimum, the owner or operator of the facility must obtain a letter from an oil spill removal organization stating that they will respond to a worst case discharge from the facility. It is not intended that this letter infer a formal contractual agreement between the parties but that the owner or operator has identified specific response resources and that those resources will respond to a worst case discharge from the facility.

The rule also requires the owner or operator of an MTR facility that handles, stores, or transports non-petroleum oils to contract for firefighting resources should the facility not have access to sufficient local firefighting resources.

The Coast Guard solicits information that may be useful in determining the types and quantities of response equipment necessary to respond to a discharge of non-petroleum oils. It also requests information on new or innovative response techniques that will be appropriate for non-petroleum oils. The Coast Guard is considering developing information on removal capacity, emulsification factors, and recovery resource mobilization factors similar to those factors contained in appendix C for Groups I through IV oils.

Section 154.1050 Training

This section of the rule describes the training requirements that an owner or operator of an MTR facility must identify in the plan. The rule does not require training in specific subjects or minimum training periods. Rather, it requires the owner or operator to identify in the plan the training programs he or she will establish or adopt to train any persons with responsibilities in the response plan. The training will vary widely based on those responsibilities. For example, an operations manager may need different training than the person responsible for deploying boom, just as the qualified individual will need different training than the cleanup manager of the spill management team. The Coast Guard solicits comments on whether there should be more specific requirements for training programs.

The rule requires an MTR facility owner or operator to ensure that records of this training are maintained for 3 years. Records on the facility personnel's training must be maintained at the facility. Records for the oil spill removal organization's training must be maintained by the organization and available to the facility's management personnel, the qualified individual, and to Coast Guard personnel. This recognizes that a facility owner or operator may rely on a private contractor or cooperative to meet his or her responsibilities. There is no need to maintain duplicate records. All records must be available for inspection by the Coast Guard.

The rule also clearly indicates that an MTR facility owner or operator is not relieved from complying with applicable training standards issued by the U.S. Occupational Safety and Health Administration (OSHA). OSHA has issued regulations in 29 CFR 1910.120 that set minimum training requirements based on the task that a responder carries out. These requirements vary from 8 hours to 48 hours of classroom training, plus added requirements for field training. These requirements should be taken into account in the training program of the facility owner or operator. The owner or operator must also identify methods of training any volunteers or casual laborers employed during a response to comply with the requirements of 29 CFR 1910.120.

Section 154.1055 Drills

The rule requires that an MTR facility owner or operator identify a planned drill program in the response plan. This must include both announced and unannounced drills conducted by the owner or operator as necessary to ensure that a response plan will function in an emergency.

The rule specifies a minimum frequency for drills to be held for the facility's personnel, the spill management team, and the oil spill removal organization with responsibilities under the plan. The Coast Guard solicits comments on the frequency of these drills.

The rule does not require drills to cover specific sections of a response plan. Instead, it allows the facility owner or operator to tailor drills to exercise either components of a plan or

an entire plan and to exercise those components of the response plan that are most appropriate. The facility owner or operator is required to conduct drills at least every 3 years to exercise the entire plan.

The rule requires that any drills conducted by the facility be documented. A record of these drills must be maintained at the facility and made available to the Coast Guard for inspection.

The rule also requires that facility owners or operators participate in unannounced drills conducted by the COTP or Area Committee. Section 311(j)(7) of the FWPCA requires that the Coast Guard periodically conduct unannounced drills of removal capability in areas designated for development of ACPs. The Coast Guard will involve vessels and facilities in these drills. These drills will be infrequent. A facility owner or operator selected to participate in such a drill will be expected to activate the spill management team and oil spill removal organizations identified in the plan to the extent required by the COTP. The cost of activating these response resources must be borne by the owner or operator. A facility owner or operator will not be required to participate in a COTP drill if the facility owner or operator has participated in an unannounced Federal or State oil spill response drill in the past 24 months; however the facility owner or operator will be required to provide records of the drill to the COTP. The Coast Guard anticipates holding up to 12 such drills per year throughout the country, of which only approximately half will involve facilities.

Finally, the rule allows MTR facility owners or operators to take credit for drills in which their spill management team or identified oil spill response organization(s) participate. The Coast Guard recognizes that many facility owners or operators will rely on the same response resources. There is no need for these resources to be exercised continually to meet the requirements of individual owners or operators. Documented drills involving identified response resources can be used to meet the requirements of this section. This will also apply to companies operating with multiple facilities. Participation in one drill held by a common spill management team will meet the requirement for all facilities utilizing that team.

Section 154.1057 Inspection and Maintenance of Response Resources

The rule requires that a facility owner or operator required to submit a response plan ensure that containment booms, skimmers, vessels, and other major equipment listed in the plan are periodically inspected and maintained in good operating condition, in accordance with manufacturer's recommendations and best commercial practice.

The rule states that Coast Guard inspectors may visit oil spill removal organizations (OSROs) whose equipment and personnel are listed in response plans to verify that the equipment inventories exist as represented and that the records of inspection and maintenance reflect the actual condition of the equipment. They may also inspect equipment and require operational tests of equipment to verify readiness.

Section 154.1060 Submission and Approval Procedures

This section of the rule outlines the procedures for submission and approval of response plans. The owner or operator of an MTR facility is required to submit two English-language copies. These will be submitted directly to the COTP of the zone in which the facility is located. Response plans for a substantial harm facility may be examined for any obvious deficiencies or omissions. Response plans for significant and substantial harm facilities will be reviewed and subject to the approval of the COTP. COTPs will have the discretion to include members of the Area Committee in plan review. For the response zones where the EPA Regional Administrator is the Federal On-Scene Coordinator, the COTP may consult with the EPA to determine if the Regional Administrator has any comments or reservations prior to COTP approval of a plan.

The Coast Guard will acknowledge receipt of all response plans when they are received. One copy of a response plan for a significant and substantial harm facility that has been approved will be returned with an approval letter. The returned copy of the plan must remain and be maintained at the facility. Plan approvals are valid for up to 5 years. Plans submitted before the required response resources are in place may receive conditional approval subject to availability of the required resources. The Coast Guard will retain one copy for use, if necessary, during a response involving the facility.

If a plan for a significant and substantial harm facility is not approved or a plan for a substantial harm facility has deficiencies or omissions, the Coast Guard will explain the deficiencies. The facility owner or operator will have 30 days to submit a revised plan. The facility may continue to handle, store, or transport oil as cargo during this period provided that the certification of the availability of the required response resources remains valid. However, the time allowed to resolve deficiencies noted in the plan will be in accordance with section 154.1070.

Section 154.1065 Plan Revision and Amendment Procedures

This section of the rule requires that MTR facility response plans be reviewed annually by the facility owner or operator to ensure that plan information is current. A letter documenting this review must be submitted to the Coast Guard.

Certain changes in facility operations require plan resubmission and require the Coast Guard to reexamine or reapprove the response plan. These include: a change in the facility's configuration that significantly affects the plan information, such as a reconstruction or piping reconfiguration; a change in the type of oil handled, stored, or transported (differing oils have different response resource requirements); a change in the identity, capability, or availability of the response resources identified and available by contract or other approved means; a change in the facility's operating area that includes ports or geographic areas not covered by a previously approved plan; and other changes that significantly affect plan implementation. If no other revisions occur, a plan must be resubmitted within 5 years of the previous submission or, where appropriate, approval by the COTP.

Plan revisions that affect only names or phone numbers do not require resubmission for reapproval. However, all plan holders, including the Coast Guard, must receive such revisions as they occur.

Facility owners or operators must revise a plan whenever the Coast Guard determines that it does not meet the requirements of this subpart. Facility owners or operators will receive a written notice of deficiencies requiring revision. Section 154.1070 discusses the time allowed to correct deficiencies in the plan and required equipment.

Section 154.1070 Deficiencies

This section of the rule provides that the COTP will notify the owner or operator of the facility in writing of any deficiencies noted during a review of the response plan, drills observed by the Coast Guard, or inspection of equipment or records maintained in connection with the response plan. The COTP has discretion in specifying the time in

which any deficiency must be corrected. It also specifies the time in which a deficiency may be appealed and also allows the operator to request a stay from the COTP decision pending appeal of that decision. All appeals shall follow the procedures discussed in the appeal process in section 154.1075.

Section 154.1075 Appeal Process

This section provides a process for appealing deficiency determinations or COTP decisions. It includes a process for the owner or operator of a facility to seek COTP review of the regulatory classification that a facility could reasonably be expected to cause substantial harm or significant and substantial harm to the environment. It provides for appeals of a noted deficiency or decision to the COTP, District Commander, and the Commandant.

When seeking review of the regulatory classification of a facility, the owner or operator shall identify factors in writing to the COTP relevant to a change in facility classification. These factors are contained in paragraph 154.1016(b) and include, but are not limited to, the following: proximity to navigable waters; type and quantity of oils handled in bulk; facility spill history; age of facility; and proximity to areas of economic importance or environmental sensitivity.

Subpart G—Additional Response Plan Requirements for Trans-Alaska Pipeline Authorization Act (TAPAA) Facilities Operating in Prince William Sound, Alaska

Section 154.1110 Purpose and Applicability

The requirements of this subpart establish additional oil spill response planning requirements for an MTR facility permitted under the Trans-Alaska Pipeline Authorization Act (TAPAA). They will ensure that adequate response equipment is rapidly on scene in the event of a future oil spill, and that the residents in Prince William Sound are appropriately trained in oil spill removal and containment techniques. These requirements provide a greater level of preparedness above and beyond the requirements of subpart F.

This subpart provides requirements and criteria for use in response plan development and in identifying response resources. The requirements do not establish performance standards to be met during an oil spill. These requirements are in addition to those found in subpart F. Information pertaining to submission and approval procedures, plan revision and amendment procedures, deficiencies, and the appeal process are contained in §§ 154.1060, 154,1065, 154.1070, and 154.1075, respectively.

Section 154.1125 Additional Response Plan Requirements

This section describes what must be included in a response plan appendix for Prince William Sound for TAPAA facilities. The appendix is required to identify the oil spill removal organization; drill procedures for the required response resources; procedures for testing and certifying of response equipment; and type and location of prepositioned equipment.

The oil spill removal organization will consist of trained personnel capable of responding to a worst case discharge, to the maximum extend practicable. It must identify personnel to be trained in the communities and hatcheries specified in the rule. General training is to be provided in oil spill removal and containment techniques and specific training is required for the individual response resources provided. The training will allow local residents to assist in the cleanup and containment of oil spills and provide a means of protecting their property and economic interests.

The oil spill removal organization must evaluate each of the communities and hatcheries listed in § 154.1125 to determine the personnel necessary to be trained as well as the property and sensitive areas requiring protection. Response strategies and assumptions then need to be developed. These strategies need to reflect the practical limitations of personnel and response equipment available.

Section 5005(a)(2) of OPA 90 requires an MTR facility permitted under TAPAA to establish an oil spill removal organization that can "immediately remove," to the maximum extent practicable, a worst case discharge or a discharge of 200,000 barrels, whichever is greater. In OPA 90, the term "immediately remove" is used to assess the number of trained personnel needed by an oil spill removal organization. The Coast Guard considers the phrases "to the maximum extent practicable" and "immediately remove" to be incompatible in the sense that a worst case discharge can rarely be immediately removed because of the maximum practicable limitations in present day cleanup technology and the limited number of residents available to respond to an oil spill in Prince William Sound. Immediately is not used in this subpart to describe the number of trained personnel needed by an oil spill removal organization. The Coast Guard believe that the timetable established, given the nature of the area and the resources available, is an appropriate implementation of "immediately."

The drills required by this subpart are in addition to the requirements of subpart F. The two required drills are to ensure that the oil spill removal organization and the additional equipment and personnel required by this subpart remain in a state of readiness to respond adequately to a worst case discharge to the maximum extent practicable.

Certification of prepositioned equipment is the responsibility of facility owners or operators. The method for periodic certification of equipment required by OPA 90 has yet to be determined. The Coast Guard is requiring the use of an independent entity to perform this function. The Coast Guard solicits comments on this approach.

Section 154.1130 Requirements for Prepositioned Response Equipment

This section of the rule requires response resources in addition to the requirements in § 154.1045. This section establishes an additional planning tier for Prince William Sound and reduces the response times in § 154.1045. This additional tier requires prepositioned on-water recovery equipment and storage capacity with a minimum effective daily recovery rate of 30,000 barrels to be capable of being on scene within 2 hours notification of a discharge and on-water recovery equipment with a minimum effective daily recovery rate of 40,000 barrels capable of being on scene within 18 hours of the notification of a discharge. In addition, it requires on-water storage capacity of 100,000 barrels for recovered oily material to be capable of being on scene within 2 hours of notification of a discharge and the storage capacity of 300,000 barrels capable of being on scene within 12 hours of notification of a discharge.

The additional response equipment for communities and hatcheries identified in § 154.1125 will enhance the ability of the local residents to contain and remove oil and to protect their property. The prepositioning of equipment improves the timeliness of a spill response, and therefore, the effectiveness of a cleanup operation. The requirement for permanent buoys at strategic locations will provide midchannel anchor points for protective booming of property and environmentally sensitive areas.

Section 154.1135 Response Plan Development and Evaluation Criteria

This section of the rule provides response times for the response resources required by § 154.1045. In accordance with these response times, an owner or operator of an MTR facility permitted under TAPAA is required to plan for 70,000 barrels/day of on-water recovery capability to be on scene within 36 hours. In any other port in the United States, the planning requirement will be effective recovery capacity of up to 40,000 barrels/day to arrive on scene within 54 hours in a higher volume port area, and within 60 hours in all other areas.

Section 154.1140 TAPAA Facility Contracting With a Vessel

This section of the rule allows the owner or operator of a TAPAA facility to contract with a vessel to meet some or all of the requirements of the vessel response requirements under subpart G of 33 CFR part 155, by contract or other approved means. The COTP will determine the extent to which the contractual arrangement satisfies the vessel's requirements.

Appendix C to Part 154—Guidelines for Determining and Evaluating Required Response Resources for Facility Response Plans

This appendix contains the procedures for an owner or operator of a facility which handles, stores, or transports Group I non-persistent oils and Group II, III, and IV persistent oils to determine the response resources that must be identified and available, by contract or other approved means, to respond to the average most probable, maximum most probable, and worst case discharge to the maximum extent practicable. The procedure is based on similar requirements in the vessel response plan NPRM for determining response resources.

A facility owner or operator must use the procedures described in the appendix to determine the planning volumes for Group I non-persistent oils and Groups II, III, and IV persistent oils and identify specific response resources. A number of assumptions are used to determine these volumes.

The procedures used for these calculations are based on the facility's location and type of oil (Group I non-persistent or persistent Groups II–IV) handled, stored, or transported. The Coast Guard solicits comments on this classification for petroleum oils.

The appendix describes the procedures for determining: whether equipment identified in a response plan is acceptable to meet the requirements of this rule; the response resources required to plan for the average most probable discharge, the maximum most probable discharge, and the worst case discharge; effective daily recovery rates for oil recovery devices; the calculation of the worst case discharge planning volume; availability of high-rate response methods; and additional equipment necessary to sustain response operations. Each of these procedures provides further detail on the requirements found in § 154.1045. The Coast Guard solicits comments on these procedures.

The Coast Guard recognizes that actual recovery rates are affected by a number of variables. The rule allows the use of two methods for determining the rating of equipment identified to meet the planning capabilities required. The Coast Guard differentiated between rope and belt-type devices and other designs to reflect the difference in these devices from others when determining recovery rates.

The appendix includes tables providing the factors necessary to determine the resource requirements. Table 1 lists the operating criteria for oil recovery devices and booms. It uses significant wave height for classifying equipment identified in a response plan. Such equipment must be designed to function in the conditions listed for the applicable operating environment. During plan evaluation, the Coast Guard will assess whether equipment identified in a plan meets these criteria.

Table 2 provides factors needed to calculate the planning volumes for response resource identification. The table is divided into three geographic areas and four oil types. Because loss to the environment, potential for shoreline impact, and potential for on water recovery varies by the oil type and location, a factor is included for each. The factors are based on estimates of the oil behavior when it enters the environment: a percentage would be lost due to natural dispersion; a percentage would reach the shoreline; and a percentage would remain for on water recovery. In the inland/nearshore and offshore portions of the table, the percentages do not add up to 100 percent. This reflects an adjustment in the on water percentage to increase the quantity of response resources that are planned for mobilization within the first 3 days of the response. Because the oil may rapidly impact the shoreline in these areas, quick mobilization is essential. The table also includes a sustainability period. This was used to calculate the resource mobilization factors in Table 4. It does not reflect how long it would take to complete a clean-up. During an actual response, facility owners or operators will be required to sustain the clean-up operation until release by the Federal OSC. The Coast Guard solicits comments on the specific factors in this table.

Table 3 lists emulsification factors for the four oil groups. The factors represent the increase in volume expected due to emulsification. This increase must be considered when planning for response resources, oil storage and disposal capacity, etc. Oil emulsification affects both the weathering rate and the volume of oily material that facility owners or operators must plan to recover. The tendency for certain oils to form an emulsion is based primarily on the oil's viscosity at the ambient temperature and chemical composition. Because this varies widely, the table uses oil groups based on specific gravity. Some oils form very stable emulsions; others emulsify, then naturally separate. The individual factors reflect the general behavior of oils in a group, and do not reflect any one particular oil. The Coast Guard solicits comments on these factors, as well as whether there is an alternative method for determining these factors.

Table 4 lists the response resource mobilization factors for the operating areas or geographic locations where facilities are located and where response planning is required. These factors reflect the tiering of on water oil recovery capacity that must be mobilized within the first 3 days of an incident to maximize the potential for oil recovery. These factors were derived using the sustainability periods in Table 2 for the respective operating area. Each factor reflects a percentage of the total on water recovery requirement. To accomplish the planned for on water oil recovery within the sustainability period, this capacity must be on scene within the time specified for the applicable tier.

Table 5 lists the caps on response resources that facility owners or operators must identify and have available by contract or other approved means. The cap reflects an estimate of capability that is considered a practical nationwide target to be met in 1993. Providing the response resources necessary to meet these caps will require a significant expansion of response capabilities in most areas of the country. Some areas may currently have response resources in place or planned that will exceed these caps. The caps serve as a minimum capability that must be available throughout the

United States. The cap for rivers is lower to reflect a practical limit on response capability available in these areas in 1993.

The caps listed in Table 5 are scheduled to increase 25 percent in 1998 to create incentives for both an increase in the quantity of equipment available and improvements in spill response technology. The caps for 2003 will be developed after further review as required in § 154.1045(n). The Coast Guard solicits comments on these effective daily recovery rates 1993 and 1998.

Appendix D to Part 154—Interim Guidelines for Determining Economically Important and Environmentally Sensitive Areas for Facility Response Plans

This appendix contains procedures and information intended to identify areas near a facility which would require special protection. The procedures are provided to assist owners and operators of MTR facilities in completing certain portions of the response plan required by Subparts F and G of 33 CFR Part 154. The information will help the facility owner or operator determine if his or her facility is located near areas which will require special planning consideration.

The areas selected have been placed on a list for their ecological significance or their importance to human survival, such as drinking water protection, or economic productivity, such as cooling water intakes. The areas are important economically or environmentally sensitive and subject to deleterious effects from oil discharges.

The areas have been identified by several Federal agencies collectively charged with response planning requirements mandated in the Oil Pollution Act of 1990 (OPA) and subsequent revisions to the National Oil and Hazardous Substance Pollution Contingency Plan (NCP). Because the response plans must be consistent with the requirements of the NCP and Area Contingency Plans, the coordinated interagency effort is intended to ensure that planning requirements are not conflicting. Furthermore, a coordinated effort will facilitate the development of a workable and enforceable definition that reflects the different concerns and broad experience of the participating agencies. The Coast Guard has derived the definition of environmentally sensitive areas from the combined resources and input of the workgroup.

As part of response planning for a facility, the owner or operator must provide information on whether a spill at the facility could adversely impact any sensitive area. The COTP will consider this information in determining whether the facility will be classified as a substantial harm facility or a significant and substantial harm facility. For Group II through IV persistent oil calculations, the facility owner or operator must use the distance from the facility that oil could move in 48 hours at maximum current for a non-tidal environment, and for tidal waters, 15 miles down current during ebb tide and to the point of maximum tidal influence or 15 miles, whichever is less, during flood tide must be used. For Group I non-persistent oil, 24 hours and 5 miles respectively must be used. Facilities which provide evidence to the appropriate COTP that the area specified above is too great an area to consider for sensitive area planning can have the area reduced by the COTP. An example of evidence acceptable to support this claim is a spill trajectory modeling of a worst case discharge that demonstrates that oil would not reach sensitive areas beyond a certain point before it is cleaned up or is otherwise unlikely to impact the area. In a case where this type of evidence is presented to the COTP, the COTP may reduce the planning area to the areas in which it is demonstrated that impacts could be anticipated. The Coast Guard solicits comments on the procedure and distances utilized, as well as on the areas identified.

The definition of environmentally sensitive areas contained in this rule was developed from the sensitive environments identified by EPA's Hazard Ranking System (HRS). To help MTR facility owners and operators recognize sensitive areas for response planning purposes, the Coast Guard has included the name of Federal, State, and local agencies which may be helpful in identifying or supplying information about the sensitive areas.

The Coast Guard requests comments on the definition of economically important or environmentally sensitive areas. The Coast Guard solicits comment on whether certain areas on the list should not be considered in identifying sensitive environments.

Incorporation by Reference

The Director of the Federal Register has approved the material in § 154.106 for incorporation by reference under 5 U.S.C. 552 and 1 CFR part 51. The material is available as indicated in that section.

Regulatory Evaluation

Executive Order 12291 (46 13197, February 19, 1981) requires that agencies develop a regulatory analysis for any rule having major economic consequences on the national economy, individual industries, geographic regions, or levels of government. To assist with making this determination, a series of questions was asked in the ANPRM to solicit information from the public on the potential economic impact of these regulations.

The Coast Guard considers these regulations to be non-major under Executive Order 12291. It is a significant rule using a number of criteria under the Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). This rule was estimated to cost the oil transportation industry and the general public $43.7 million on an annualized basis. The annualized cost, which is a constant amount that equilibrates an uneven flow of cost over time, was estimated over a 10 year period using a ten percent discount rate. This rule may also affect the way the oil industry does business in the United States and may generate substantial public interest and controversy. These regulations will also impact cleanup contractors, oil spill cooperatives, and other not-for-profit cleanup organizations.

The rule contains requirements for MTR facility response plans. it also contains additional requirements for Trans-Alaska Pipeline Authorization Act (TAPAA) facilities operating in Prince William Sound, Alaska. The impact of these requirements has been analyzed separately and is summarized below.

A draft Regulatory Impact Analysis (RIA) for MTR facility response plans is available in the docket for inspection or copying, as indicated under ADDRESSES. It has also been placed in a separate docket (CGD 91–047) established to facilitate review of the programmatic RIA for titles IV and V of OPA 90.

Marine Transportation-related Facility Response Plans

In performing the regulatory impact analysis, four response plan alternatives for determining applicability of the regulations were considered. These four alternatives are: (1) MTR facilities capable of transferring oil in bulk to or from a vessel with a minimum capacity of 10,500 gallons classified in the significant and substantial harm category with a very small number of additional facilities classified in the substantial harm category plus mobile facilities; (2) all MTR facilities capable of transferring oil in bulk to or from a vessel with a minimum capacity of 10,500 gallons classified in the significant and substantial harm category with ten percent of the

additional facilities classified in the substantial harm category; (3) all MTR facilities capable of transferring oil in bulk to or from a vessel with a minimum capacity of 10,500 gallons including mobile facilities which handle, store, or transport Groups II through IV persistent oil classified in the significant and substantial harm category. All other facilities capable of transferring oil in bulk including marinas which handle, store, or transport Group I non-persistent oil only to or from vessels with a capacity of less than 250 barrels and mobile facilities which handle, store, or transport Group I non-persistent oil classified in the substantial harm category; and (4) the Coast Guard not promulgating regulations for MTR facilities.

Industry Profile

There are approximately 3,580 MTR facilities which will be required to prepare response plans under this rule. These facilities can be divided into six general categories: (1) petroleum bulk stations and terminals, (2) petroleum refineries, (3) government installations, (4) oil production facilities, (5) electric utility plants, and (6) mobile facilities such as tank trucks and railroad tank cars transferring to or from vessels with a capacity of 250 or more barrels.

For the purpose of analyzing this rule, the MTR facilities can be subdivided by storage capacity. The storage capacity groupings used to analyze this rule were: (a) less than 10,500 gallons, (b) 10,500 to 42,000 gallons, (c) 42,001 to one million gallons, and (d) more than one million gallons. There are an estimated 400 companies operating Coast Guard-regulated mobile facilities with a capacity of less than 8,000 gallons. This places them in group (a). There are 40 petroleum bulk oil stations or terminals that store between 10,500 and 42,000 gallons at their facility, placing them in group (b). Between 1,200 and 1,418 marine transportation-related facilities store between 42,001 and one million gallons which places them in group (c) and between 1,472 and 2,190 facilities that store over one million gallons or will fall into group (d).

Costs

In the aggregate, the requirement for facility response plans will result in substantial costs to the facilities affected. If all the costs for MTR facilities affected by this rule are attributed to the Coast Guard's regulations, the present value cost of this regulation for the first 10 years is estimated at $268.5 million. In the first year, most of this cost is attributable to conducting training and drilling evaluations (as defined in the regulatory impact analysis) and arranging for or providing adequate response capability. In subsequent years, the majority of the cost is attributable to conducting drills and retaining the response capability. The incremental cost of the entire regulation is $63 million for 1992, but declines to $40 million annually in subsequent years. However, since many of these facilities are complexes which are being jointly regulated by the Coast Guard and the EPA and the total costs are already accounted for under EPA's forthcoming proposed facility response plan regulation, these costs could be reduced to reflect this fact. Thus, total present value costs for Coast Guard facility response plans will be $79 million and incremental costs will be $19 million for the first full year and $12 million for subsequent years.

For individual facility owners or operators, the cost of compliance may vary widely. Although it is generally more costly for large companies to comply with the regulation, the cost will most likely be a small part of their overall operating budget. The estimated first year cost per company for group (a), mobile facilities, and per facility for group (b), small bulk terminals, is under $6,000; for group (c), oil production wells and medium bulk facilities, is between $9,000 and $16,000; and for group (d), large facilities, is $25,000. In subsequent years these figures are: $3,000; $4,700 to $11,000; and $16,000 respectively.

Summary of Benefits

The principal benefit of the response plan requirement for MTR facilities is the increased preparedness for pollution incidents. This results in a corresponding reduction in natural resource damages and cleanup costs. Facility response plans are expected to reduce the damages caused by oil spills and thus the cost by: (1) minimizing oil outflow volumes when an incident occurs, (2) preventing spilled oil from reaching sensitive habitats, and (3) mobilizing an effective and timely response to spills.

The potential benefits of facility response plans were calculated by analyzing historical spill data. Using this information, an assessment was made of the effectiveness planning may have in reducing outflows, cleanup costs, and damages.

Quantifying benefits of avoided natural resource damages associated with the facility response plan regulations is difficult. The ideal methodology will be to conduct a multiple case study of historical spill data that included natural resource damage assessments. The results will represent the range of benefits from avoided natural resource damages. This could not be done for two reasons. First, there are a limited number of claims actually settled which established a resource damage and restoration claim. Second, although models and methodologies are being developed which may better quantify natural resource damages, there is a lack of standardized models to do these assessments.

The Coast Guard is undertaking further work to refine and expand its database of oil spill cleanup and damage cost information and is further studying the matter of natural resource damage valuation, which is currently the subject of comprehensive research and evaluation by NOAA. This will facilitate the development of more accurate, representative and consistent spill-unit values to serve as the basis for reevaluating the benefits estimates in this and other regulatory evaluations undertaken for the implementation of OPA 90.

In the absence of more detailed studies, benefits are estimated based on the incremental volume of spilled oil that will be recovered due to compliance with this regulation. The estimated number of discounted barrels (using a ten percent discount rate) of oil recovered over a ten year period is 201,956 barrels. The cost effectiveness ratio (costs divided by benefits) is $1,330 per barrel of oil recovered.

After the development of the RIA but prior to the publication of this IFR, the Office of Management and Budget (OMB) issued new guidance on preparation of benefit-cost analyses (Circular No. A–94, 57 FR 53519, November 10, 1992). The Coast Guard will use that guidance in preparing the RIA for the final rule.

Similarly, as discussed in the "Costs" portion of the RIA where most of the costs are attributed to EPA, most of the benefits are accounted for under EPA's forthcoming proposed facility response plan regulation. If EPA benefits are deducted, the remaining benefits will be minimal as the majority of facilities are already EPA regulated facilities.

Additional Response Plans Requirements for Trans-Alaska Pipeline Authorization Act (TAPAA) Facilities Operating in Prince William Sound, Alaska Industry Profile

At present, there is only one Trans-Alaska Pipeline (TAPAA) facility operating in Prince William Sound. This facility is the Valdez Marine Terminal which is operated by Alyeska Pipeline

Service Company. This facility transfers approximately 700 million barrels annually to approximately 900 tankers.

Additional Response Plan Requirements for Certain Facilities Operating in Prince William Sound, Alaska

The increase in unit cost of handling, storing, and transporting crude petroleum oil to comply with section 5005 of OPA 90 is relatively small. This can easily be absorbed by the Alyeska Pipeline Service Company.

Summary of Costs and Benefits

Overall industry costs for complying with additional response planning requirements were previously discussed in the Draft Regulatory Evaluation for Prince William Sound, Alaska referenced in the Vessel Response Plan NPRM published in the **Federal Register** on June 19, 1992 (57 FR 27514). While this specifically addressed requirements for certain vessels in Prince William Sound, Alaska, it also included the costs and benefits incurred by the sole TAPAA facility located in Prince William Sound. The costs of complying with section 5005 of OPA 90 are estimated to be $232 million for the 10-year period, 1993 through 2002. The benefits include the quick recovery of spilled oil from the environment and subsequent reduction in net impact of the spill. The regulations for Prince William Sound are estimated to increase the volume of recovered oil by 25 percent for crude oil.

A copy of the draft Regulatory Evaluation for Prince William Sound is available in the docket for inspection or copying, as indicated under **ADDRESSES**.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

The Coast Guard has examined the impact of this rule on small entities. Its analysis indicates that the majority of small businesses subject to this regulation should be able to absorb the estimated compliance costs without experiencing significant adverse economic effects. The Coast Guard certifies under the Regulatory Flexibility Act of 1990 that this rule will not have significant impact on a substantial number of small entities.

An Initial Regulatory Flexibility Analysis discussing the impact of this rule on small entities is available in the docket for inspection or copying, as indicated under **ADDRESSES**.

Collection of Information

Under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), OMB reviews each regulation that contains collection of information requirements to determine whether the practical value of the information is worth the burden imposed by its collection. Collection of information requirements include reporting, recordkeeping, notification, and other similar requirements. The collection of information requirements for this rule have been submitted to OMB for review and approval and OMB approval is expected prior to February 18, 1993. The collection of information requirements for each subpart of the rule are discussed separately.

Subpart F—Response Plans

This rule contains collections of information requirements in the following sections: Sections 154.1025 (Operating restrictions and interim operating requirements); 154.1030 (General response plan requirements, specifically in the development of response resources and the identification of sensitive areas); 154.1050 (Training); 154.1055 (Drills); 154.1060 (Submission and approval procedures); and 154.1065 (Plan revision and amendment procedures).

The reporting and recordkeeping requirements associated with this rule are being submitted to OMB for approval in accordance with 44 U.S.C. chapter 35. The following particulars apply:

DOT No: 2115; OMB CONTROL NO: XXXX

Administration: U.S. Coast Guard.

Title: Response Plans for Marine Transportation-related Facilities.

Need for Information: This information is necessary to ensure that MTR facilities are adequately prepared to respond to an oil spill.

Use: The purpose of the OPA 90 amendments to section 311 of the FWPCA was to increase the preparedness for oil spills and to minimize the impact of the oil spills when they do occur. Without the requirements for response plans for MTR facilities, it is probable that some operators will not maintain the necessary internal resources (effective planning, training, drilling, etc.) or external resources (adequate response capability) to meet the requirements of these amendments. The collection of information requirements help ensure and monitor, through the submission and recurring update of response plans, that these facilities have appropriate response plans and response resources.

Submission of MTR facility response plans to the U.S. Coast Guard for approval, the verification of an approved plan during routine inspections, and the maintenance of training and drill records is believed to be the most efficacious way to ensure compliance.

Frequency: Response plan submitted every 5 years; notice of reviews completed annually; updates as necessary.

Burden Estimate: A onetime burden for industry of 327,000 hours for reporting and an annual recordkeeping burden of 65,000 hours.

Respondents: 3,580.

Average Burden Hours per Respondent: Onetime reporting burden of 91.33 hours and an annual recordkeeping burden of 18.1 hours. Subsequent years reporting will be an average of 4.5 hours.

Subpart G—Additional Response Plan Requirements for Trans-Alaska Pipeline Authorization Act (TAPAA) Facilities Operating in Prince William Sound, Alaska

This rule contains collection of information requirements in the following sections: Sections 154.1120 (Operating restrictions and interim operating authorization) and 154.1125 (Additional response plan requirements).

The reporting and recordkeeping requirements associated with this rule are being submitted to OMB for approval in accordance with 44 U.S.C. chapter 35. The following particulars apply:

DOT No: 2115; OMB CONTROL NO: XXXX

Administration: U.S. COAST GUARD

Title: Additional Response Plan Requirements for the Trans-Alaska Pipeline Act (TAPAA) Facilities Operating in Prince William Sound, Alaska.

Need for Information: This rule ensures that a facility owner or operator will provide a response plan appendix that addresses: prepositioned oil spill containment and removal equipment; oil spill removal organizations; training of local residents in oil spill containment and removal techniques; drills; and periodic testing and certification of equipment.

Use: The purpose of OPA 90 is to reduce the number of oil spills in U.S. waters and minimize the impact when

they do occur. The additional requirements in section 5005 of OPA 90 for trained personnel and prepositioned response equipment reflect the particular environmental sensitivity of Prince William Sound. Without the requirements for facilities operating in Prince William Sound, it is unlikely that sufficient response resources will be available or properly maintained to clean up a spill. The requirement establishes oil and spill removal organizations and requires prepositioned response equipment to ensure a greater level of preparedness and rapid response in the event of a spill.

Frequency: Records of personnel training and equipment maintenance, inspection, and testing will be maintained as necessary. Training and drill plans will be submitted yearly. Drills will take place twice a year.

Burden Estimate: 370 hours a year for reporting and 100 hours a year for recordkeeping.

Respondents: 1.

Average Burden Hours Per Respondent: 370 hours reporting and 100 hours of recordkeeping per year.

The Coast Guard has submitted the requirements to OMB for review, as required by the Paperwork Reduction Act.

The Coast Guard believes that the detailed information listed in § 154.1035 is essential in order to evaluate objectively the adequacy of a response plan. However, the Coast Guard is also working to set in place supplementary procedures that could reduce some of these requirements. To this end, on December 4, 1992, it promulgated Navigation and Vessel Inspection Circular 12–92, entitled "Guidelines for the Classification and Inspection of Oil Spill Response Organizations (OSROs).

There may be cases where owners or operators submitting response plans will not have adequate information regarding the oil spill removal organization(s) or the private personnel and equipment or both by February 18, 1993, to meet all the specific requirements in this interim final rule. In the initial submittal, they should acknowledge what information is lacking, explain why, and request a waiver with regard to submittal of such information. Upon good cause shown in the waiver request, the Coast Guard may grant a waiver for a reasonable period, not to extend beyond August 18, 1993, for submittal of information regarding the oil spill removal organization(s) or the private personnel and equipment or both.

Where owners or operators believe the existing information burdens are unduly burdensome, the Coast Guard actively solicits suggestions for amendments that will reduce information collection burdens while meeting the requirements of OPA 90 and the need for adequate information for plan review and discharge response. Persons commenting on the collection of information requirements should submit their comments both to OMB and to the Coast Guard, as indicated under **ADDRESSES.**

Federalism

The Coast Guard has analyzed this rule in accordance with the principles and criteria contained in Executive Order 12612 (October 26, 1987), and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

During the discussions of the Negotiated Rulemaking Committee, several States expressed concern about the issue of preemption. Some States, including Alaska, Washington, and Florida, have already issued regulations requiring oil spill response plans for facilities. The Coast Guard has evaluated the federalism issue in light of the statutory requirement for facility response plans and the accompanying provision which dictates that State law shall not be preempted. These regulations establish minimum requirements which may be supplemented by the States. However, a State may not adopt regulations inconsistent with Federal regulations. State law will be preempted by these regulations only to the extent that compliance with the State law will preclude owners or operators of facilities from complying with these requirements.

Section 311(o)(2) of the FWPCA explicitly preserves the authority of any State to impose its own requirements or standards with respect to the liability of persons involved in the removal of oil. Further, section 311(o)(3) of the FWPCA indicates that nothing in section 311 shall affect any State or local law not in conflict with anything therein.

The Supreme Court has held that a State may not issue a regulation which actually conflicts with a Federal statute or regulation. A conflict will be found "where compliance with Federal and State regulations is a physical impossibility." *Florida Lime and Avocado Growers* v. *Paul*, 373 U.S. 132.

Impossibility of compliance must be distinguished from inconsistency in Federal and State laws. For example, if a Federal regulation indicates several ways in which a requirement may be satisfied, a State may limit the methods available, but not preclude compliance by its regulations.

Executive Order 12612 and sections 311(o)(2) and (3) of the FWPCA emphasize the goal of preserving the authority of the States in pollution prevention and response. In *Askew* v. *American Waterways Operators, Inc.*, 93 S.Ct. 1590 (1973), the Supreme Court stated that "sea-to-shore pollution [is] historically within the reach of the police power of the States." (Id at 1601.) Hence, the Court has clearly preserved the authority of the States to regulate in this area, as long as State law is not in direct conflict with Federal law.

Section 311(j)(5) of the FWPCA specifically directs the President to issue these regulations. It is certified that the policies contained herein have been assessed in light of the principles of the Federalism Executive Order. Because this rule is being issued in response to a statutory mandate, the Coast Guard has determined that this action accords fully with the Executive Order.

Environment

The Coast Guard has prepared a preliminary Environmental Assessment (EA) for this action in accordance with the Council on Environmental Quality regulations (40 CFR parts 1500–1508) and Coast Guard policy (COMDTINST M16475.1B) implementing the procedural provisions of the National Environmental Policy Act (NEPA).

The EA discusses the environmental consequences of the action and alternatives, including the no-action alternative. The response planning requirements implemented under the preferred alternative are expected to enhance the effectiveness of a facility's spill response in a number of ways, including reducing the amount of oil that is released from the source, preventing oil from affecting sensitive environments once it is spilled, and increasing the amount of oil that is recovered. The preferred alternative is estimated to reduce the amount released from MTR facilities that affect the environment by approximately 1.4 million gallons, or 30 percent of all oil spilled from these facilities. The overall result will be reduction in water, land, and air pollution from oil spills at MTR facilities.

The preliminary EA is available in the public docket as noted under **ADDRESSES.** After receipt of all comments to this IFR and the EA, the Coast Guard will make a final decision on the need to draft an Environmental Impact Statement (EIS) for this rule.

List of Subjects

33 CFR Part 150

Harbors, Marine safety, Navigation, Occupational safety and health, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 154

Fire prevention, Oil pollution, Hazardous substances, Incorporation by reference, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the U.S. Coast Guard amends 33 CFR parts 150 and 154 as follows:

PART 150—OPERATIONS

1. The authority citation for 33 CFR part 150 is revised to read as follows:

Authority: 33 U.S.C. 1231, 1321(j)(1)(C), (j)(5), (j)(6) and (m)(2), 1509; sec. 2, E.O. 12777, 56 FR 54757; 49 CFR 1.46.

2. Section 150.129 is added to subpart A to read as follows:

Subpart A—General

* * * * *

§ 150.129 Response plans.

(a) The owner or operator of a deepwater port shall prepare and submit a response plan meeting the requirements of subpart F of part 154 for review and approval by the cognizant Captain of the Port (COTP).

(b) A response plan must be submitted to the cognizant COTP by February 18, 1993 or not less than 60 days before the port begins operation, which ever is later.

3. The authority citation for Part 154 is revised to read as follows:

Authority: 33 U.S.C. 1231, 1321(j)(1)(C), (j)(5), (j)(6) and (m)(2); sec. 2, E.O. 12777, 56 FR 54757; 49 CFR 1.46. Subpart F is also issued under 33 U.S.C. 2735.

4 and 5. Section 154.100 is amended by revising paragraph (a) and adding paragraph (c) to read as follows:

§ 154.100 Applicability.

(a) Unless otherwise indicated, this part applies to each fixed facility that is capable of transferring oil or hazardous material, in bulk, to or from a vessel with a capacity of 250 barrels or more. This part also applies to each mobile facility that is used, or intended to be used to transfer oil or hazardous material, in bulk, to or from a vessel with a capacity of 250 barrels or more. This part does not apply to the facility when it is in caretaker status (i.e., is not operational); except that, § 154.735 continues to apply if the facility's storage tanks or piping are not gas free.

* * * * *

(c) Upon a determination by the COTP under § 154.1016 that an MTR facility, as defined in subpart F, could reasonably be expected to cause substantial harm to the environment by discharging oil into or on the navigable waters, adjoining shorelines, or exclusive economic zone, subpart F of this part is applicable to the facility.

6. Section 154.106 is amended by revising paragraph (a) and amending paragraph (b) by revising the entry for the American Society for Testing and Materials (ASTM) to read as follows:

§ 154.106 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is on file at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC, and at the U.S. Coast Guard, Marine Environmental Protection Division (G-MEP), room 2100, 2100 Second Street, SW., Washington, DC 20593-0001 and is available from the sources indicated in paragraph (b) of this section.

(b) * * *

American Society for Testing and Materials (ASTM) 1916 Race Street, Philadelphia, PA 19103.

ASTM F 631-80 (Reapproved 1985), Standard Method for Testing Full Scale Advancing Spill Removal Devices.	Appendix C.
ASTM F 715-81 (Reapproved 1986), Standard Methods of Testing Spill Control Barrier Membrane Materials.	Appendix C.
ASTM F 808-83 (1988), Standard Guide for Collecting Skimmer Performance Data in Uncontrolled Environments.	Appendix C.
ASTM F 989-86, Standard Test Methods for Spill Control Barrier Tension Members.	Appendix C.
ASTM F-1122 (1987), Standard Specifications for Quick Disconnect Couplings.	154.500

* * * * *

7. Part 154 is amended by adding new subparts F and G to read as follows:

PART 154—FACILITIES TRANSFERRING OIL OR HAZARDOUS MATERIAL IN BULK

* * * * *

Subpart F—Response Plans

Sec.

154.1010 Purpose.
154.1015 Applicability.
154.1016 Upgrading facility classification.
154.1017 Response plan submission requirements.
154.1020 Definitions.
154.1025 Operating restrictions and interim operating authorization.
154.1026 Qualified individual and alternate qualified individual.
154.1028 Methods of ensuring the availability of response resources by contract or other approved means.
154.1029 Worst case discharge.
154.1030 General response plan contents.
154.1035 Specific requirements for facilities that could reasonably be expected to cause significant and substantial harm to the environment.
154.1040 Specific requirements for facilities that could reasonably be expected to cause substantial harm to the environment.
154.1041 Specific response information to be maintained on mobile MTR facilities.
154.1045 Response plan development and evaluation criteria for facilities that handle, store, or transport Group I through Group IV petroleum oils.
154.1047 Response plan development and evaluation criteria for facilities that handle, store, or transport Group V petroleum oils.
154.1049 Response plan development and evaluation criteria for facilities that handle, store, or transport non-petroleum oils.
154.1050 Training.
154.1055 Drills.
154.1057 Inspection and maintenance of response resources.
154.1060 Submission and approval procedures.
154.1065 Plan revision and amendment procedures.
154.1070 Deficiencies.
154.1075 Appeal process.

Subpart G—Additional Response Plan Requirements for a Trans-Alaska Pipeline Authorization Act (TAPAA) Facility Operating in Prince William Sound, Alaska

154.1110 Purpose and applicability.
154.1115 Definitions.
154.1120 Operating restrictions and interim operating authorization.
154.1125 Additional response plan requirements.
154.1130 Requirements for prepositioned response equipment.
154.1135 Response plan development and evaluation criteria.
154.1140 TAPAA facility contracting with a vessel.

Subpart F—Response Plans

§ 154.1010 Purpose.

(a) This subpart establishes oil spill response plan requirements for all marine transportation-related (MTR) facilities (hereafter also referred to as facilities) that could reasonably be

expected to cause substantial harm or significant and substantial harm to the environment by discharging oil into or on the navigable waters, adjoining shorelines, or exclusive economic zone. These requirements specify criteria to be used during the planning process to determine the appropriate response resources. The specific criteria for response resources and their arrival times are not performance standards. The criteria are based on a set of assumptions that may not exist during an actual oil spill incident.

§ 154.1015 Applicability.

(a) This subpart applies to all MTR facilities that because of their location could reasonably be expected to cause at least substantial harm to the environment by discharging oil into or on the navigable waters, adjoining shorelines, or exclusive economic zone.

(b) The following MTR facilities that handle, store, or transport oil, in bulk, could reasonably be expected to cause substantial harm to the environment by discharging oil into or on the navigable waters or adjoining shorelines and are classified as substantial harm MTR facilities:

(1) Fixed MTR onshore facilities capable of transferring oil to or from a vessel with a capacity of 250 barrels or more and deepwater ports;

(2) Mobile MTR facilities used or intended to be used to transfer oil to or from a vessel with a capacity of 250 barrels or more; and

(3) Those MTR facilities specifically designated by the COTP under § 154.1016.

(c) The following MTR facilities that handle, store, or transport oil in bulk could not only reasonably be expected to cause substantial harm, but also significant and substantial harm, to the environment by discharging oil into or on the navigable waters, adjoining shorelines, or exclusive economic zone and are classified as significant and substantial harm MTR facilities:

(1) Fixed MTR onshore facilities capable of transferring oil to or from a vessel with a capacity of 250 barrels or more and deepwater ports; and

(2) Those MTR facilities specifically designated by the COTP under § 154.1016.

(d) An MTR facility owner or operator who believes the facility is improperly classified may request review and reclassification in accordance with § 154.1075.

§ 154.1016 Upgrading facility classification.

(a) The COTP may upgrade the classification of:

(1) An MTR facility not specified in § 154.1015 (b) or (c) to a facility that could reasonably be expected to cause substantial harm to the environment by discharging oil into or on the navigable waters or adjoining shorelines and therefore is subject to the requirements of this subpart; or

(2) An MTR facility specified in § 154.1015(b) to a facility that could reasonably be expected to cause significant and substantial harm to the environment.

(b) COTP upgrading of a facility classification will be based on a consideration of all relevant factors including, but not limited to: type and quantity of oils handled in bulk; facility spill history; age of facility; proximity to public and commercial water supply intakes; proximity to navigable waters based on the definition of navigable waters in 33 CFR 2.05–25; and proximity to areas of economic importance or environmental sensitivity.

§ 154.1017 Response plan submission requirements.

(a) The owner or operator of an MTR facility identified only in § 154.1015(b) or designated by the COTP as a substantial harm facility must prepare and submit to the cognizant COTP a response plan that meets the requirements of § § 154.1030, 154.1040, and 154.1045, 154.1047, or 154.1049, as appropriate. This applies to:

(1) A mobile MTR facility used or intended to be used to transfer oil to or from a vessel with a capacity of 250 barrels or more; and

(2) A fixed MTR facility specifically designated as a substantial harm facility by the COTP under § 154.1016.

(b) The owner or operator of an MTR facility identified in § 154.1015(c) or designated by the COTP as a significant and substantial harm facility must prepare and submit for the review and approval of the cognizant COTP a response plan that meets the requirements of §§ 154.30, 154.1035, and 154.1045, 154.1047, or 154.1049, as appropriate. This applies to:

(1) A fixed MTR facility capable of transferring oil, in bulk, to or from a vessel with a capacity of 250 barrels or more; and

(2) An MTR facility specifically designated as a significant and substantial harm facility by the COTP under § 154.1016.

(c) In addition to the requirements in paragraphs (a) and (b) of this section, the response plan for a mobile MTR facility should meet the requirements of § 154.1041.

§ 154.1020 Definitions.

Except as otherwise defined in this section, the definition in 33 CFR 154.105 apply to this subpart.

Adverse weather means the weather conditions that will be considered when identifying response systems and equipment in a response plan for the applicable operating environment. Factors to consider include significant wave height as specified in § § 154.1045, 154.1047, or 154.1049, as appropriate, ice conditions, temperatures, weather-related visibility, and currents within the COTP zone in which the systems or equipment are intended to function.

Average most probable discharge means a discharge of the lesser of 50 barrels or 1 percent of the volume of the worst case discharge.

Captain of the Port (COTP) Zone means a zone specified in 33 CFR part 3 and, where applicable, the seaward extension of that zone to the outer boundary of the exclusive economic zone (EEZ).

Exclusive economic zone (EEZ) means the zone contiguous to the territorial sea of the United States extending to a distance up to 200 nautical miles from the baseline from which the breadth of the territorial sea is measured.

Facility that could reasonably be expected to cause significant and substantial harm means any MTR facility (including piping and any structures that are used for the transfer of oil between a vessel and facility) classified as a "significant and substantial harm" facility under § 154.1015(c) including a facility specifically designated by the COTP under § 154.1016(a).

Facility that could reasonably be expected to cause substantial harm means any MTR facility classified as a "substantial harm" facility under § 154.1015(b) including a facility specifically designated by the COTP under § 154.1016(a).

Great Lakes means Lakes Superior, Michigan, Huron, Erie, and Ontario, their connecting and tributary waters, the Saint Lawrence River as far as Saint Regis, and adjacent port areas.

Higher volume port area means the following ports:

(1) Boston, MA.

(2) New York, NY.

(3) Delaware Bay and River to Philadelphia, PA.

(4) St. Croix, VI.

(5) Pascagoula, MS.

(6) Mississippi River from Southwest Pass, LA. to Baton Rouge, LA.

(7) Louisiana Offshore Oil Port (LOOP), LA.

(8) Lake Charles, LA.

(9) Sabine-Neches River, TX.

(10) Galveston Bay and Houston Ship Channel, TX.

(11) Corpus Christi, TX.

(12) Los Angeles/Long Beach Harbor, CA.

(13) San Francisco Bay, San Pablo Bay, Carquinez Strait, and Suisun Bay to Antioch, CA.

(14) Straits of Juan De Fuca from Port Angeles, WA, to and including Puget Sound, WA.

(15) Prince William Sound, AK.

Inland area means the area shoreward of the boundary lines defined in 46 CFR part 7, except in the Gulf of Mexico. In the Gulf of Mexico, it means the area shoreward of the lines of demarcation (COLREG lines) defined in §§ 80.740 through 80.850 of this chapter. The inland area does not include the Great Lakes.

Marine transportation-related facility (MTR facility) means any offshore facility or segment of a complex regulated under section 311(j) of the Federal Water Pollution Control Act (FWPCA) by two or more Federal agencies, including piping and any structure used or intended to be used to transfer oil to or from a vessel, subject to regulation under this part and any deepwater port subject to regulation under part 150 of this chapter. For a facility or segment of a complex regulated by two or more Federal agencies under section 311(j) of the FWPCA, the MTR portion of the complex extends from the facility oil transfer system's connection with the vessel to the first valve inside the secondary containment surrounding tanks in the non-transportation-related portion of the facility or, in the absence of secondary containment, to the valve or manifold adjacent to the tanks comprising the non-transportation-related portion of the facility, unless another location has otherwise been agreed to by the COTP and the appropriate Federal official.

Maximum extent practicable means the planned capability to respond to a worst case discharge in adverse weather, as contained in a response plan that meets the criteria in this subpart or in a specific plan approved by the cognizant COTP.

Maximum most probable discharge means a discharge of the lesser of 1,200 barrels or 10 percent of the volume of a worst case discharge.

Nearshore area means the area extending seaward 12 miles from the boundary lines defined in 46 CFR part 7, except in the Gulf of Mexico. In the Gulf of Mexico, it means the area extending seaward 12 miles from the line of demarcation (COLREG lines) defined in §§ 80.740 through 80.850 of this chapter.

Non-persistent or Group I oil means a petroleum-based oil that, at the time of shipment, consists of hydrocarbon fractions—

(1) At least 50% of which by volume, distill at a temperature of 340 degrees C (645 degrees F); and

(2) At least 95% of which by volume, distill at a temperature of 370 degrees C (700 degrees F).

Non-petroleum oil means oil of any kind that is not petroleum-based. It includes, but is not limited to, animal and vegetable oils.

Ocean means the offshore area and nearshore area as defined in this subpart.

Offshore area means the area beyond 12 nautical miles measured from the boundary lines defined in 46 CFR part 7 extending seaward to 50 nautical miles, except in the Gulf of Mexico. In the Gulf of Mexico, it is the area beyond 12 nautical miles of the line of demarcation (COLREG lines) defined in §§ 80.740 through 80.850 of this chapter extending seaward to 50 nautical miles.

Oil means oil of any kind or in any form, including, but not limited to, petroleum oil, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredge spoil.

Oil spill removal organization means an entity that provides response resources.

On-Scene Coordinator (OSC) means the definition in the National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR part 300).

Operating area means Rivers and Canals, Inland, Nearshore, Great Lakes, or Offshore geographic location(s) in which a facility is handling, storing, or transporting oil.

Operating environment means Rivers and Canals, Inland, Great Lakes, or Ocean. These terms are used to define the conditions in which response equipment is designed to function.

Operating in compliance with the plan means operating in compliance with the provisions of this subpart including, ensuring the availability of the response resources by contract or other approved means, and conducting the necessary training and drills.

Persistent oil means a petroleum-based oil that does not meet the distillation criteria for a non-persistent oil. For the purposes of this subpart, persistent oils are further classified based on specific gravity as follows:

(1) Group II—specific gravity less than .85.

(2) Group III—specific gravity between .85 and less than .95.

(3) Group IV—specific gravity .95 or greater.

(4) Group V—specific gravity greater than 1.0.

Qualified individual and alternate qualified individual means a person located in the United States who meets the requirements of § 154.1026.

Response activities means the containment and removal of oil from the land, water, and shorelines, the temporary storage and disposal of recovered oil, or the taking of other actions as necessary to minimize or mitigate damage to the public health or welfare or the environment.

Response resources means the personnel, equipment, supplies, and other capability necessary to perform the response activities identified in a response plan.

Rivers and canals means a body of water confined within the inland area, including the Intracoastal Waterways and other waterways artificially created for navigation, that has a project depth of 12 feet or less.

Spill management team means the personnel identified to staff the organizational structure identified in a response plan to manage response plan implementation.

Substantial threat of a discharge means any incident or condition involving a facility that may create a risk of discharge of oil. Such incidents include, but are not limited to storage tank or piping failures, above ground or underground leaks, fires, explosions, flooding, spills contained within the facility, or other similar occurrences.

Worst case discharge means in the case of an onshore facility and deepwater port, the largest foreseeable discharge in adverse weather conditions meeting the requirements of § 154.1029.

§ 154.1025 Operating restrictions and interim operating authorization.

(a) The owner or operator of each MTR facility to which this subpart applies shall submit a response plan meeting the requirements listed in § 154.1030. After February 18, 1993, a facility may not handle, store, or transport oil unless a response plan has been submitted to the COTP.

(b) After August 18, 1993, no facility subject to this subpart may handle, store, or transport oil unless it is operating in full compliance with a submitted response plan. After August 18, 1993, no facility categorized under paragraph 154.1015(c) as a significant and substantial harm facility may handle, store, or transport oil unless the submitted response plan has been approved by the COTP. After August 18, 1993, an owner or operator of each new facility to which this subpart applies must submit a response plan meeting

the requirements listed in § 154.1017 not less than 60 days prior to handling, storing, or transporting oil. Where applicable, the response plan shall be submitted along with the letter of intent required under § 154.110.

(c) Notwithstanding the requirements of paragraph (b) of this section, a facility categorized under paragraph 154.1015(c) as a significant and substantial harm facility may continue to handle, store, or transport oil for 2 years after the date of submission of a response plan, pending approval of that plan. To continue to handle, store, or transport oil without a plan approved by the COTP, the facility owner or operator shall certify in writing to the COTP that the owner or operator has ensured, by contract or other approved means as described in § 154.1028(a)(1 through 4), the availability of the necessary private personnel and equipment to respond, to the maximum extent practicable to a worst case discharge or substantial threat of such a discharge from the facility. Provided that the cognizant COTP is satisfied with the certification of response resources provided by the owner or operator of the facility, the COTP shall provide written authorization for the facility to handle, store, or transport oil while the submitted response plan is being reviewed. Pending approval of the submitted response plan, deficiencies noted by the COTP must be corrected in accordance with § 154.1070.

(d) After August 18, 1993, a facility may not continue to handle, store, or transport oil if—

(1) The COTP determines that the response resources identified in the facility's certification statement or referenced response plan do not substantially meet the requirements of this subpart;

(2) The contracts or agreements cited in the facility's certification statement or referenced response plans are no longer valid;

(3) The facility is not operating in compliance with the submitted plan;

(4) The response plan has not been resubmitted or approved within the last 5 years; or

(5) The period of the authorization under paragraph (c) of this section has expired.

§ 154.1026 Qualified individual and alternate qualified individual.

(a) The response plan must identify a qualified individual and at least one alternate that meet the requirements of this section.

(b) The qualified individual and alternate must:

(1) Speak fluent English;

(2) Be available on a 24-hour basis and be able to arrive at the facility in a reasonable time;

(3) Be familiar with the implementation of the facility response plan; and

(4) Be trained in the responsibilities of the qualified individual under the response plan.

(c) The owner or operator shall provide each qualified individual and alternate qualified individual identified in the plan with a document designating them as a qualified individual and specifying their full authority to:

(1) Activate and engage in contracting with oil spill removal organization(s);

(2) Act as a liaison with the predesignated Federal On-Scene Coordinator (OSC); and

(3) Obligate funds required to carry out response activities.

(d) The owner or operator of a facility may designate an organization to fulfill the role of the qualified individual and the alternate qualified individual. The organization must then identify a qualified individual and at least one alternate qualified individual who meet the requirements of this section. The facility owner or operator is required to list in the response plan the organization, the person identified as the qualified individual, and the person or person(s) identified as the alternate qualified individual(s).

(e) The qualified individual is not responsible for—

(1) The adequacy of response plans prepared by the owner or operator; or

(2) Contracting or obligating funds for response resources beyond the authority contained in their designation from the owner or operator of the facility.

(f) The liability of a qualified individual is considered to be in accordance with the provisions of 33 USC 1321(c)(4).

§ 154.1028 Methods of ensuring the availability of response resources by contract or other approved means.

(a) When required in this subpart, the availability of response resources must be ensured by the following methods:

(1) A written contractural agreement with an oil spill removal organization. The agreement must identify and ensure the availability of specified personnel and equipment required under this subpart within stipulated response times in the specified geographic areas;

(2) Certification by the facility owner or operator that specified personnel and equipment required under this subpart are owned, operated, or under the direct control of the facility owner or operator, and are available within stipulated response times in the specified geographic areas;

(3) Active membership in a local or regional oil spill removal organization that has identified specified personnel and equipment required under this subpart that are available to respond to a discharge within stipulated response times in the specified geographic areas;

(4) A document which—

(i) Identifies the personnel, equipment, and services capable of being provided by the oil spill removal organization within stipulated response times in the specified geographic areas;

(ii) Sets out the parties' acknowledgment that the oil spill removal organization intends to commit the resources in the event of a response;

(iii) Permits the Coast Guard to verify the availability of the identified response resources through tests, inspections, and drills; and

(iv) Is referenced in the response plan; or

(v) The identification of an oil spill removal organization with specified equipment and personnel available within stipulated response times in specified geographic areas. The organization must provide written consent to being identified in the plan.

(b) The contracts and documents required in paragraph (a) of this section must be retained at the facility and must be produced for review upon request by the COTP.

§ 154.1029 Worst case discharge.

(a) The response plan must use the appropriate criteria in this section to develop the worst case discharge.

(b) For the MTR segment of a facility, not less than—

(1) Where applicable, the loss of the entire capacity of all in-line and breakout tank(s) needed for the continuous operation of the pipelines used for the purposes of handling or transporting oil, in bulk, to or from a vessel regardless of the presence of secondary containment; plus

(2) The discharge from all piping carrying oil between the marine transfer manifold and the non-transportation-related portion of the facility. The discharge from each pipe is calculated as follows: The maximum time to discover the release from the pipe in hours, plus the maximum time to shut down flow from the pipe in hours (based on historic discharge data or the best estimate in the absence of historic discharge data for the facility) multiplied by the maximum flow rate expressed in barrels per hour (based on the maximum relief valve setting or maximum system pressure when relief valves are not provided) plus the total line drainage volume expressed in barrels for the pipe between the marine

manifold and the non-transportation-related portion of the facility; and

(c) For a mobile facility it means the loss of the entire contents of the container in which the oil is stored or transported.

§ 154.1030 General response plan contents.

(a) The plan must be written in English.

(b) A response plan must be divided into the sections listed in this paragraph (b) and formatted in the order specified herein unless noted otherwise. It must also have some easily found marker identifying each section listed below. The following are the sections and subsections of a facility response plan:

(1) Introduction and plan contents.

(2) Emergency response action plan:

(i) Notification procedures.

(ii) Facility's spill mitigation procedures.

(iii) Facility's response activities.

(iv) Sensitive areas.

(v) Disposal plan.

(3) Hazard evaluation. [Reserved.]

(4) Spill scenarios. [Reserved.]

(5) Training and drills:

(i) Training procedures.

(ii) Drill procedures.

(6) Plan review and update procedures.

(7) Appendices:

(i) Facility-specific information.

(ii) List of contacts.

(iii) Equipment lists and records.

(iv) Communications plan.

(v) Site-specific safety and health plan.

(vi) List of acronyms and definitions.

(vii) A geographic-specific appendix for each zone in which a mobile facility operates.

(c) The required contents for each section and subsection of the plan are contained in §§ 154.1035, 154.1040, and 154.1041, as appropriate.

(d) The sections and subsections of response plans submitted to the COTP must contain at a minimum all the information required in §§ 154.1035, 154.1040, and 154.1041, as appropriate. It may contain other appropriate sections, subsections, or information that are required by other Federal, State, and local agencies.

(e) For initial and subsequent submission, a plan that does not follow the format specified in paragraph (b) of this section must be supplemented with a cross-reference section to identify the location of the applicable sections required by this subpart.

(f) The information contained in a response plan must be consistent with the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) (40 CFR part 300) and the Area Contingency Plan(s) (ACP) covering the area in which the facility operates and that are in effect at the time of submission of the response plan. If the NCP or ACP has been revised within 6 months prior to the date of submission, the response plan may be based on the prior NCP or ACP.

§ 154.1035 Specific requirements for facilities that could reasonably be expected to cause significant and substantial harm to the environment.

(a) *Introduction and plan content.* This section of the plan must include facility and plan information as follows:

(1) The facility's name, street address, city, county, state, ZIP code, facility telephone number, and telefacsimile number, if so equipped. Include mailing address if different from street address.

(2) The facility's location described in a manner that could aid both a reviewer and a responder in locating the specific facility covered by the plan, such as, river mile or location from a known landmark that would appear on a map or chart.

(3) The name, address, and procedures for contacting the facility's owner or operator on a 24-hour basis.

(4) A table of contents.

(5) During the period that the submitted plan does not have to conform to the format contained in this subpart, a cross index, if appropriate.

(6) A record of change(s) to record information on plan updates.

(b) *Emergency Response Action Plan.* This section of the plan must be organized in the subsections described in this paragraph (b):

(1) Notification procedures.

(i) This subsection must contain a prioritized list identifying the person(s), including name, telephone number, and their role in the plan, to be notified of a discharge or substantial threat of a discharge of oil. The telephone number need not be provided if it is listed separately in the list of contacts required in the plan. This Notification Procedures listing must include—

(A) Facility response personnel, the spill management team, oil spill removal organizations, and the qualified individual(s) and the designated alternate(s); and

(B) Federal, State, or local agencies, as required.

(ii) This subsection must include a form, such as that depicted in Figure 1, which contains information to be provided in the initial and follow-up notifications to Federal, State, and local agencies. The form shall include notification of the National Response Center as required in part 153 of this chapter. Copies of the form also must be placed at the location(s) from which notification may be made. The initial notification form must include space for the information contained in Figure 1. The form must contain a prominent statement that initial notification must not be delayed pending collection of all information.

BILLING CODE 4910-14-M

FIGURE 1

INFORMATION ON DISCHARGE *

Involved Parties

(A) Reporting Party	(B) Suspected Responsible Party
Name	Name
Phones ( ) -	Phones ( ) -
Company	Company
Position	Organization Type:
Address	Private citizen
Address	Private enterprise
	Public utility
	Local government
	State government
	Federal government
City	City
State	State
Zip	Zip

Were Materials Discharged (Y/N)?
Calling for Responsible Party (Y/N)?

Incident Description

Source and/or Cause of Incident

Date - - Time :
Cause

Incident Address/Location Nearest City

Distance from City
Storage Tank Container Type- Above ground (Y/N) Below ground (Y/N)
Unknown
Tank Capacity Facility Capacity
Latitude Degrees
Longitude Degrees
Mile Post or River Mile

Materials

Discharged Quantity	Unit of Measure	Discharged Material	Quantity in Water

Response Action

Actions Taken to Correct or Mitigate Incident

Impact

Number of Injuries Number of Fatalities
Were there Evacuations (Y/N/U)? Number Evacuated
Was there any Damage (Y/N/U)? Damage in Dollars

Additional Information

Any information about the Incident not recorded elsewhere in the report

Caller Notifications

USCG EPA STATE OTHER

* IT IS NOT NECESSARY TO WAIT FOR ALL INFORMATION BEFORE CALLING NRC.

NATIONAL RESPONSE CENTER - 1-800-424-8802

BILLING CODE 4910-14-C

(2) Facility's spill mitigation procedures.

(i) This subsection must describe the volume(s) of persistent and non-persistent oil groups that would be involved in the—

(A) Average most probable discharge from the MTR facility;

(B) Maximum most probable discharge from the MTR facility;

(C) Worst case discharge from the MTR facility; and

(D) Where applicable, the worst case discharge from the non-transportation-related facility. This must be the same volume provided in the response plan for the non-transportation-related facility.

(ii) This subsection must contain prioritized procedures for facility personnel to mitigate or prevent any discharge or substantial threat of a discharge of oil resulting from operational activities associated with internal or external facility transfers including specific procedures to shut down affected operations. Facility personnel responsible for performing specified procedures to mitigate or prevent any discharge or potential discharge shall be identified by job title. A copy of these procedures shall be maintained at the facility operations center. These procedures must address actions to be taken by facility personnel in the event of a discharge, potential discharge, or emergency involving the following equipment and scenarios:

(A) Failure of manifold, mechanical loading arm, other transfer equipment, or hoses, as appropriate;

(B) Tank overfill;

(C) Tank failure;

(D) Piping rupture;

(E) Piping leak, both under pressure and not under pressure, if applicable;

(F) Explosion or fire; and

(G) Equipment failure (e.g. pumping system failure, relief valve failure, or other general equipment relevant to operational activities associated with internal or external facility transfers.)

(iii) This subsection must contain a listing of equipment and the responsibilities of facility personnel to mitigate an average most probable discharge.

(3) Facility's response activities.

(i) This subsection must contain a description of the facility personnel's responsibilities to initiate a response and supervise response resources pending the arrival of the qualified individual.

(ii) This subsection must contain a description of the responsibilities and authority of the qualified individual and alternate as required in § 154.1026.

(iii) This subsection must describe the facility or corporate organizational structure that will be used to manage the response actions, including—

(A) Command and control;

(B) Public information;

(C) Safety;

(D) Liaison with government agencies;

(E) Spill Operations;

(F) Planning;

(G) Logistics support; and

(H) Finance.

(iv) This subsection must identify the oil spill removal organization(s) and the spill management team available, by contract or other approved means as described in § 154.1028(e)(1–4). The oil spill removal organization and the spill management team must—

(A) Be capable of responding to the following spill scenarios:

(*1*) Average most probable discharge;

(*2*) Maximum most probable discharge; and

(*3*) Worst case discharge to the maximum extent practicable; and

(B) Be capable of providing the following response resources:

(*1*) Equipment and supplies to meet the requirements of §§ 154.1045, 154.1047, or 154.1049, as appropriate; and

(*2*) Trained personnel necessary to continue operation of the equipment and staff of the oil spill removal organization and spill management team for the first 7 days of the response.

(v) For mobile facilities that operate in more than one COTP zone, the plan must identify the oil spill removal organization and the spill management team in the applicable geographic-specific appendix. The oil spill removal organization(s) and the spill management team discussed in paragraph (b)(3)(iv)(A) of this section must be included for each COTP zone in which the facility will handle, store, or transport oil in bulk.

(*4*) Sensitive areas.

(i) This section of the response plan must identify areas of economic importance and environmental sensitivity as identified in the ACP which are potentially impacted by a worst case discharge. Appendix D of this subpart is provided as guidance for identifying economically important and environmentally sensitive areas. This guidance shall be used until the ACP required under section 311(j)(4) of the FWPCA identifying areas of economic importance and environmental sensitivity has been promulgated. Additions or deletions in the areas of economic importance and environmental sensitivity contained in the ACP, when available, shall be included in the annual update of the response plan.

(ii) For a worst case discharge from the facility, this section of the response plan must—

(A) List all areas of economic importance and environmental sensitivity identified in the ACP which are potentially impacted by a discharge of persistent oils, nonpersistent oils, or non-petroleum oils.

(B) Describe all the response actions that the facility anticipates taking to protect these economically important and environmentally sensitive areas.

(C) Contain a map or chart showing the location of those areas of economic importance and environmental sensitivity which are potentially impacted. The map or chart shall also depict each response action that the facility anticipates taking to protect these areas. A legend of activities must be included on the map page.

(iii) For a worst case discharge, this section of the response plan must identify appropriate equipment and required personnel to protect areas of environmental sensitivity and economic importance as follows:

(A) Identify the appropriate equipment and required personnel to protect all areas of economic importance and environmental sensitivity in the ACP for the distance the persistent oils, non-persistent oils, or non-petroleum oils are likely to travel in the noted geographic area(s) and number of days listed in Table 2 of appendix C of this part.

(B) Identify the appropriate equipment and required personnel available, by contract or other approved means as described in § 154.1028, to protect areas of environmental sensitivity and economic importance as follows:

(*1*) For persistent oils and non-petroleum oils discharged into non-tidal waters, the distance from the facility reached in 48 hours at maximum current.

(*2*) For persistent and non-petroleum oils discharged into tidal waters, 15 miles from the facility down current during ebb tide and to the point of maximum tidal influence or 15 miles, whichever is less, during flood tide.

(*3*) For non-persistent oils discharged into non-tidal waters, the distance from the facility reached in 24 hours at maximum current.

(*4*) For non-persistent oils discharged into tidal waters, 5 miles from the facility down current during ebb tide and to the point of maximum tidal influence or 5 miles, whichever is less, during flood tide.

(*5*) For persistent oils, non-persistent oils, or non-petroleum oils a spill trajectory or model may be substituted

for the distances listed in non-tidal and tidal waters.

(6) Based on historical information or a spill trajectory or model, the COTP may require that additional areas of economic importance or environmental sensitivity also be protected.

(5) *Disposal plan.* This subsection must describe any actions to be taken or procedures to be used to ensure that all recovered oil and oil contaminated debris produced as a result of any discharge are disposed according to Federal, State, or local requirements.

(c) *Hazard Evaluation.* [Reserved.]

(d) *Discussion of Spill Scenarios.* [Reserved.]

(e) *Training and Drills.* This section of the response plan must be divided into the following two subsections:

(1) Training procedures. This subsection must describe the training procedures and programs of the facility owner or operator to meet the requirements in § 154.1050.

(2) Drill procedures. This subsection must describe the drill program to be carried out by the facility owner or operator to meet the requirements in § 154.1055.

(f) *Plan review and update procedures.* This section of the response plan must address the procedures to be followed by the facility owner or operator to meet the requirements of § 154.1065 and the procedures to be followed for any post-discharge review of the plan to evaluate and validate its effectiveness.

(g) *Appendices.* This section of the response plan must include the appendices described in this paragraph (g).

(1) *Facility-specific information.* This appendix must contain a description of the facility's principal characteristics.

(i) There must be a physical description of the facility including a plan of the facility showing the mooring areas, transfer locations, control stations, locations of safety equipment, and the location and capacities of all piping and storage tanks.

(ii) The appendix must identify the sizes, types, and number of vessels that the facility can transfer oil to or from simultaneously.

(iii) The appendix must identify the first valve(s) on facility piping separating the transportation-related portion of the facility from the non-transportation-related portion of the facility, if any. For piping leading to a manifold located on a dock serving tank vessels, this valve is the first valve inside the secondary containment required by 40 CFR part 112.

(iv) The appendix must contain information on the oil(s) and hazardous material handled, stored, or transported at the facility in bulk. A material safety data sheet meeting the requirements of 29 CFR 1910.1200, 33 CFR 154.310(a)(5) or an equivalent will meet this requirement. This information can be maintained separately providing it is readily available and the appendix identifies its location. This information must include—

(A) The generic of chemical name;

(B) A description of the appearance and odor;

(C) The physical and chemical characteristics;

(D) The hazards involved in handling the oil(s) and hazardous materials. This shall include hazards likely to be encountered if the oil(s) and hazardous materials come in contact as a result of a discharge; and

(E) A list of firefighting procedures and extinguishing agents effective with fires involving the oil(s) and hazardous materials.

(v) The appendix may contain any other information which the facility owner or operator determines to be pertinent to an oil spill response.

(2) *List of contacts.* This appendix must include information on 24-hour contact of key individuals and organizations. If more appropriate, this information may be specified in a geographic-specific appendix. The list must include—

(i) The primary and alternate qualified individual(s) for the facility;

(ii) The contact(s) identified under paragraph (b)(3)(iv) of this section for activation of the response resources; and

(iii) Appropriate Federal, State, and local officials.

(3) *Equipment list and records.* This appendix must include the information specified in this paragraph (g)(3).

(i) The appendix must contain a list of equipment and facility personnel required to respond to an average most probable discharge, as defined in § 154.1020. The appendix must also list the location of the equipment.

(ii) The appendix must contain a detailed listing of all the major equipment identified in the plan as belonging to an oil spill removal organization(s) that is available, by contract or other approved means as described in § 154.1028(a) (1 through 4), to respond to a worst case discharge, as defined in § 154.1020. The detailed listing of all major equipment may be located in a separate document referenced by the plan. Either the appendix or the separate document referenced in the plan must provide the location of the major response equipment.

(iii) It is not necessary to list response equipment from oil spill removal organization(s) when the organization has been classified by the Coast Guard and their capacity has been determined to equal or exceed the response capability needed by the facility. For oil spill removal organization(s) classified by the Coast Guard, the classification must be noted in this section of the response plan. When it is necessary for the appendix to contain a listing of response equipment, it shall include all of the following items that are identified in the response plan: skimmers; booms; dispersant application, in-situ burning, bioremediation equipment and supplies, and other equipment used to apply other chemical agents on the NCP Product Schedule (if applicable); communications, firefighting, and beach cleaning equipment; boats and motors; disposal and storage equipment; and heavy equipment. The list must include for each piece of equipment—

(A) The type, make, model, and year of manufacture listed on the nameplate of the equipment;

(B) For oil recovery devices, the effective daily recovery rate, as determined using section 6 of Appendix C of this part;

(C) For containment boom, the overall boom height (draft and freeboard) and type of end connectors;

(D) The spill scenario in which the equipment will be used or for which it is contracted;

(E) The total daily capacity for storage and disposal of recovered oil;

(F) For communication equipment, the type and amount of equipment intended for use during response activities. Where applicable, the primary and secondary radio frequencies must be specified.

(G) Location of the equipment; and

(H) The date of the last inspection by the oil spill removal organization(s).

(4) *Communications plan.* This appendix must describe the primary and alternate method of communication during discharges, including communications at the facility and at remote locations within the areas covered by the response plan. The appendix may refer to additional communications packages provided by the oil spill removal organization. This may reference another existing plan or document.

(5) *Site-specific safety and health plan.* This appendix must describe the safety and health plan to be implemented for any response location(s). It must provide as much detailed information as is practicable in advance of an actual discharge. This appendix may reference another

existing plan required under 29 CFR 1910.120.

(6) *List of acronyms and definitions.* This appendix must list all acronyms used in the response plan including any terms or acronyms used by Federal, State, or local governments and any operational terms commonly used at the facility. This appendix must include all definitions that are critical to understanding the response plan.

§ 154.1040 Specific requirements for facilities that could reasonably be expected to cause substantial harm to the environment.

(a) A facility that, under § 154.1015, could reasonably be expected to cause substantial harm to the environment shall submit a response plan that meets the requirements of § 154.1035, except as modified by this section.

(b) The facility's response activities section of the response plan need not list the facility or corporate organizational structure that will be used to manage the response, as required by § 154.1035(b)(3)(iii).

(c) The owner or operator of a facility must ensure the availability of response resources required to be identified in § 154.1035(b)(3)(iv) by contract or other approved means described in § 154.1028.

(d) A facility owner or operator must have at least 200 feet of containment boom immediately available to respond to the average most probable discharge in lieu of the quantity of containment boom specified in § 154.1045(c)(1). Based on site-specific or facility-specific information, the COTP may specify that additional quantities of containment boom are immediately available. In addition, there must be adequate sorbent material for initial response to an average most probable discharge. If the facility is a fixed facility, the containment boom and sorbent material must be located at the facility. If the facility is a mobile facility, the containment boom and sorbent must be available locally and be at the site of the discharge within 1 hour of its discovery.

§ 154.1041 Specific response information to be maintained on mobile MTR facilities.

(a) Each mobile MTR facility must carry the following information as contained in the response plan when performing transfer operations:

(1) A description of response activities for a discharge which may occur during transfer operations. This may be a narrative description or a list of procedures to be followed in the event of a discharge.

(2) Identity of response resources to respond to a discharge from the mobile MTR facility.

(3) List of the appropriate persons and agencies (including the telephone numbers) to be contacted in regard to a discharge and its handling, including the National Response Center.

(b) The owner or operator of the mobile facility must also retain the information in this section at the principal place of business.

§ 154.1045 Response plan development and evaluation criteria for facilities that handle, store, or transport Group I through Group IV petroleum oils.

(a) The owner or operator of a facility that handles, stores, or transports Group I through Group IV petroleum oils must use the criteria in this section to evaluate response resources identified in the response plan for the specified operating environment.

(1) The criteria in Table 1 of Appendix C of this part are to be used solely for identification of appropriate equipment in a response plan. These criteria reflect conditions used for planning purposes to select mechanical response equipment and are not conditions that would limit response actions or affect normal facility operations.

(2) The response resources must be evaluated considering limitations for the COTP zones in which the facility operates, including but not limited to—

(i) Ice conditions;

(ii) Debris;

(iii) Temperature ranges;

(iv) Weather-related visibility; and

(v) Other appropriate environmental conditions as determined by the COTP.

(3) The COTP may reclassify a specific body of water or location within the COTP zone. Any reclassifications will be identified by the COTP in the applicable ACP. Reclassifications may be to—

(i) A more stringent operating environment if the prevailing wave conditions exceed the significant wave height criteria during more than 35% of the year; or

(ii) A less stringent operating environment if the prevailing wave conditions do not exceed the significant wave height criteria for the less stringent operating environment during more than 35% of the year.

(b) Response equipment must—

(1) Meet or exceed the operating criteria listed in Table 1 of Appendix C of this part;

(2) Function in the applicable operating environment; and

(3) Be appropriate for the petroleum oil carried.

(c) The response plan for a facility that handles, stores, or transports Group I through Group IV petroleum oils must identify response resources that are available, by contract or other approved means as described in § 154.1028(a)(1 through 4), to respond to the facility's average most probable discharge. The response resources must include, at a minimum—

(1) 1,000 feet of containment boom or two times the length of the largest vessel that regularly conducts oil transfers to or from the facility, whichever is greater, and the means of deploying and anchoring the boom available at the facility within 1 hour of the detection of a spill; and

(2) Oil recovery devices and recovered oil storage capacity capable of being at the facility within 2 hours of the discovery of an oil discharge from a facility.

(d) The response plan for a facility that handles, stores, or transports Group I through Group IV petroleum oils must identify response resources that are available, by contract or other approved means as described in § 154.1028(a)(1 through 4), to respond to a discharge up to the facility's maximum most probable discharge volume.

(1) These response resources must be positioned such that they can arrive at the scene of a discharge within the following specified times:

(i) For an average most probable discharge, the times specified in paragraphs (c)(1) and (c)(2) of this section.

(ii) In higher volume port areas and the Great Lakes, response resources must be capable of arriving on scene within 6 hours of the discovery of an oil discharge from a facility.

(iii) In all other locations, response resources must be capable of arriving on scene within 12 hours of the discovery of an oil discharge from a facility.

(2) The response resources must include sufficient containment boom, oil recovery devices, and storage capacity for any recovery of up to the maximum most probable discharge planning volume.

(3) The response resources must be appropriate for each group of oil identified in § 154.1020 that is handled, stored, or transported by the facility.

(4) The COTP may determine that mobilizing response resources to an area beyond the response times indicated in paragraph (d) of this section invalidates the response plan.

(e) The response plan for a facility that handles, stores, or transports Group I through Group IV petroleum oils must identify the response resources that are available, by contract or other approved means as described in § 154.1028(a) (1 through 4), to respond to the worst case

discharge volume of oil to the maximum extent practicable.

(1) The location of these response resources must be suitable to meet the response times identified for the applicable geographic area(s) of operation and response tier.

(2) The response resources must be appropriate for—

(i) The volume of the facility's worst case discharge;

(ii) Group(s) of oil as identified in § 154.1020 that are handled, stored, or transported by the facility; and

(iii) The geographic area(s) in which the facility operates.

(3) The response resources must include sufficient boom, oil recovery devices, and storage capacity to recover the worst case discharge planning volumes.

(4) The guidelines in Appendix C of this part must be used for calculating the quantity of response resources required to respond at each tier to the worst case discharge to the maximum extent practicable.

(5) When determining response resources necessary to meet the requirements of this section, a portion of those resources must be capable of use in close-to-shore response activities in shallow water. The following percentages of the response equipment identified for the applicable geographic area must be capable of operating in waters of 6 feet or less depth.

(i) Offshore—10 percent.

(ii) Nearshore/Inland/Great Lakes/Rivers and canals—20 percent.

(f) Response equipment identified in a response plan for a facility that handles, stores, or transports Group I through Group IV petroleum oils must be capable of arriving on scene within the times specified in this paragraph (f) for the applicable response tier in a higher volume port area, Great Lakes, and in other areas. Response times for these tiers from the time of discovery of a discharge are:

	Tier 1	Tier 2	Tier 3
Higher volume port area (except for a TAPAA facility located in Prince William Sound, see § 154.1135).	6 hrs	30 hrs	54 hrs.
Great Lakes ..	12 hrs	36 hrs	60 hrs.
All other river and canal, inland, nearshore, and offshore areas.	12 hrs	36 hrs	60 hrs.

(g) For the purposes of arranging for response resources for a facility that handles, stores, or transports Group I through Group IV petroleum oils, by contract or other approved means as described in § 154.1028(a) (1 through 4), response equipment identified for Tier 1 plan credit must be capable of being mobilized and enroute to the scene of a discharge within 2 hours of notification. The notification procedures identified in the plan must provide for notification and authorization of mobilization of identified Tier 1 response resources—

(1) Either directly or through the qualified individual; and

(2) Within 30 minutes of a discovery of a discharge or substantial threat of discharge.

(h) Response resources identified for Tier 2 and Tier 3 plan credit must be capable of arriving on scene within the time specified for the applicable tier.

(i) The response plan for a facility that is located in any environment with year-round preapproval for use of dispersants and that handles, stores, or transports Group II or III persistent petroleum oils may request a credit for up to 25 percent of the on-water recovery capability set forth by this part. To receive this credit, the facility owner or operator must identify in the plan and ensure, by contract or other approved means as described in § 154.1028(a)(1 through 4), the availability of specified resources to apply the dispersants and to monitor their effectiveness. The extent of the credit will be based on the volumes of the dispersant available to sustain operations at the manufacturers' recommended dosage rates. Resources identified for plan credit should be capable of being on scene within 12 hours of a discovery of a discharge. Identification of these resources does not imply that they will be authorized for use. Actual authorization for use during a spill response will be governed by the provisions of the NCP and the applicable Area Contingency Plan.

(j) A response plan for a facility that handles, stores, or transports Group I through Group IV petroleum oils must identify response resources with firefighting capability. The owner or operator of a facility that does not have adequate firefighting resources located at the facility or that cannot rely on sufficient local firefighting resources must identify and ensure, by contract or other approved means as described in § 154.1028(a)(1 through 4), the availability of adequate firefighting resources. The response plan must also identify an individual located at the facility to work with the fire department for petroleum fires. This individual shall also verify that sufficient well-trained firefighting resources are available within a reasonable response time to a worst case scenario. The individual may be the qualified individual as defined in § 154.1020 and identified in the response plan or another appropriate individual located at the facility.

(k) The response plan for a facility that handles, stores, or transports Group I through IV petroleum oils must identify equipment and required personnel available, by contract or other approved means as described in § 154.1028(a)(1 through 4), to protect areas of environmental sensitivity or economic importance.

(1) Except as set out in paragraph (k)(2) of this section, the identified response resources must include the quantities of boom sufficient to protect areas of environmental sensitivity or economic importance as required by § 154.1035(b)(4).

(2) For a facility response plan submitted or resubmitted 6 months or more after the appropriate Area Contingency Plan has identified the required resources and response methods to be used in areas of environmental sensitivity or economic importance, the resources and response methods must be those identified in the appropriate Area Contingency Plan.

(l) The response plan for a facility that handles, stores, or transports Groups I through IV petroleum oils must identify an oil spill removal organization(s) with response resources that are available, by contract or other approved means as described in § 154.1028(a)(1 through 4), to effect a shoreline clean-up operation commensurate with the quantity of emulsified oil to be planned for in shoreline clean-up operations.

(1) Except as required in paragraph (l)(2) of this section, the shoreline clean-up response resources required must be determined as described in Appendix C of this part.

(2) For a facility response plan submitted or resubmitted 6 months or more after the appropriate Area Contingency Plan has identified the required shoreline clean-up resources and methods, shoreline clean-up response resources and methods must be those identified in the ACP.

(m) Appendix C of this part describes the procedures to determine the maximum extent practicable quantity of response resources that must be identified and available, by contract or other approved means as described in § 154.1028(a)(1 through 4), for the maximum most probable discharge volume, and for each worst case discharge response tier.

(1) Included in Appendix C of this part is a cap that recognizes the practical and technical limits of response capabilities that an individual facility owner or operator can be expected to contract for in advance.

(2) Table 5 in Appendix C of this part lists the caps that will apply in February 18, 1993 and February 18, 1998. Depending on the quantity and type of petroleum oil handled by the facility and the facility's geographic area of operations, the resource capability caps in this table may be reached. The owner or operator of a facility whose estimated recovery capacity exceeds the applicable contracting caps in Table 5 shall identify sources of additional equipment equal to twice the cap listed in Tier 3 or the amount necessary to reach the calculated planning volume, whichever is lower. The identified resources must be capable of arriving on scene not later than the Tier 3 response times in this section. No contract is required. While general listings of available response equipment may be used to identify additional sources, a response plan must identify the specific sources, locations, and quantities of equipment that a facility owner or operator has considered in his or her planning. When listing Coast Guard classified oil spill removal organization(s) which have sufficient removal capacity to recover the volume above the response capability cap for the specific facility, as specified in Table 5 in Appendix C of this part, it is not necessary to list specific quantities of equipment.

(n) The Coast Guard will initiate a review of cap increases and other requirements contained within this subpart that are scheduled to be phased in over time. Any changes in the requirements of this section will occur through a public notice and comment process.

(1) During this review, the Coast Guard will determine if the scheduled increase for February 1988 remains practicable, and will also establish a specific cap for 2003. The review will include but is not limited to—

(i) Increases in skimming efficiencies and design technology;

(ii) Oil tracking technology;

(iii) High rate response techniques;

(iv) Other applicable response technologies; and

(v) Increases in the availability of private response resources.

(2) All scheduled future requirements will take effect unless the Coast Guard determines that they are not practicable. Scheduled changes will be effective in February 1998 and 2003 unless the review of the additional requirements has not been completed by the Coast Guard. If this occurs, the additional requirements will not be effective until 90 days after publication of a **Federal Register** notice with the results of the review.

§ 154.1047 Response plan development and evaluation criteria for facilities that handle, store, or transport Group V petroleum oils.

(a) An owner or operator of a facility that handles, stores, or transports Group V petroleum oils must provide information in his or her response plan that identifies—

(1) Procedures and strategies for responding to a worst case discharge of Group V petroleum oils to the maximum extent practicable; and

(2) Sources of the equipment and supplies necessary to locate, recover, and mitigate such a discharge.

(b) An owner or operator of a facility that handles, stores, or transports Group V petroleum oil must ensure that any equipment identified in a response plan is capable of operating in the conditions expected in the geographic area(s) in which the facility operates using the criteria in Table 1 of Appendix C of this part. When evaluating the operability of equipment, the facility owner or operator must consider limitations that are identified in the Area Contingency Plans for the COTP zones in which the facility operates, including—

(1) Ice conditions;

(2) Debris;

(3) Temperature ranges; and

(4) Weather-related visibility.

(c) The owner or operator of a facility that handles, stores, or transports Group V petroleum oil must identify the response resources that are available by contract or other approved means as described in § 154.1028. The equipment identified in a response plan must include—

(1) Sonar, sampling equipment, or other methods for locating the oil on the bottom or suspended in the water column;

(2) Containment boom, sorbent boom, silt curtains, or other methods for containing the oil that may remain floating on the surface or to reduce spreading on the bottom;

(3) Dredges, pumps, or other equipment necessary to recover oil from the bottom and shoreline;

(4) Equipment necessary to assess the impact of such discharges; and

(5) Other appropriate equipment necessary to respond to a discharge involving the type of oil handled, stored, or transported.

(d) Response resources identified in a response plan for a facility that handles, stores, or transports Group V petroleum oils under paragraph (c) of this section must be capable of being deployed within 24 hours of discovery of a discharge to the area where the facility is operating.

(e) A response plan for a facility that handles, stores, or transports Group V petroleum oils must identify response resources with firefighting capability. The owner or operator of a facility that does not have adequate firefighting resources located at the facility or that can not rely on sufficient local firefighting resources must identify and ensure, by contract or other approved means as described in § 154.1028, the availability of adequate firefighting resources. The response plan must also identify an individual located at the facility to work with the fire department for petroleum fires. This individual shall also verify that sufficient well-trained firefighting resources are available within a reasonable response time to a worst case scenario. The individual may be the qualified individual as defined in § 154.1020 and identified in the response plan or another appropriate individual located at the facility.

§ 154.1049 Response plan development and evaluation criteria for facilities that handle, store, or transport non-petroleum oils.

(a) An owner or operator of a facility that handles, stores, or transports non-petroleum oil must provide information in his or her plan that identifies—

(1) Procedures and strategies for responding to a worst case discharge of non-petroleum oils to the maximum extent practicable; and

(2) Sources of the equipment and supplies necessary to locate, recover, and mitigate such a discharge.

(b) An owner or operator of a facility that handles, stores, or transports non-petroleum oil must ensure that any equipment identified in a response plan is capable of operating in the conditions expected in the geographic area(s) in which the facility operates using the criteria in Table 1 of Appendix C of this part. When evaluating the operability of equipment, the facility owner or operator must consider limitations that are identified in the Area Contingency Plans for the COTP zone in which the facility is located, including—

(1) Ice conditions;

(2) Debris;

(3) Temperature ranges; and

(4) Weather-related visibility.

(c) The owner or operator of a facility that handles, stores, or transports non-petroleum oil must identify the response resources that are available by

contract or other approved means as described in § 154.1028. The equipment identified in a response plan must include—

(1) Containment boom, sorbent boom, or other methods for containing oil floating on the surface or to protect shorelines from impact;

(2) Oil recovery devices appropriate for the type of non-petroleum oil carried; and

(3) Other appropriate equipment necessary to respond to a discharge involving the type of oil carried.

(d) Response resources identified in a response plan under paragraph (c) of this section must be capable of commencing an effective on-scene response within the applicable Tier response times in § 154.1045(f) of this subpart.

(e) A response plan for a facility that handles, stores, or transports non-petroleum oils must identify response resources with firefighting capability. The owner or operator of a facility that does not have adequate firefighting resources located at the facility or that can not rely on sufficient local firefighting resources must identify and ensure, by contract or other approved means as described in § 154.1028, the availability of adequate firefighting resources. The response plan must also identify an individual located at the facility to work with the fire department on non-petroleum oil fires. This individual shall also verify that sufficient well-trained firefighting resources are available within a reasonable response time to a worst case scenario. The individual may be the qualified individual as defined in § 154.1020 and identified in the response plan or another appropriate individual located at the facility.

§ 154.1050 Training.

(a) A response plan submitted to meet the requirements of §§ 154.1035 or 154.1040, as appropriate, must identify the training to be provided to each individual with responsibilities under the plan. A facility owner or operator must identify the method of training any volunteers or casual laborers employed during a response to comply with the requirements of 29 CFR 1910.120.

(b) A facility owner or operator shall ensure the maintenance of records sufficient to document training of facility personnel and shall make them available for inspection upon request by the U.S. Coast Guard. Records for facility personnel must be maintained at the facility for 3 years.

(c) Where applicable, a facility owner or operator shall ensure that an oil spill removal organization identified in a response plan to meet the requirements of this subpart maintains records sufficient to document training for the organization's personnel and shall make them available for inspection upon request by the facility's management personnel, the qualified individual, and U.S. Coast Guard. Records must be maintained for 3 years following completion of training.

(d) The facility owner or operator remains responsible for ensuring that all private response personnel are trained to meet the Occupational Safety and Health Administration (OSHA) standards for emergency response operations in 29 CFR 1910.120.

§ 154.1055 Drills.

(a) A response plan submitted by an owner or operator of an MTR facility must contain details on the type and frequency of drills. The response plan must provide for both announced and unannounced drills. The following are the required drill frequencies for facilities covered by this subpart:

(1) Facility personnel and qualified individual notification drills must be conducted monthly.

(2) Facility equipment deployment drills must be conducted semiannually. An unannounced annual drill, in which equipment is deployed, may be credited towards one of the semiannual drills.

(3) Spill management team tabletop drills must be conducted yearly.

(4) A facility owner or operator shall plan for an annual unannounced drill. During this drill, the oil spill removal organizational and spill management team identified in the facility's response plan shall be activated. The unannounced drill shall include deployment of major response equipment at the facility or other appropriate staging area. Facility equipment deployed during this unannounced drill may be credited towards the semiannual deployment drill required in paragraph (a)(2) of this section. A facility owner or operator may take credit for any unannounced oil spill response drill required by a Federal or State agency provided that this unannounced drill meets the requirements of this section for exercising the oil spill removal organization, spill management team and major response equipment.

(5) A facility owner or operator shall participate to the extent requested in any unannounced drills conducted by the cognizant COTP. A facility owner or operator need not participate in a COTP drill if the facility has participated in an unannounced Federal or State oil spill response drill within the past 24 months; the facility owner or operator shall immediately provide records of this drill to the COTP.

(6) A facility owner or operator shall ensure that the response resources identified in the plan participate in annual deployment drills.

(b) Drills may be designed by the facility owner or operator to exercise either components of or the entire response plan. The facility owner or operator shall conduct a drill that exercises the entire plan at least once every 3 years.

(c) A facility owner or operator shall ensure that records sufficient to document drills for facility personnel and the spill management team are maintained for 3 years following completion of drills.

(d) The facility owner, operator, or qualified individual designated in the response plan shall ensure that records sufficient to document the drills of the oil spill removal organization and response resources identified in the response plan are maintained 3 years following the completion of drills.

(e) The requirements for drilling the spill management team in paragraphs (a)(3) and (a)(5) of this section are met if the oil spill removal organization identified in the response plan is drilled during the period noted. The facility owner or operator shall maintain records of these drills and make them available to the COTP.

§ 154.1057 Inspection and maintenance of response resources.

(a) A facility owner or operator required to submit a response plan under this part must ensure that—

(1) Containment booms, skimmers, vessels, and other major equipment listed or referenced in the plan are periodically inspected and maintained in good operating condition, in accordance with manufacturer's recommendations, and best commercial practices; and

(2) All inspection and maintenance is documented and that these records are maintained for three years.

(b) For equipment which must be inspected and maintained under this section the Coast Guard may—

(1) Verify that the equipment inventories exist as represented;

(2) Verify the existences of records required under this section;

(3) Verify that the records of inspection and maintenance reflect the actual condition of any equipment listed or referenced; and

(4) Inspect and require operational tests of equipment.

(c) This section does not apply to containment booms, skimmers, vessels, and other major equipment listed or

referenced in the plan and ensured available from an oil spill removal organization through the written consent required under § 154.1028(a)(5).

§ 154.1060 Submission and approval procedures.

(a) The owner or operator of a facility to which this subpart applies shall submit two copies of a facility response plan meeting the requirements of this subpart to the COTP for initial review and, if appropriate, approval.

(b) For an MTR facility that is also regulated under 40 CFR part 112 and is located in the inland response zone where the EPA Regional Administrator is the predesignated Federal On-Scene Coordinator prior to any final approval.

(c) For an MTR facility that is also required to prepare a response plan under 40 CFR part 112, if the COTP determines that the plan meets all requirements of this subpart and the EPA Regional Administrator raises no objection to the response plan contents, the COTP will notify the facility owner or operator by returning one copy of the approved plan to the owner or operator along with an approval letter. The plan will be valid for a period of up to 5 years from the date of approval.

(d) If during review of a response plan submitted for initial review or pentennial review the COTP determines that the plan does not meet the requirements of this subpart, the COTP will return one copy of the plan to the facility owner or operator along with an explanation of the response plan's deficiencies. A revised plan must be resubmitted to the COTP within 30 days of receipt of the letter describing the deficiencies. Any deficiencies noted in the submitted plan must be corrected in accordance with § 154.1070.

(e) The facility owner or operator and the qualified individual and the alternative qualified individual shall each maintain a copy of the most current response plan submitted to the COTP.

§ 154.1065 Plan revision and amendment procedures.

(a) A facility response plan must be reviewed annually by the facility owner or operator. The review shall incorporate any changes in the listings of economically important or environmentally sensitive areas identified in the ACP in effect 6 months prior to plan review.

(1) This review must occur within 1 month of the anniversary date of COTP approval of the plan.

(2) The facility owner or operator shall submit any amendments of the response plan to the COTP for information or approval. If no changes are required, the facility owner or operator shall send a letter to the COTP indicating that the plan remains valid with no changes. A copy of this letter must be included in the front of each copy of the response plan and indicated in the record of changes page.

(3) Any required changes must be entered in the plan and noted on the record of changes page.

(b) Revisions or amendments to either a previously submitted or approved response plan must be submitted to the COTP by the facility's owner or operator for inclusion in the existing plan or for approval, whichever is appropriate, whenever there is—

(1) A change in the facility's configuration that significantly affects the information included in the response plan;

(2) A change in the type of oil (oil group) handled, stored, or transported that affects the required response resources;

(3) A change in the name(s) and/or capabilities of the oil spill removal organization required by § 154.1045;

(4) A change in the facility's emergency response procedures;

(5) A change in the facility's operating area that includes ports or geographic area(s) not covered by the previously approved plan. A facility may not operate in an area not covered in a previously approved plan unless the revised plan is approved or interim operating approval is received under § 154.1025;

(6) Any other changes that significantly affect the implementation of the plan; or

(7) Five years from the date of COTP approval.

(c) The COTP may require a facility owner or operator to revise a response plan at any time as a result of a compliance inspection if the COTP determines that the response plan does not meet the requirements of this subpart or as a result of inadequacies noted in the response plan during an actual pollution incident at the facility.

(d) Except as required in paragraph (b) of this section, amendments to personnel and telephone number lists included in the response plan do not require COTP approval. The COTP and all other holders of the response plan shall be advised of the revisions and provided a copy of the revisions as they occur.

§ 154.1070 Deficiencies.

(a) The cognizant COTP will notify the facility owner or operator in writing of any deficiencies noted during review of a response plan, drills observed by the Coast Guard, or inspection of equipment or records maintained in connection with this subpart.

(b) Deficiencies shall be corrected within the time period specified in the written notice provided by the COTP. The owner or operator of an MTR facility who disagrees with a deficiency issued by the COTP may appeal the deficiency to the cognizant COTP within 7 days or the time specified by the COTP to correct the deficiency, whichever is less. This time commences from the date of receipt of the COTP notice. The owner or operator may request a stay from the COTP decision pending appeal in accordance with § 154.1075.

(c) If the facility owner or operator fails to correct any deficiencies or submit a written appeal, the COTP may invoke the provisions of § 154.1025 prohibiting the facility from storing, handling, or transporting oil.

§ 154.1075 Appeal process.

(a) Any owner or operator of a facility who desires to appeal the classification that a facility could reasonably be expected to cause substantial harm or significant and substantial harm to the environment, must submit a written request to the cognizant COTP requesting review and reclassification by the COTP. The facility owner or operator shall identify those factors to be considered by the COTP. The factors to be considered by the COTP regarding reclassification of a facility include, but are not limited to, those listed in § 154.1016(b). After considering all relevant material presented by the facility owner or operator and any additional material available to the COTP, the COTP will notify the facility owner or operator of the decision on the reclassification of the facility.

(b) Any facility owner or operator directly affected by an initial determination or action of the COTP may submit a written request to the cognizant COTP requesting review and reconsideration of the COTP's decision or action. The facility owner or operator shall identify those factors to be considered by the COTP in making his or her decision on reconsideration.

(c) Within 10 days of the COTP's decision under paragraph (b) of this section, the facility owner or operator may appeal the decision of the COTP to the District Commander. This appeal shall be made in writing via the cognizant COTP to the District Commander of the district in which the office of the COTP is located.

(d) Within 30 days of the District Commander's decision, the facility owner or operator may formally appeal

the decision of the District Commander. This appeal shall be submitted in writing to Commandant (G-MEP) via the District Commander.

(e) When considering an appeal, the COTP, District Commander, or Commandant may stay the effect of the decision or action being appealed pending the determination of the appeal.

Subpart G—Additional Response Plan Requirements for a Trans-Alaska Pipeline Authorization Act (TAPAA) Facility Operating in Prince William Sound, Alaska

§ 154.1110 Purpose and applicability.

(a) This subpart establishes oil spill response planning requirements for a facility permitted under the Trans-Alaska Pipeline Authorization Act, (TAPAA) in addition to the requirements of subpart F of this part. The requirements of this subpart are intended for use in developing response plans and identifying response resources during the planning process. They are not performance standards.

(b) The information required by this subpart must be included in the Prince William Sound facility-specific appendix to the facility response plan required by subpart F of this part.

§ 154.1115 Definitions.

Except as provided in this section, the definitions in § 154.105 and § 154.1020 apply to this subpart.

Crude oil means any liquid hydrocarbon mixture occurring naturally in the earth, whether or not treated to render it suitable for transportation, and includes crude oil from which certain distillate fractions may have been removed, and crude oil to which certain distillate fractions may have been added.

Non-crude oil means any oil other than crude oil.

Prince William Sound means all State and Federal waters within Prince William Sound, Alaska, including the approach to Hinchinbrook Entrance out to and encompassing Seal Rocks.

§ 154.1120 Operating restrictions and interim operating authorization.

The owner or operator of a TAPAA facility may not operate in Prince William Sound, Alaska, unless the requirements of this subpart as well as § 154.1025 have been met. The owner or operator of a TAPAA facility shall certify to the COTP that he or she has provided, through an oil spill removal organization required by § 154.1125, the necessary response resources to remove, to the maximum extent practicable, a worst case discharge or a discharge of 200,000 barrels of oil, whichever is greater, in Prince William Sound.

§ 154.1125 Additional response plan requirements.

(a) The owner or operator of a TAPAA facility shall include the following information in the Prince William Sound appendix to the response plan required by subpart F of this part:

(1) *Oil spill removal organization.* Identification of an oil spill removal organization that shall—

(i) Perform response activities;

(ii) Provide oil spill removal and containment training, including training in the operation of prepositioned equipment for personnel, including local residents and fishermen, from the following locations in Prince William Sound:

(A) Valdez;

(B) Tatitlek;

(C) Cordova;

(D) Whittier;

(E) Chenega;

(F) Fish hatcheries located at Port San Juan, Main Bay, Esther Island, Cannery Creek, and Solomon Gulch;

(G) Other locations in Prince William Sound, to be determined by the COTP.

(iii) Provide a plan for training, in addition to the personnel listed in paragraph (a)(1)(ii) of this section, sufficient numbers of trained personnel to remove, to the maximum extent practicable, a worst case discharge; and

(iv) Address the responsibilities required in § 154.1035(b)(3)(iii).

(2) *Drills.* Identification of drill procedures that must—

(i) Provide for two drills of the oil spill removal organization each year that test the ability of the prepositioned equipment and trained personnel required under this subpart to perform effectively;

(ii) Consist of both announced and unannounced drills; and

(iii) Include design(s) for drills that test either the entire appendix or individual component(s).

(3) *Testing, inspection, and certification.* Identification of a testing, inspection, and certification program for the prepositioned response equipment required in § 154.1130 that must provide for—

(i) Annual testing and equipment inspection in accordance with the manufacturer's recommended procedures, to include—

(A) Start-up and running under load all electrical motors, pumps, power packs, air compressors, internal combustion engines, and oil recovery devices; and

(B) Removal for inspection of no less than one-third of required boom from storage annually, such that all boom will have been removed and inspected within a period of 3 years; and

(ii) Records of equipment tests and inspection.

(iii) Use of an independent entity to certify that the equipment is on-site and in good operating condition and that required tests and inspections have been performed. The independent entity must have appropriate training and expertise to provide this certification.

(4) *Prepositioned response equipment.* Identification and location of the prepositioned response equipment required in § 154.1130 including the make, model, and effective daily recovery rate of each oil recovery resource.

(b) The owner or operator of a TAPAA facility shall submit to the COTP a schedule for the training and drills required by the geographic-specific appendix for Prince William Sound for the following calendar year.

(c) All records required by this section must be available for inspection by the COTP.

§ 154.1130 Requirements for prepositioned response equipment.

The owner or operator of a TAPAA facility shall provide the following prepositioned response equipment, located within Prince William Sound, in addition to that required by §§ 154.1035, 154.1045, or 154.1050:

(a) On-water recovery equipment with a minimum effective daily recovery rate of 30,000 barrels capable of being on scene within 2 hours of notification of a discharge.

(b) On-water storage capacity of 100,000 barrels for recovered oily material capable of being on scene within 2 hours of notification of a discharge.

(c) On-water recovery equipment with a minimum effective daily recovery rate of 40,000 barrels capable of being on scene within 18 hours of notification of discharge.

(d) On-water storage capacity of 300,000 barrels for recovered oily material capable of being on scene within 12 hours of notification of a discharge.

(e) On-water recovery devices and storage equipment located in communities at strategic locations; and

(f) Equipment as identified below, for the locations identified in § 154.1125 (a)(1)(ii) sufficient for the protection of the environment in these locations:

(1) Boom appropriate for the specific locations.

(2) Sufficient boats to deploy boom and sorbents.

(3) Sorbent materials.

(4) Personnel protective clothing and equipment.

(5) Survival equipment.

(6) First aid supplies.

(7) Buckets, shovels, and various other tools.

(8) Decontamination equipment.

(9) Shoreline cleanup equipment.

(10) Mooring equipment.

(11) Anchored buoys at appropriate locations to facilitate the positioning of defensive boom.

(12) Other appropriate removal equipment for the protection of the environment as identified by the COTP.

§ 154.1135 Response plan development and evaluation criteria.

The following response times must be used in determining the on scene arrival time in Prince William Sound for the response resources required by § 154.1045:

	Tier 1 (hours)	Tier 2 (hours)	Tier 3 (hours)
Prince William Sound Area	12	24	36

§ 154.1140 TAPAA facility contracting with a vessel.

The owner or operator of a TAPAA facility may contract with a vessel owner or operator to meet some or all of the requirements of subpart G of part 155 of this chapter. The extent to which these requirements are met by the contractual arrangement will be determined by the COTP.

8. Part 154 is amended by adding an appendix C and an appendix D reading as follows:

Appendix C of Part 154—Guidelines for Determining and Evaluating Required Response Resources for Facility Response Plans

1. Purpose

1.1 The purpose of this appendix is to describe the procedures for identifying response resources to meet the requirements of subpart F of this part. These guidelines will be used by the facility owner or operator in preparing the response plan and by the Captain of the Port (COTP) when reviewing them.

2. Equipment Operability and Readiness

2.1 All equipment identified in a response plan must be designed to operate in the conditions expected in the facility's geographic area. These conditions vary widely based on location and season. Therefore, it is difficult to identify a single stockpile of response equipment that will function effectively in each geographic location.

2.2 Facilities handling, storing, or transporting oil in more than one operating environment as indicated in Table 1 of this appendix must identify equipment capable of successfully functioning in each operating environment.

2.3 When identifying equipment for response plan credit, a facility owner or operator must consider the inherent limitations in the operability of equipment components and response systems. The criteria in Table 1 of this appendix should be used for evaluating the operability in a given environment. These criteria reflect the general conditions in certain operating areas.

2.3.1 The Coast Guard may require documentation that the boom identified in a response plan meets the criteria in Table 1. Absent acceptable documentation, the Coast Guard may require that the boom be tested to demonstrate that it meets the criteria in Table 1. Testing must be in accordance with ASTM F 715, ASTM F 989, or other tests approved by the Coast Guard.

2.4 Table 1 of this appendix lists criteria for oil recovery devices and boom. All other equipment necessary to sustain or support response operations in the specified operating environment must be designed to function in the same conditions. For example, boats which deploy or support skimmers or boom must be capable of being safely operated in the significant wave heights listed for the applicable operating environment.

2.5 A facility owner or operator must refer to the applicable local contingency plan or ACP, as appropriate, to determine if ice, debris, and weather-related visibility are significant factors in evaluating the operability of equipment. The local contingency plan or ACP will also identify the average temperature ranges expected in the facility's operating area. All equipment identified in a response plan must be designed to operate within those conditions or ranges.

2.6 The requirements of subparts F and G of this part establish response resource mobilization and response times. The distance of the facility from the storage location of the response resources must be used to determine whether the resources can arrive on scene within the stated time. A facility owner or operator shall include the time for notification, mobilization, and travel time of response resources identified to meet the maximum most probable discharge and Tier 1 worst case discharge requirements. Tier 2 and 3 response resources must be notified and mobilized as necessary to meet the requirements for arrival on scene in accordance with §§ 154.1045, 154.1047, or 154.1049, as appropriate, and § 154.1135. An on water speed of 5 knots and a land speed of 35 miles per hour is assumed unless the facility owner or operator can demonstrate otherwise.

2.7 In identifying equipment, the facility owner or operator shall list the storage location, quantity, and manufacturers make and model. For oil recovery devices, the effective daily recovery capacity, as determined using section 6 of this appendix, must be included. For boom, the overall boom height (draft plus freeboard) should be included. A facility owner or operator is responsible for ensuring that identified boom has compatible connectors.

3. Determining Response Resources Required for the Average Most Probable Discharge

3.1 A facility owner or operator shall identify sufficient response resources available, through contract or other approved means as described in § 154.1028(a)(1 through 4), to respond to the average most probable discharge. The equipment must be designed to function in the operating environment at the point of expected use.

3.2 The response resources must include:

3.2.1 1,000 feet of containment boom or two times the length of the largest vessel that regularly conducts oil transfers to or from the facility, whichever is greater, and a means deploying it within 1 hour of the discovery of a spill.

3.2.2 Oil recovery devices with an effective daily recovery capacity equal to the amount of oil discharged in an average most probable discharge or greater available at the facility within two hours of the detection of an oil discharge.

3.2.3 Oil storage capacity for recovered oily material indicated in section 9.2 of this appendix.

4. Determining Response Resources Required for the Maximum Most Probable Discharge

4.1 A facility owner or operator shall identify sufficient response resources available, by contract or other approved means as described in § 154.1028(a)(1 through 4), to respond to discharges up to the maximum most probable discharge volume for that facility. This will require response resources capable of containing and collecting up to 1,200 barrels of oil or 10 percent of the worst case discharge, whichever is less. All equipment identified must be designed to operate in the applicable operating

environment specified in Table 1 of this appendix.

4.2 Oil recovery devices identified to meet the applicable maximum most probable discharge volume planning criteria must be located such that they arrive on scene within 6 hours in higher volume port areas (as defined in § 154.1020) and the Great Lakes and within 12 hours in all other areas.

4.3 Because rapid control, containment, and removal of oil is critical to reduce spill impact, the effective daily recovery capacity for oil recovery devices must equal 50 percent of the planning volume applicable for the facility as determined in section 4.1 of this appendix. The effective daily recovery capacity for oil recovery devices identified in the plan must be determined using the criteria in section 6 of this appendix.

4.4 In addition to oil recovery capacity, the plan must identify sufficient quantity of containment boom available, by contract or other approved means as described in § 154.1028(a)(1 through 4), to arrive within the required response times for oil collection and containment and for protection of sensitive areas. While the regulation does not set required quantities of boom for oil collection and containment, the response plan must identify and ensure, by contract or other approved means as described in § 154.1028(a)(1 through 4), the availability of the boom identified in the plan for this purpose.

4.5 The plan must indicate the availability of temporary storage capacity to meet the guidelines of section 9.2 of this appendix. If available storage capacity is insufficient to meet this level, then the effective daily recovery capacity must be derated to the limits of the available storage capacity.

4.6 The following is an example of a maximum most probable discharge volume planning calculation for equipment identification in a higher volume port area:

The facility's worst case discharge volume is 20,000 barrels. Ten percent of this is 2,000 barrels. Since this is greater than 1,200 barrels, 1,200 barrels are used as the planning volume. The effective daily recovery capacity must be 50 percent of this, or 600 barrels per day. The ability of oil recovery devices to meet this capacity will be calculated using the procedures in section 6 of this appendix. Temporary storage capacity available on scene must equal twice the daily recovery rate as indicated in section 9 of this appendix, or 1,200 barrels per day. This is the information the facility owner or operator will use to identify and ensure the availability of, through contract or other approved means as described in § 154.1028(a)(1 through 4), the required response resources. The facility owner will also need to identify how much boom is available for use.

5. Determining Response Resources Required for the Worst Case Discharge to the Maximum Extent Practicable

5.1 A facility owner or operator shall identify and ensure the availability of, by contract or other approved means, as described in § 154.1028(a)(1 through 4), sufficient response resources to respond to the worst case discharge of oil to the maximum extent practicable. Section 7 of this appendix describes the method to determine the required response resources.

5.2 Oil spill response resources identified in the response plan and available through contract or other approved means, as described in § 154.1028(a)(1 through 4), to meet the applicable worst case discharge planning volume must be located such that they can arrive at the scene of a discharge within the times specified for the applicable response tiers listed in § 154.1045.

5.3 The effective daily recovery capacity for oil recovery devices identified in a response plan must be determined using the criteria in section 6 of this appendix. A facility owner or operator shall identify the storage locations of all response resources that must be used to fulfill the requirements for each tier. The owner or operator of a facility whose required daily recovery capacity exceeds the applicable response capability caps in Table 5 of this appendix shall identify sources of additional equipment, their locations, and the arrangements made to obtain this equipment during a response. The owner or operator of a facility whose calculated planning volume exceeds the applicable contracting caps in Table 5 shall identify sources of additional equipment equal to twice the cap listed in Tier 3 or the amount necessary to reach the calculated planning volume, whichever is lower. The resources identified above the cap must be capable of arriving on scene not later than the Tier 3 response times in § 154.1045. No contract is required. While general listings of available response equipment may be used to identify additional sources, a response plan must identify the specific sources, locations, and quantities of equipment that a facility owner or operator has considered in his or her planning. When listing Coast Guard classified oil spill removal organization(s) which have sufficient removal capacity to recovery the volume above the response capability cap for the specific facility, as specified in Table 5 of this appendix, it is not necessary to list specific quantities of equipment.

5.4 A facility owner or operator shall identify the availability of temporary storage capacity to meet the requirements of Section 9.2 of this appendix. If available storage capacity is insufficient to meet this requirement, then the effective daily recovery capacity must be derated to the limits of the available storage capacity.

5.5 When selecting response resources necessary to meet the response plan requirements, the facility owner or operator must ensure that a portion of those resources are capable of being used in close-to-shore response activities in shallow water. The following percentages of the on-water response equipment identified for the applicable geographic area must be capable of operating in waters of 6 feet or less depth:

(i) Offshore—10 percent

(ii) Nearshore/inland/Great Lakes/rivers and canals—20 percent.

5.6 In addition to oil spill recovery devices, a facility owner or operator shall identify sufficient quantities of boom that are available, by contract or other approved means as described in § 154.1028(a)(1 through 4), to arrive on scene within the required response times for oil containment and collection. The specific quantity of boom required for collection and containment will depend on the specific recovery equipment and strategies employed. A facility owner or operator shall also identify sufficient quantities of oil containment boom to protect areas of environmental sensitivity or economic importance for the number of days and geographic areas specified in Table 2. Paragraphs 154.1035(b)(4)(iii) and 154.1040(a), as appropriate, shall be used to determine the amount of containment boom required, through contract or other approved means as described in § 154.1028(a)(1 through 4), to protect areas of environmental sensitivity or economic importance.

5.7 A facility owner or operator must also identify, through contract or other approved means as described in § 154.1028(a)(1 through 4), the availability of an oil spill removal organization capable of responding to a shoreline cleanup operation involving the calculated volume of oil and emulsified oil that might impact the affected shoreline. The volume of oil that must be planned for is calculated through the application of factors contained in Tables 2 and 3. The volume calculated from these tables is intended to assist the facility owner or

operator in identifying a contractor with sufficient resources and expertise. This planning volume is not used explicitly to determine a required amount of equipment and personnel.

6. Determining Effective Daily Recovery Capacity for Oil Recovery Devices

6.1 Oil recovery devices identified by a facility owner or operator must be identified by manufacturer, model, and effective daily recovery capacity. These rates must be used to determine whether there is sufficient capacity to meet the applicable planning criteria for the average most probable discharge, maximum most probable discharge, and worst case discharge to the maximum extent practicable.

6.2 For the purposes of determining the effective daily recovery capacity of oil recovery devices, the formula listed in section 6.2.1 of this appendix will be used. This method considers potential limitations due to available daylight, weather, sea state, and percentage of emulsified oil in the recovered material. The Coast Guard may assign a lower efficiency factor to equipment listed in a response plan if it determines that such a reduction is warranted.

6.2.1 The following formula must be used to calculate the effective daily recovery capacity:

R=T×24 hours×E
R—Effective daily recovery capacity
T—Throughput rate in barrels per hour (nameplate capacity)
E—20% Efficiency factor (or lower factor as determined by Coast Guard)

6.2.2 For those devices in which the pump limits the throughput of liquid, throughput rate will be calculated using the pump capacity.

6.2.3 For belt or mop type devices, the throughput rate will be calculated using the speed of the belt or mop through the device, assumed thickness of oil adhering to or collected by the device, and surface area of the belt or mop. For purposes of this calculation, the assumed thickness of oil will be ¼ inch.

6.2.4 Facility owners or operators including oil recovery devices whose throughput is not measurable using a pump capacity or belt/mop speed may provide information to support an alternative method of calculation. This information must be submitted following the procedures in paragraph 6.3.2 of this appendix.

6.3 As an alternative to 6.2, a facility owner or operator may submit adequate evidence that a different effective daily recovery capacity should be applied for a specific oil recovery device. Adequate evidence is actual verified performance data in spill conditions or tests using ASTM F 631, ASTM F 808, or an equivalent test approved by the Coast Guard.

6.3.1 The following formula must be used to calculate the effective daily recovery capacity under this alternative:

R=D×U
R—Effective daily recovery capacity
D—Average Oil Recovery Rate in barrels per hour (Item 26 in ASTM F 808; Item 13.1.15 in ASTM F 631; or actual performance data)
U—Hours per day that a facility owner or operator can document capability to operate equipment under spill conditions. Ten hours per day must be used unless a facility owner or operator can demonstrate that the recovery operation can be sustained for longer periods.

6.3.2 A facility owner or operator proposing a different effective daily recovery rate for use in a response plan shall provide data for the oil recovery devices listed. The following is an example of these calculations:

A weir skimmer identified in a response plan has a manufacturer's rate throughput at the pump of 267 gallons per minute (gpm).

267 gpm=381 barrels per hour
R=381×24×.2=1829 barrels per day

After testing using ASTM procedures, the skimmer's oil recovery rate is determined to be 220 gpm. The facility owner or operator identifies sufficient response resources available to support operations 12 hour per day.

220 gpm=314 barrels per hour
R=314×12=3768 barrels per day

The facility owner or operator will be able to use the higher rate if sufficient temporary oil storage capacity is available. Determinations of alternative efficiency factors under paragraph 6.2 or alternative effective daily recovery capacities under paragraph 6.3 of this appendix will be made by Commandant, (G–MEP–6), Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593. Response contractors or equipment manufacturers may submit required information on behalf of multiple facility owners or operators directly in lieu of including the request with the response plan submission.

7. Calculating the Worst Case Discharge Planning Volumes

7.1 The facility owner or operator shall plan for a response to a facility's worst case discharge. The planning for on-water recovery must take into account a loss of some oil to the environment due to evaporative and natural dissipation, potential increases in volume due to emulsification, and the potential for deposit of some oil on the shoreline.

7.2 The following procedures must be used to calculate the planning volume used by a facility owner or operator for determining required on-water recovery capacity:

7.2.1 The following must be determined: the worst case discharge volume of oil in the facility; the appropriate group(s) for the type of petroleum oil handled, stored, or transported at the facility [non-persistent (Group I) or persistent (Groups II, III, IV)]; and the facility's specific operating area. Facilities which handle, store, or transport oil from different petroleum oil groups must calculate each group separately. This information is to be used with Table 2 of this appendix to determine the percentages of the total volume to be used for removal capacity planning. This table divides the volume into three categories: oil lost to the environment; oil deposited on the shoreline; and oil available for on-water recovery.

7.2.2 The on-water oil recovery volume must be adjusted using the appropriate emulsification factor found in Table 3 of this appendix. Facilities which handle, store, or transport oil from different petroleum groups must assume that the oil groups resulting in the largest on-water recovery volume will be stored in the tank or tanks identified as constituting the worst case discharge.

7.2.3 The adjusted volume is multiplied by the on-water oil recovery resource mobilization factor found in Table 4 of this appendix from the appropriate operating area and response tier to determine the total on-water oil recovery capacity in barrels per day that must be identified or contracted for to arrive on-scene within the applicable time for each response tier. Three tiers are specified. For higher volume port areas, the contracted tiers of resources must be located such that they can arrive on scene within 6, 30, and 54 hours of the discovery of an oil discharge. For all other river, inland, nearshore, offshore areas, and the Great Lakes, these tiers are 12, 36, and 60 hours.

7.2.4 The resulting on-water recovery capacity in barrels per day for each tier must be used to identify response resources necessary to sustain operations in the applicable operating area. The equipment must be capable of sustaining operations for the time period specified in Table 2 of this appendix. The facility owner or operator must identify and ensure the availability, through contract or other approved means as described in

§ 154.1028(a)(1 through 4), of sufficient oil spill recovery devices to provide the effective daily oil recovery capacity required. If the required capacity exceeds the applicable cap specified in Table 5 of this appendix, then a facility owner or operator shall ensure, by contract or other approved means as described in § 154.1028(a)(1 through 4), only for the quantity of resources required to meet the cap, but shall identify sources of additional resources as indicated in 154.1045(m). The owner or operator of a facility whose planning volume exceeds the cap in 1993 must make arrangements to identify and ensure the availability, through contract or other approved means as described in § 154.1028(a)(1 through 4), of the additional capacity in 1998 or 2003, as appropriate. For a facility that handles, stores, or transports multiple groups of oil, the required effective daily recovery capacity for each group is calculated before applying the cap.

7.3 The following procedures must be used to calculate the planning volume for identifying shoreline cleanup capacity:

7.3.1 The following must be determined: the worst case discharge volume of oil for the facility; the appropriate group(s) for the type of petroleum oil handled, stored, or transported at the facility [non-persistent (Group I) or persistent (Groups II, III, or IV)]; and the operating area(s) in which the facility operates. For a facility storing oil from different groups, each group must be calculated separately. Using this information, Table 2 of this appendix must be used to determine the percentages of the total planning volume to be used for shoreline cleanup resource planning.

7.3.2 The shoreline cleanup planning volume must be adjusted to reflect an emulsification factor using the same procedure as described in section 7.2.2.

7.3.3 The resulting volume will be used to identify an oil spill removal organization with the appropriate shoreline clean-up capability.

7.3.4 The following is an example of the procedure described above:

A facility receives oil from barges via a dock located on a bay and transported by piping to storage tanks. The facility handles #6 oil (specify gravity .96) and stores the oil in tanks where it is held prior to being burned in an electric generating plant. The MTR segment of the facility has six 18 inch diameter pipelines running one mile from the dock-side manifold to several storage tanks which are located in the non-transportation-related portion of the facility. Although the facility piping has a normal working pressure of 100 pounds per square inch, the piping has a maximum allowable working pressure (MAWP) of 150 pounds per square inch. At MAWP, the pumping system can move 10,000 barrels (bbls) of #6 oil every hour through each pipeline. The facility has a roving watchman who is required to drive the length of the piping every two hours when the facility is receiving oil from a barge. The facility operator estimates that it will take approximately 10 minutes to secure pumping operations when a discharge is discovered. Using the definition of worse case discharge provided in § 154.1029(b)(ii), the following calculation is provided:

2 hours + 0.17 hour × 10,000 bbls per hour	= 21,700 bbls
Piping volume=37,322 cu ft ÷ 5.6 cu ft/bbl	= +6,664 bbls
Discharge volume per pipe	28,364 bbls
Number of pipelines	×6

Total worst case discharge from MTR facility=170,184 bbls

Worst case discharge: 170,184 bbls. Group IV oil

Emulsification factor (from Table 3): 1.4

Operating Area impacted: Inland

Planned % oil onshore recovery (from Table 2): Inland 70%

Planned % on-water recovery (from Table 2): Inland 50%

Planning volumes for onshore recovery: Inland 170,184 × .7 × 1.4 = 166,780 bbls.

Conclusion: The facility owner or operator must contract with a response resource capable of managing a 166,784 barrel shoreline cleanup.

Planning volumes for on water recovery: Inland 170,184 × .5 × 1.4 = 119,128 bbls.

Determine required resources for on-water recovery for each tier using mobilization factors (from Table 4):

			Tier 1	Tier 2	Tier 3
Inland	119,128	×	.15	.25	.40
	equals barrels per day (bpd)				
Inland			17,869	29,782	47,652

Conclusion: Since the requirements for all tiers for inland exceed the caps, the facility owner will only need to contract for 10,000 bpd for Tier 1, 20,000 bpd for Tier 2, and 40,000 bpd for Tier 3. Sources for the remaining 7,652 bpd required for Tier 3 will need to be identified in the response plan but not contracted for.

20% of the capability for Inland, for all tiers, must be capable of operating in water with a depth of 6 feet or less.

The facility owner or operator will also be required to identify or ensure, by contract or other approved means as described in § 154.1028(a)(1 through 4), sufficient response resources required under 154.1035(b)(4) and 154.1045(k) to protect areas of environmental sensitivity and economic importance identified in the response plan for the worst case discharge from the facility.

The COTP has the discretion to accept that a facility can operate only a limited number of the total pipelines at a dock at a time. In those circumstances, the worst case discharge must include the drainage volume from the piping normally not in use in addition to the drainage volume and volume of oil discharged during recovery and shut down of the oil discharge from the operating piping.

8. Determining the Availability of Alternatives Response Methods

8.1 Response plans for facilities that handle, store, or transport Groups II or III persistent oils that operate in an area with year-round pre-approval for dispersant use may receive credit for up to 25 percent of their required on-water recovery capacity in 1993 if the availability of these resources is ensured by contract or other approved means as described in § 154.1028(a)(1 through 4). For response plan credit, these resources must be capable of being on-scene within 12 hours of a discharge.

8.2 To receive credit against any required on-water recover capacity a response plan must identify the locations of dispersant stockpiles, methods of shipping to a staging area, and appropriate aircraft, vessels, or facilities to apply the dispersant and monitor its effectiveness at the scene of an oil discharge.

8.2.1 Sufficient volumes of dispersants must be available to treat the oil at the dosage rate recommended by the dispersant manufacturer. Dispersants identified in a response plan must be on the NCP Product Schedule that is maintained by the U.S. Environmental Protection Agency. (Some States have a list of approved dispersants and within State waters only they can be used.)

8.2.2 Dispersant application equipment identified in a response plan for credit must be located where it can be mobilized to shoreside staging areas to meet the time requirements in section 8.1 of this appendix. Sufficient equipment capacity and sources of appropriate dispersants should be identified to sustain dispersant application operations for at least 3 days.

8.2.3 Credit against on-water recovery capacity in pre-approved areas will be based on the ability to treat oil at a rate equivalent to this credit. For example, a 2,500 bbl. credit against the Tier 1 10,000 bbl. on-water cap would require the facility owner or operator to demonstrate the ability to treat 2,500 bbls/day of oil at the manufacturers recommended dosage rate. Assuming a dosage rate of 10:1, the plan would need to show stockpiles and sources of 250

bbls. of dispersants at a rate of 250 bbls. per day and the ability to apply the dispersant at that daily rate for 3 days in the geographic area in which the facility is located. Similar data would need to be provided for any additional credit against Tier 2 and 3 resources.

8.3 In addition to the equipment and supplies required, a facility owner or operator shall identify a source of support to conduct the monitoring and post-use effectiveness evaluation required by applicable regional plans and ACPs.

8.4 Identification of the response resources for dispersant application does not imply that the use of this technique will be authorized. Actual authorization for use during a spill response will be governed by the provisions of the NCP and the applicable regional plan or ACP. A facility owner or operator who operates a facility in areas with year-round pre-approval of dispersant can reduce the required on-water recovery capacity for 1993 up to 25 percent. A facility owner or operator may reduce the required on water recovery cap increase for 1998 and 2003 up to 50 percent by identifying pre-approved alternative response methods.

8.5 In addition to the credit identified above, a facility owner or operator that operates a year round area pre-approved for dispersant use may reduce their required on water recovery cap increase for 1998 and 2003 by up to 50% by identifying non-mechanical methods.

8.6 The use of in-situ burning as a non-mechanical response method is still being studied. Because limitations and uncertainties remain for the use of this method, it may not be used to reduce required oil recovery capacity in 1993.

9. Additional Equipment Necessary to Sustain Response Operations

9.1 A facility owner or operator is responsible for ensuring that sufficient numbers of trained personnel and boats, aerial spotting aircraft, containment boom, sorbent materials, boom anchoring materials, and other supplies are available to sustain response operations to completion. All such equipment must be suitable for use with the primary equipment identified in the response plan. A facility owner or operator is not required to list these response resources, but shall certify their availability.

9.2 A facility owner or operator shall evaluate the availability of adequate temporary storage capacity to sustain the effective daily recovery capacities from equipment identified in the plan. Because of the inefficiencies of oil spill recovery devices, response plans must identify daily storage capacity equivalent to twice the effective daily recovery rate required on scene. This temporary storage capacity may be reduced if a facility owner or operator can demonstrate by waste stream analysis that the efficiencies of the oil recovery devices, ability to decant waste, or the availability of alternative temporary storage or disposal locations will reduce the overall volume of oily material storage requirement.

9.3 A facility owner or operator shall ensure that his or her planning includes the capability to arrange for disposal of recovered oil products. Specific disposal procedures will be addressed in the applicable ACP.

BILLING CODE 4910-14-M

TABLE 1

RESPONSE RESOURCE OPERATING CRITERIA

OIL RECOVERY DEVICES

Operating Environment	Significant Wave Height[1]	Sea State
Rivers and Canals	≤1 foot	1
Inland	≤3 feet	2
Great Lakes	≤4 feet	2-3
Ocean	≤6 feet	3-4

BOOM

Boom Property	Use			
	Rivers & Canals	Inland	Great Lakes	Ocean
Significant Wave[1] Height	≤1	≤3	≤4	≤6
Sea State	1	2	2-3	3-4
Boom height - in. (draft plus freeboard)	6-18	18-42	18-42	≥42
Reserve Buoyancy to Weight Ratio	2:1	2:1	2:1	3:1 to 4:1
Total Tensile Strength - lbs.	4,500	15-20,000	15-20,000	≥20,000
Skirt Fabric Tensile Strength - lbs.	200	300	300	500
Skirt Fabric Tear Strength - lbs.	100	100	100	125

[1] Oil recovery devices and boom must be at least capable of operating in wave heights up to and including the values listed in Table 1 for each operating environment.

Spill Location	Rivers and canals			Nearshore/Inland Great Lakes			Offshore		
Sustainability of on-water oil recovery	3 Days			4 Days			6 Days		
Oil Group	% Natural Dissipation	% Recovered Floating Oil	% Oil On Shore	% Natural Dissipation	% Recovered Floating Oil	% Oil On Shore	% Natural Dissipation	% Recovered Floating Oil	% Oil On Shore
1 Non-persistent oils	80	10	10	80	20	10	95	5	/
2 Light crudes	40	15	45	50	50	30	75	25	5
3 Medium crudes and fuels	20	15	65	30	50	50	60	40	20
4 Heavy crudes and fuels	5	20	75	10	50	70	50	40	30

Table 2 Removal Capacity Planning Table

TABLE 3

EMULSIFICATION FACTORS FOR PETROLEUM OIL GROUPS

NON-PERSISTENT OIL	
GROUP I	1.0
PERSISTENT OIL	
GROUP II	1.8
GROUP III	2.0
GROUP IV	1.4

TABLE 4

ON WATER OIL RECOVERY RESOURCE MOBILIZATION FACTORS

Operating Area	Tier 1	Tier 2	Tier 3
Rivers & Canals	.30	.40	.60
Inland/Nearshore/ Great Lakes	.15	.25	.40
Offshore	.10	.165	.21

Note: These mobilization factors are for total response resources mobilized, not incremental response resources.

TABLE 5

RESPONSE CAPABILITY CAPS BY OPERATING AREA

	Tier 1	Tier 2	Tier 3
February 18, 1993			
All except rivers & canals, Great Lakes	10K bbls/day	20K bbls/day	40K bbls/day
Great Lakes	5K bbls/day	10K bbls/day	20K bbls/day
Rivers & canals	1,500 bbls/day	3,000 bbls/day	6,000 bbls/day
February 18, 1998			
All except rivers & canals, Great Lakes	12.5K bbls/day	25K bbls/day	50K bbls/day
Great Lakes	6.35K bbls/day	12.3K bbls/day	25K bbls/day
Rivers & canals	1,875 bbls/day	3,750 bbls/day	7,500 bbls/day
February 18, 2003			
All except rivers & canals, Great Lakes	TBD	TBD	TBD
Great Lakes	TBD	TBD	TBD
Rivers & canals	TBD	TBD	TBD

Note: The caps show cumulative overall effective daily recovery capacity, not incremental increases.

TBD = To be determined

BILLING CODE 4910-14-C

Appendix D of Part 154—Interim Guidelines for Determining Economically Important and Environmentally Sensitive Areas for Facility Response Plans

1. Purpose

Since the Coast Guard is using the facility's potential to impact sensitive areas as a factor in determining whether a facility could reasonably be expected to cause substantial harm or significant and substantial harm, it is necessary for facility owners or operators to be able to correctly identify sensitive areas. Sensitive areas will require more stringent protective measures than other areas in the event of a discharge. These guidelines will help facility owners or operators identify the areas that affect the classification of their facilities and the areas which require increased awareness during the planning process.

These guidelines will serve as interim guidelines until the area committees have identified sensitive areas in the Area Contingency Plans (ACP).

2. Identifying Sensitive Areas Potentially Impacted by a Worst Case Discharge From a Facility

Proximity to environmentally sensitive areas has been identified as a factor in the substantial harm evaluation. To assist owners or operators in identifying these areas, environmentally sensitive areas may include a variety of areas, such as: wetlands, National and State parks, critical habitats for endangered and threatened species, wilderness and natural areas, marine sanctuaries, conservation areas, preserves, wildlife areas, scenic and wild rivers, seashore and lakeshore recreational areas, and critical biological resource areas.

Other environmental areas that may be considered by the Coast Guard to determine whether a facility poses significant and substantial harm to the environment include: Federal and State lands that are research natural areas, heritage program areas, land trust areas, and historical and archeological sites and parks. These areas may also include unique habitats, such as: aquaculture sites, bird nesting areas, designated migratory routes, and designated seasonal habitats. The Coast Guard may determine, on a case-by-case basis, that additional areas that possess ecological significance are considered to be environmentally sensitive for the purposes of this regulation.

The Commandant in consultation with EPA's Regional Administrator may determine, on a case-by-case basis, that areas not contained in this appendix but that possess ecological value are considered to be sensitive environments for purposes of this regulation.

Dated: January 19, 1993.

J.W. Kime,

Admiral, U.S. Coast Guard, Commandant.

[FR Doc. 93-1708 Filed 2-1-93; 8:45 am]

BILLING CODE 4910-14-M

---

33 CFR Part 155

[CGD 91-034]

RIN 2115-AD81

Vessel Response Plans

AGENCY: Coast Guard, DOT.

ACTION: Interim final rule.

SUMMARY: The Coast Guard is establishing regulations requiring response plans for certain vessels that carry oil in bulk as cargo and additional requirements for certain vessels operating in Prince William Sound, Alaska. These regulations are mandated by the Federal Water Pollution Control Act (FWPCA), as amended by the Oil Pollution Act of 1990 (OPA 90). The purpose of these requirements is to improve response capabilities and minimize the impact of oil spills from these vessels.

DATES: This rule is effective February 5, 1993, except for §§ 155.1110 through 155.1150 of subpart E. Sections 155.1110 through 155.1150 are effective August 18, 1993. The Director of the Federal Register approves as of February 5, 1993, the incorporation by reference of certain publications listed in the regulations. Comments on the interim final rule must be received by April 6, 1993.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G-LRA/3406) (CGD 91-034), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, or may be delivered to room 3406 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477.

Comments on collection of information requirements must also be mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

When submitting comments, include your name and address, identify both this rulemaking (91-034) and the specific section of the rulemaking to which each comment applies, and give the reason for the comment. If you want acknowledgement of receipt of comments, enclosed a stamped, self-addressed postcard or envelope.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of the docket and will be available for inspection and copying at room 3406, U.S. Coast Guard Headquarters.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Gary Greene, Project Manager, Oil Pollution Act of 1990 (OPA 90) Staff, (202) 267-6739. This telephone is equipped to record messages on a 24-hour basis.

SUPPLEMENTARY INFORMATION:

Request for comments

The Coast Guard is soliciting comments on portions of the interim final rule where we have made major changes based on our review of comments received on the proposed rule (57 FR 27514, June 19, 1992). The Coast Guard encourages the submission of written data, views, or arguments on the following issues:

1. Section 155.1015: The new exemption, under certain circumstances, for foreign flag vessels transiting the exclusive economic zone and territorial seas.
2. Section 155.1020: Definition of Contract or other approved means. The new "other approved means" for ensuring the availability of response resources, and the new situations in which the owner or operator may obtain written consent from an oil spill removal organization to ensure the availability of response resources.
3. Section 155.1050(f)(6): The new requirements for owners or operators to plan for close-to-shore response activities in shallow water.
4. Section 155.1050(g): The revised response times for the Great Lakes area.
5. Section 155.1050(k): The revised requirements for owners or operators to ensure the availability of dispersants.
6. Section 155.1052: The new section which establishes response plan requirements and criteria for vessels carrying group V petroleum oil (specific gravity greater than 1) as a primary cargo.
7. Section 155.1054: The new section which establishes response plan requirements and criteria for vessels carrying non-petroleum oil as a primary cargo.
8. Section 155.1062: The new section which establishes requirements for the inspection and maintenance of certain response resources.
9. Section 155.1130: The revised requirements for on-water removal capability.
10. Appendix B, Table 6: The new caps for the Great Lakes area.

While comments are specifically requested on the above issues, all comments on any issues raised by this rulemaking will be considered.

Drafting Information

The principal persons involved in drafting this document are Commander Glenn Wiltshire, Project Manager, Lieutenant Commander Gary Greene, Project Manager, and Joan Tilghman, Project Counsel, OPA 90 Staff.

Background and Purpose

The Federal Water Pollution Control Act (FWPCA), 33 U.S.C. 1321(j)(5), requires the owner or operator of a tank vessel, as defined under 46 U.S.C. 2101, or a facility to prepare and submit to the President a plan for responding, to the maximum extent practicable, to a worst case discharge, and to a substantial threat of such a discharge, of oil or a hazardous substance. Worst case discharge is defined in section 311(a)(24) of the FWPCA as the loss of the entire cargo in adverse weather conditions.

Since the publication of the notice of proposed rulemaking, Congress passed the Coast Guard Authorization Act of 1992 (Pub. L. 102–587, November 4, 1992). Section 5209(b) of the Act provides that the following vessels are deemed not to be tank vessels for the purposes of any law:

(1) An offshore supply vessel.

(2) A fishing or fish tender vessel of not more than 750 gross tons that transfers without charge to a fishing vessel owned by the same person.

The result of the Reauthorization Act is that the vessels described are not tank vessels for the purposes of the FWPCA and the vessel response plan requirements. We have revised the applicability section of the interim final rule accordingly.

The vessel response plan requirements are applicable to all vessels certificated under 46 CFR subchapter D, vessels that have a Certificate of Compliance or Tank Vessel Examination Letter, other certificated vessels that are permitted to carry limited quantities of oil, and uninspected vessels that carry oil in bulk as cargo or cargo residue. The requirements are also applicable to vessels carrying oil in bulk as cargo or cargo residue pursuant to an International Oil Pollution Prevention (IOPP) or Noxious Liquid Substance (NLS) certificate required by 33 CFR 151.33 or 151.35, and dedicated response vessels carrying oil in bulk as cargo or cargo residue outside a response area.

For the purposes of the interim final rule, we are using the definition of oil that is contained in section 311(a)(1) of the FWPCA. Oil includes but is not limited to petroleum, fuel oil, sludge, oil refuse, and oil mixed with waste other than dredge spoils. This definition includes animal and vegetable oils in addition to petroleum oil.

Section 311(j)(5)(C) of the FWPCA requires that response plans must: (1) Be consistent with the requirements of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) and Area Contingency Plans (ACPs); (2) identify the qualified individual with full authority to implement removal actions, and require immediate communications between that individual and the appropriate Federal official and the oil spill removal organizations providing personnel and equipment; (3) identify and ensure the availability of, by contract or other approved means, private personnel and equipment necessary to remove to the maximum extent practicable a worst case discharge and to mitigate or prevent a substantial threat of such a discharge; (4) describe the training, equipment testing, periodic unannounced drills, and response actions of persons on the vessel to be carried out under the plan to ensure the safety of the vessel and to mitigate or prevent the discharge, or the substantial threat of a discharge; and (5) be updated periodically and resubmitted for approval of each significant change.

A major objective of the OPA 90 amendments to section 311(j)(5) of the FWPCA is to create a system in which private parties supply the bulk of equipment and personnel needed for an oil spill response in a given area. A worst case discharge will likely require the use of both private and public resources. However, the vessel response plan (VRP) is required to identify private resources. The integration and coordination of public and private response resources will be addressed in the applicable Area Contingency Plans.

Section 311(j)(5)(D) of the FWPCA requires the President to promptly review vessel response plans, require amendments to any plan that does not meet the requirements of section 311(j)(5), and approve any plan that complies with section 311(j)(5). The President also must review each response plan periodically thereafter. The President delegated the authority to review and approve vessel response plans to the Secretary of the Department of Transportation (DOT) on October 18, 1991 by Executive Order 12777 (56 FR 54757). The Secretary further delegated this authority to the Commandant of the Coast Guard on March 3, 1992 in 46 CFR 1.46(m) (57 FR 8581).

Section 311(j)(5) of the FWPCA and section 4202(b)(4) of OPA 90 set the implementation schedule for these provisions. After February 18, 1993, a vessel required to prepare and submit a response plan may not handle, store, or transport oil unless a plan has been submitted for approval. After August 18, 1993, a vessel required to prepare and submit a response plan may not perform any of these functions unless it is operating in compliance with that plan.

After submission of a plan, but prior to its approval, a vessel may continue operations for up to 2 years if the owner or operator of the vessel certifies the availability of private personnel and equipment sufficient to respond to a worst case discharge and the owner or operator has received written authorization for continued operations from the Coast Guard. Written authorization is required because section 311(j)(5) of the FWPCA states that a vessel permitted to continue operations for up to two years as described above must be authorized to do so.

Although OPA 90 requires response plans for oil or hazardous substance spills, section 4202(b)(4) establishes an implementation schedule only for submission and approval of oil spill response plans. Response plans for hazardous substance spills will be the subject of a separate rulemaking.

Section 5005 of OPA 90 sets oil spill removal requirements for Prince William Sound (PWS), Alaska in addition to those in section 311(j)(5) of the FWPCA. When Congress passed OPA 90, section 5005 applied to all vessels operating in Prince William Sound. However, Congress amended section 5005 of OPA 90 on October 5, 1992, by changing which vessels are subject to the additional requirements for PWS. The only vessels to which section 5005 of OPA 90, as amended by section 354 of the DOT Appropriations Act (Pub. L. 102–388, October 5, 1993) now applies are tankers loading cargo at a facility permitted under the Trans-Alaska Pipeline Authorization Act (TAPAA) (43 U.S.C. 1651 *et seq.*).

Section 5005 provides an even greater margin of safety for PWS by requiring vessel response plans to provide for: Propositioning response equipment; establishing an oil spill removal organization with trained personnel to protect property and economic interests; special training for residents in PWS; performing periodic testing and certification of response equipment; and exercising required trained personnel and spill removal equipment.

This rulemaking does not address the requirements of section 311(j)(6) of the FWPCA for the carriage and inspection of discharge-removal equipment. The Coast Guard published a notice of proposed rulemaking (NPRM) on "Requirements for Vessels to Carry Discharge-Removal Equipment" in the **Federal Register** on September 29, 1992 (57 FR 44912). The requirements for facility response plans are contained in a separate interim final rule published elsewhere in this issue of the **Federal Register**.

Regulatory History

The Coast Guard published an advance notice of proposed rulemaking (ANPRM) on this project in the August 30, 1991, **Federal Register** (56 FR 43534). The ANPRM discussed the background and requirements of section 311(j) of the FWPCA and possible regulatory approaches. The ANPRM raised 59 questions for public comment, and the Coast Guard received 172 comments which were considered in developing the NPRM.

In addition to accepting written comments concerning the development of proposed regulations for vessel response plans, a public workshop was held in Washington, DC on November 14, 1991. A total of 196 persons participated in the workshop. During the workshop, the Coast Guard summarized the written comments received in response to the ANPRM and solicited additional input on specific issues.

Because of the need for additional information to assist with the development of the proposed rule, the Coast Guard published a Notice of Intent to Form a Negotiated Rulemaking Committee on November 18, 1991 (56 FR 58202). Based on the comments received on that notice, the Coast Guard established the Oil Spill Response Plan Negotiated Rulemaking Committee (the Committee). A notice announcing the establishment of the Committee was published in the **Federal Register** on January 10, 1992 (57 FR 1139). Twenty-six organizations participated on the Committee. The Coast Guard was a member of the Committee.

Committee sessions were held between January 8 and March 27, 1992. The Committee was charged with considering five issues: (1) Definition of "maximum extent practicable;" (2) definition of "adverse weather" for purposes of determining recovery capacity of removal equipment; (3) applicability of requirements to various categories of vessels that carry oil in bulk as cargo; (4) contractor certification; and (5) carriage of discharge removal equipment. The Committee considered a number of options and alternatives during its discussions that were not included in their recommendations. The consensus recommendations included in the final report of the Committee reflect the agreement of all Committee members and were used when drafting the proposed rule. The Coast Guard expects to issue guidance on contractor classification and has published an NPRM on discharge-removal equipment carriage (57 FR 44912, September 29, 1992). Copies of the final Committee report and all documents considered by the Committee during its meetings are available in the public docket for this rulemaking.

On June 19, 1992, the Coast Guard published an NPRM entitled Vessel Response Plans in the **Federal Register** (57 FR 27514). A correction notice concerning portions of the NPRM was published on July 1, 1992 in the **Federal Register** (57 FR 29354). By the close of the comment period on August 3, 1992, the Coast Guard received 246 letters commenting on the proposal, all of which it considered in developing this interim final rule. Additional comments have been received since the close of the comment period, and they have been considered to the extent possible in developing this interim final rule.

One letter requested that the Coast Guard conduct a public hearing on this proposed rule. A public hearing was not held because the Coast Guard determined that there was sufficient opportunity to make oral presentations during the public workshop and the Committee meetings.

The Committee reconvened August 18–20, 1992, after the close of the public comment period on the NPRM, to review the comments received on their recommendations. The Committee did not reach consensus on any additional recommendations during the final meeting and made no amendments to the final Committee report. However, the Committee meeting did create a forum for some members and the public to discuss unresolved issues and provide additional information on the Committee's earlier recommendations. All documents considered by the Committee during the final meeting are available in the public docket for this rulemaking.

Given the statutory deadline for the submission of response plans by vessel owners or operators, the Coast Guard released NVIC No. 8–92 on September 23, 1992. Change 1 to NVIC No. 8–92 was released on December 4, 1992. The NVIC and Change 1 to the NVIC provided guidance to the marine industry for preparing response plans for certain vessels, as required by the OPA 90 amendments to the FWPCA. The Coast Guard will accept a response plan based on the NVIC to meet the February 18, 1993 deadline, as well as a response plan meeting this interim final rule. The owner or operator who submits a response plan for a vessel based on the NVIC must so indicate that in a letter accompanying the plan submission. This plan will be reviewed for approval based on the provisions contained in the Navigation and Inspection Circular (NVIC). Any response plan submitted after February 18, 1993 must meet the requirements of this interim final rule. After August 18, 1993, all vessels must be operating in compliance with an approved plan or be authorized in writing by the Coast Guard to operate pending approval of a submitted plan.

To receive this interim authorization from the Coast Guard, a vessel owner or operator must certify to the Coast Guard that he or she has ensured by contract or other approved means, the availability of private personnel and equipment necessary to respond, to the maximum extent practicable, to a worst case discharge or a substantial threat of such a discharge.

Discussion of Comments and Changes

Discussion of General Issues

Many comments were concerned with the possible application of the planning criteria included in the proposed rule as performance standards in a post-response enforcement action or litigation. As indicated in both the preamble and §§ 155.1010 and 155.1110 of the proposed rule, this rulemaking establishes planning criteria to be used by vessel owners or operators to develop their Federal response plans. The criteria were derived from a number of assumptions that may not be applicable when a spill occurs. The Coast Guard does not intend to use these criteria to measure performance during a spill response. However, these are requirements in the interim final rule (e.g., training and drills) where the Coast Guard does expect the vessel owner or operator to ensure performance. See the "Federalism" section of this preamble for further discussion on this issue.

Many comments expressed concern that the requirements in the proposed rule were inconsistent with and went well beyond the requirements of MARPOL Annex I, Regulation 26. Regulation 26 requires certain vessels to have shipboard emergency plans that address at least four areas: Procedures

for reporting oil pollution incidents; a listing of authorities to be notified; a detailed description of immediate actions to be taken by the vessel's crew to reduce or control an oil discharge; and procedures for coordinating shipboard activities with national and local authorities. The requirements of section 311(j)(5) of the FWPCA exceed those of Regulation 26, but the Coast Guard has minimized inconsistencies to the maximum extent practicable.

In a response plan, section 311(j)(5) of the FWPCA requires vessel owners or operators to also: Identify and ensure, through contract or other approved means, the availability of necessary private response resources; describe training and drills; identify a qualified individual with specific authority and responsibilities; and address periodic plan updates. Under the FWPCA, the Coast Guard cannot allow vessels that meet only Regulation 26 standards to handle, store, or transport oil in waters subject to U.S. jurisdiction.

OPA 90 requires owners or operators to submit response plans by February 18, 1993. However, MARPOL Annex I, Regulation 26 is not fully effective until April 4, 1995. To minimize the burden on foreign flag vessel owners or operators who must prepare both an IMO shipboard emergency plan and a U.S. response plan, the Coast Guard has revised the response plan format provisions to allow greater flexibility in combining these two plans into one document.

Numerous comments noted that the proposed rule requires them to plan for a potential discharge of fuel or bunker in addition to oil carried in bulk as cargo, and that this exceeds the requirements of OPA 90. For U.S. flag vessels, the Coast Guard intended the vessel response plan required by OPA 90 to satisfy the requirements of IMO Regulation 26 and reduce the overall burden on the owner or operator. After further consideration, the Coast Guard has determined that this may place an undue burden on those U.S. vessels that do not have to comply with IMO Regulation 26. Therefore, the Coast Guard has amended § 155.1030 of the interim final rule to allow an owner or operator to address the additional provisions of Regulation 26 if desired. The requirement for an owner or operator to plan for the discharge of fuel has been eliminated from the interim final rule. Any U.S. vessel owner or operator who wants to have the 311(j) plan considered for compliance with IMO Regulation 26 should inform the Coast Guard of this fact in writing at the time of plan submission. Although the Coast Guard has not determined how IMO Regulation 26 will be implemented for all vessels, we anticipate that a plan prepared following the guidance contained in § 155.1030(j) will meet the minimum requirements of Regulation 26. When the Coast Guard issues a letter approving a response plan, the letter will indicate whether it complies with Regulation 26, for entry into port states, if the owner or operator has included in the plan the expanded provisions of § 155.1030(j).

Many comments stated that it was impossible for owners or operators to meet the statutory deadlines for submitting and complying with vessel response plans because the Coast Guard would not have published the regulations by August 18, 1992. OPA 90 requires owners or operators to submit vessel response plans by February 18, 1993; the Coast Guard has no discretion to change that date.

As discussed in "Regulatory History," the Coast Guard promulgated NVIC No. 8–92 dated September 15, 1992, and Change 1 to NVIC No. 8–92 dated December 4, 1992, to provide guidance to the marine industry for preparing response plans. The submission by February 18, 1993, of a response plan based on the NVIC will be accepted by the Coast Guard for the initial vessel response plan submission.

The additional OPA 90 section 5005 requirements for Prince William Sound have no statutory deadlines. Therefore, the Coast Guard has determined that it is appropriate to delay the implementation of these requirements until 180 days after the effective date of the interim final rule.

Many comments expressed concern that an owner or operator could not submit a vessel response plan until the NCP is revised and the ACPs are completed, as required by OPA 90. The Coast Guard recognizes that the NCP and the ACPs will not be revised or completed prior to the initial submission of vessel response plans on February 18, 1993. In NVIC No. 8–92, the Coast Guard announced that it will evaluate whether a response plan is consistent with the NCP by using the existing NCP published in 40 CFR part 300. Because the ACPs are in various stages of development, we will use the local oil and hazardous substances contingency plans (LCPs) in effect on August 18, 1992 to evaluate whether a response plan submitted to meet the February 18, 1993 deadline is consistent with the ACP. Copies of the LCPs are available from the cognizant COTP.

The Coast Guard expects all ACPs to be completed within the next year. A vessel response plan submitted after the NCP is revised or the applicable ACP has been completed must eventually be consistent with these documents. We have revised § 155.1030 to allow an owner or operator submitting a response plan for approval or reapproval to be consistent with the applicable plan (NCP/ACP) in effect 6 months prior to the response plan submission date. The 6-month period provides sufficient time for owners or operators to prepare their response plans before submitting them to the Coast Guard. This provision would not prevent an owner or operator from voluntarily conforming to a more recent NCP or ACP if one existed.

The interim final rule does not require an owner or operator to immediately resubmit their response plan if the NCP or applicable ACP is updated. The owner or operator would include any new information required in the NCP or ACP only when submitting the plan for reapproval. Likewise, an update would not be required as the result of the annual review which the owner or operator is required to conduct.

In the NPRM, we solicited public comment on whether the requirements for manned vessels carrying oil as primary cargo, unmanned tank barges, and vessels carrying oil as secondary cargo should be contained in separate sections or one section of the rule. Seven comments stated that combining the response plan requirements for all vessel types in one section would make it difficult for owners or operators to locate the requirements for their vessel type. These comments also argued that separate sections would allow the requirements for one vessel type to change without affecting the requirements for other vessels. The Coast Guard agrees that separate sections for each vessel type will make the rule easier to read and facilitate compliance with the requirements and has retained that format in the interim final rule.

Some comments argued that we have exceeded our statutory authority under the FWPCA in setting requirements for the average most probable discharge (AMPD) and maximum most probable discharge (MMPD) because section 311(j)(5) of the FWPCA requires planning for the worst case discharge only.

The Coast Guard's authority to regulate is broader than OPA 90. Section 311(j)(1)(C) of the FWPCA authorizes the Coast Guard to require planning for discharges other than the worst case. Because the Committee recommended that the NPRM address operational discharges as well as the worst case discharge, we are using our authority to require planning for spills other than a worst case discharge.

A number of comments were concerned that the requirements of this interim final rule are not appropriate for remote areas such as the Aleutian Islands and other areas of Alaska, Guam, American Samoa, and other remote areas in the Pacific. The Coast Guard has considered these comments but has not revised the interim final rule because OPA 90 sets requirements for vessels and not for specific operating areas. Further, this interim final rule establishes national criteria to ensure that response planning is not tied to specific locations or ports with existing response capability but would result in the ability to respond to discharges anywhere in U.S. waters and the exclusive economic zone (EEZ).

In any event, a vessel owner or operator can address the specifics of response capabilities in remote areas through the existing exemption process included in 33 CFR 155.130. This section allows a vessel owner or operator to submit a written request to the Commandant in those situations where compliance with a regulation is economically or physically impractical, no alternative procedures or methods for compliance exist, and the likelihood of a discharge occurring as a result of the exemption is minimal.

In its request, the vessel owner or operator should identify what resources would be available to respond to discharges in remote areas, response times for those resources, and any other appropriate information. The owner or operator should also identify the location and estimated response time of all resources necessary to meet the applicable resource requirements of the interim final rule. This listing will likely include resources that cannot meet the various response time requirements.

One comment recommended that "planned" vessel routing should be the criteria for determining required resources, and that an owner or operator should not have to plan for every eventuality. This comment expressed specific concern that the master of a vessel would not be permitted to deviate from the planned route for the safety of the vessel or crew, due to weather or some other unplanned condition if the vessel response plan did not cover the geographic area into which the master chose to deviate.

"Planned" routing is already the underlying criteria of the vessel response plan. The Coast Guard disagrees that a master would be prohibited from diverting into an area with a higher planning standard when required for the safety of his vessel or crew.

During the course of this rulemaking, the Coast Guard has received a number of comments stating that the vessel response plan interim final rule should not—under any circumstances—apply to vessels which carry oil as a secondary cargo. Most of the comments advance various reasons why secondary carriers do not meet the definition of "tank vessel." The Coast Guard disagrees. OPA 90 states that the response plan requirements apply to a "tank vessel" as that term is defined in 46 U.S.C. 2101. According to section 2101, a tank vessel is a vessel that, among other things, carriers oil in bulk as cargo. Section 2101 does not differentiate between primary and secondary uses of the vessel.

Some comments stated that the Coast Guard does not treat secondary carriers as "tank vessels" in regulations issued under 46 U.S.C. chapter 37. This comment is true. However, statutory exemptions in title 46 United States Code that exclude some tank vessels from regulations issued under that authority do not apply to regulations issued under the FWPCA.

At least one comment stated that it is not clear whether Congress intended to capture secondary carriers within the vessel response plan requirements, and that the Coast Guard has authority under the FWPCA to exempt secondary carriers from the definition of "tank vessel." The Coast Guard believes that the statutory language is clear. Congress could have referred to another definition to limit the scope of these requirements, but it chose the broad definition in 46 U.S.C. 2101. This is an unambiguous statement, and we see nothing in the statute or the legislative history to support a contrary conclusion.

Some comments stated that the Coast Guard could exempt secondary carriers from the interim final rule by defining the terms "bulk" and "cargo" to exclude a minimum amount of oil. The Coast Guard believes that, consistent with the purposes of OPA 90, it has no discretion to exempt a carrier by defining terms to exclude tank vessels carrying a minimum amount of oil from the requirement to comply with the vessel response plan rules. Further, there is little justification for distinguishing between specific quantities of oil which may be in tanks, all posing pollution risks, from time to time. The statute requires a tank vessel to have a plan even if it carries only oil residue—a minimum amount.

Some comments stated that requiring a secondary carrier to have a response plan will create inconsistencies with existing regulations. As we stated earlier, some secondary carriers would fall outside of regulations issued under 46 U.S.C. chapter 37, but within the scope of the FWPCA which is codified in 33 United States Code. Each statute requires a separate regulatory scheme, and the response plan rules simply do not affect rules issued under title 46.

Although we recognize that OPA 90 includes secondary carriers, the Coast Guard believes that the relative risk from these kinds of vessels is less than the risk from tank vessels carrying oil as primary cargo. We have exercised what discretion we do have to establish reduced requirements for secondary carriers, to reflect this lesser risk.

The Coast Guard received a number of comments arguing that services such as firefighting and salvage typically are provided by public entities, and that vessel owners and operators should be able to identify these public resources in their plans, reasoning that spill response essentially is a private and public partnership. Section 311(j)(5)(C)(iii) of the FWPCA states that a response plan must identify and ensure the availability of private personnel and equipment to respond to a spill. Although the Coast Guard agrees that both private and public resources likely will be used in the event of an actual spill, we think the statute is unambiguous in requiring the vessel response plans to address and develop private spill response resource capability.

Numerous comments recommended that the Coast Guard and not vessel owners or operators be responsible for certifying or approving shore-based spill response contractors. The Coast Guard is not requiring owners or operators to "certify" shore-based spill response contractors. However, section 311(j)(5) of the FWPCA requires an owner or operator of a tank vessel to prepare and submit plans which, among other things, identify, and ensure by contract or other means approved by the President, the availability of, private personnel and equipment necessary to remove to the maximum extent practicable a worst case discharge.

Numerous comments also noted that the requirement to list all of the required response equipment in the geographic-specific appendix will be a considerable paperwork burden. To facilitate the preparation and review of vessel response plans, the Coast Guard intends to provide guidance on a voluntary process for classifying oil spill removal organizations by their estimated capacity to contain and remove oil from the water and to protect shorelines. Vessel owners or operators who must prepare and submit response plans may identify a Coast Guard-

classified oil spill removal organization with the capacity to meet the owner's or operator's planning volumes, instead of listing each item of equipment.

Section 155.140 Incorporation by Reference

The NPRM proposed incorporating by reference six documents from the American Society for Testing and Materials (ASTM), International Maritime Organization (IMO), and the Oil Companies International Marine Forum (OCIMF). The Coast Guard has decided not to incorporate by reference IMO Resolution A.648(16), "General Principles for Ship Reporting Systems and Ship Reporting Requirements, Including Guidelines for Reporting Incidents Involving Dangerous Goods, Harmful Substances, and/or Marine Pollutants," because we have revised the notification procedures in §§ 155.1035 and 155.1045 to include all of the relevant information recommended by IMO.

Nine comments were received related to the incorporation by reference section. One comment recommended incorporation of ASTM standards to the extent possible. The Coast Guard retained in the interim final rule the ASTM standards applicable to boom and oil recovery devices.

Several comments recommended that the Coast Guard incorporate additional publications by reference. Three comments recommended that the "International Safety Guide for Oil Tankers and Terminals" published by the International Chamber of Shipping (ICS) and OCIMF be incorporated by reference for safety and cargo information. One comment recommended that the OCIMF document "Peril at Sea and Salvage—A Guide for Masters" be incorporated as a reference for emergency towing procedures. One comment recommended that the OCIMF booklets "Effective Mooring Guidelines" and "Safe Mooring of Large Ships at Piers and Sea Islands" be incorporated for vessel operations. One comment recommended that the "Incident Command System" manual published by Fire Protection Publications be incorporated to address response organization and incident management, and multiple comments recommended that use of this system be required.

The Coast Guard believes that all of the referenced documents may be useful for a vessel owner or operator preparing a response plan. However, we are not going to incorporate these documents by reference because they are intended to be guides, not required standards. We believe that owners or operators should have maximum flexibility in structuring the incident command system and developing procedures for salvage, mooring, and towing. Because the interim final rule already covers subject matter addressed in the international safety guide, we are not incorporating it by reference.

One comment recommended that International Maritime Organization (IMO) Resolution A.648(16) and the OCIMF Ship-to-Ship Transfer Guide not apply to "cargo vessels" operating on the outer continental shelf. As previously discussed, we are no longer incorporating the IMO Resolution by reference. The OCIMF Ship-to-Ship Transfer Guide would apply only to primary cargo carriers as defined in the interim final rule. Most "cargo vessels" would be classified as secondary carriers for purposes of this interim final rule, therefore the Guide would not apply.

Two comments questioned whether the OCIMF Ship-to-Ship Transfer Guide should apply to barge transfers, with another comment specifically noting that the Guide did not address barge transfers. The Coast Guard agrees and has removed the specific requirement in § 155.1040(d)(5)(i) for unmanned tank barge lightering plans to be consistent with the Guide.

One comment recommended incorporating ASTM Standard F 625-92, "Standard Practice for Describing Environmental Conditions Relevant to Spill Control Systems," submitted for reapproval in 1992, in place of Table 1 of appendix B. The Coast Guard agrees that this proposed ASTM standard contains similar information, but will defer determining whether to incorporate the standard by reference until it becomes a consensus standard.

Section 155.1010 Purpose

This section describes the purpose of the vessel response plan rules and notes that the requirements for response resources and the arrival times for these resources, as set forth in the interim final rule, are for planning purposes only.

Several comments suggested that the purpose statement be clarified to ensure that the response planning criteria do not become performance criteria, but one comment stated that the rule was already clear in this regard. Another comment wanted the rule changed to become a performance standard.

Due to the many variables that often occur during spills, the Coast Guard does not agree that performance criteria are appropriate. No one can predict what will happen during an actual spill. So that the interim final rule more clearly states that the specific criteria for response resources and their arrival times are not performance standards, the Coast Guard has deleted the phrase "meant to be" in the purpose statement.

Several comments were concerned that not meeting the planning criteria during an actual spill response may subject them to unlimited liability under 33 U.S.C. 2704(c)(1)(B). The response plans themselves are intended to be planning documents and not to prescribe specific performance criteria. However, circumstances may arise in which the violation of the interim final rule would appropriately lead to a denial of an entitlement to limit liability under 33 U.S.C. 2704(c)(1)(B). Because the facts associated with such circumstances may vary greatly, it would not be possible to describe them in meaningful detail in the purpose statement.

Section 155.1015 Applicability

As discussed in the "Background and Purpose" section of the preamble, offshore supply vessels and certain fishing and fish tender vessels are no longer subject to the requirements of the interim final rule. Section 155.1015 has been revised accordingly.

The Coast Guard has made minor revisions to this section of the interim final rule to make it consistent with the definition of tank vessel in 46 U.S.C. 2101. The changes are for consistency only and do not change the substance of this section.

The Coast Guard has amended paragraph 155.1015(b) to make its text consistent with applicability statements for lightering operations in other Coast Guard regulations.

A number of comments stated that the Coast Guard cannot extend the applicability to vessels on innocent passage through the territorial waters of the United States. Insofar as the concept of "territorial waters" includes the internal waters, the principle of innocent passage does not apply to such waters. Concerning the territorial sea, paragraph 4 of Article 211 of the 1982 United Nations Convention on the Law of the Sea, which reflects customary international law, provides:

> Coastal States may, in the exercise of their sovereignty within their territorial sea, adopt laws and regulations for the prevention, reduction, and control of marine pollution from foreign vessels, including vessels exercising the right of innocent passage. Such laws and regulations shall, in accordance with Part II, section 3, not hamper innocent passage of foreign vessels.

To avoid the possibility of hampering foreign flag vessels exercising innocent passage in the territorial sea, we have

revised the applicability provision of the interim final rule to exempt these vessels.

A number of comments challenged the Coast Guard's authority to require vessel response plans for foreign flag vessels conducting lightering operations in the EEZ. OPA 90 amended 46 U.S.C. 3715 to assure that the delivering vessel in a lightering operation in the marine environment comply with section 311(j) of the FWPCA, including response plan requirements. As amended, 46 U.S.C. 3715(a)(4) allows oil which has been transferred in such a lightering to be then transferred in a port or place subject to the jurisdiction of the United States only if, at the time of the first transfer, both the delivering vessel and receiving vessel had on board evidence of compliance with section 311(j) of the FWPCA.

Under 46 U.S.C. 2101, the "marine environment" means, among other things, the waters and fishery resources of an area over which the United States asserts exclusive fishery management authority. Before 1986, the "fishery conservation zone" was the area in which the U.S. asserted the major portion of this jurisdiction, and the outer boundary was a line drawn in such a manner that each point on it (was) 200 nautical miles from the baseline from which the territorial sea is measured (16 U.S.C.A. 1811). The U.S. Code was amended in 1986 (Pub. L. 99–659) to incorporate the "exclusive economic zone" (EEZ) as the measurement for the area subject to this portion of the exclusive fishery management authority. The seaward boundary of the EEZ in turn is defined in Presidential Proclamation 5030 to extend out to 200 nautical miles (3 CFR, 1983 Comp., p. 22, 48 FR 10605, March 10, 1983).

One comment stated that these regulations should apply to all large vessels (not just tank vessels) because the amount of fuel they carry also poses a significant threat to the environment. The Coast Guard agrees that vessels other than tank vessels pose a threat to the environment and vessel owners or operators should plan for a response action in the event of a casualty or discharge. However, OPA 90 addresses only the greater threat posed by tank vessels, as defined under 46 U.S.C. 2101. Other vessels subject to MARPOL Regulation 26, including vessels carrying oil as cargo and fuel, will be subject to a separate Coast Guard rulemaking to implement MARPOL Regulation 26 requirements.

The Regulation 26 requirements will not be fully implemented until April 4, 1995. The Coast Guard decided not to combine these two rulemakings because of the differences in required plan content and implementation dates. However, as noted in the general discussion, the owner or operator of a U.S. flag tank vessel may address the provisions of Regulation 26 in the plan submitted to comply with this interim final rule. Although determinations on the implementation of Regulation 26 have not been made, the Coast Guard anticipates that a plan prepared following the guidance contained in § 155.1030 will meet the OPA 90 and the minimum MARPOL Regulation 26 requirements.

One comment stated that the proposed rule as constructed would not apply to foreign flag vessels. The interim final rule applies to certain defined tank vessels, certain vessels operating on the navigable waters of the U.S., vessels transferring oil in bulk as cargo in a port or place subject to the jurisdiction of the U.S., and vessels conducting bulk oil lightering operations in the marine environment where the oil is destined to a port or place subject to U.S. jurisdiction. Therefore, a foreign flag vessel engaged in these activities is subject to this interim final rule.

Another comment requested clarification on whether a tanker discharging cargo, loading ballast, and cleaning tanks outside the 200 mile EEZ would be exempt from the requirements. If in the above scenario the vessel handles, stores, or transports oil in bulk as cargo or cargo residue on the navigable waters of the United States, the vessel would be subject to the interim final rule. A vessel placed in ballast after discharging bulk oil will most likely have cargo residue remaining aboard.

Some comments were concerned about the impact on Canadian ships transiting the boundary waters between the United States and Canada (particularly the Great Lakes and the Strait of Juan de Fuca). These comments argued that requiring vessels in those waters to carry both a U.S. and a Canadian response plan for the same voyage imposes an unreasonable burden, and that it will restrict free access to Canadian ports.

Canada has yet to promulgate response plan requirements. Therefore, it is impossible to determine a number of important related questions, such as: (1) The degree to which compliance with Canadian rules may or may not be adequate to meet the U.S. statutory requirements; (2) how the Canadian rules will treat vessels navigating through Canadian waters enroute to U.S. ports; and (3) how great a burden would be placed on vessels that would have to comply with the requirements of both countries.

There is no authority for the Coast Guard to waive the vessel response requirements for vessels transiting the internal waters of the United States enroute to or from Canadian ports. However, we understand that, currently, the Canadian Government is developing vessel response plan requirements to provide protection to Canada's waters. The Coast Guard plans to work closely with appropriate Canadian officials in an attempt to reach a solution which will minimize the burdens of meeting both United States and Canadian requirements, while at the same time fully meeting statutory requirements, and providing protection to the waters, of each country.

A number of comments stated that the rule should apply only to traditional tank vessels that carry a minimum amount of oil. The comments suggested specifically excluding vessels such as dry cargo ships that carry oil in deep tanks, MARAD prepositioned ships, secondary carriers, and other vessels that are small and pose a minimum environmental threat. These comments stated that these vessels will be adequately covered under MARPOL Regulation 26. Many of the comments noted the disproportionate economic impact that this rule will have on small vessel owners and operators.

Although the Coast Guard solicited comments in the NPRM on whether oil should be considered as cargo only if a minimum quantity is carried, we have since determined that OPA 90 allows us no discretion to establish a specific minimum quantity to define cargo. Under 46 U.S.C. 2101(39), a tank vessel is a vessel that, among other things, carries oil in bulk as cargo or as cargo residue. Because cargo residue is include in this definition, it is inappropriate to establish a minimum amount of oil that would be consistent with this definition. The Coast Guard has revised the definition of cargo. The new definition makes it clear that oil carried solely for use aboard the vessel or by the vessel's machinery, boats, helicopters, or towed vessel is not cargo. Also, oil transferred between a towing vessel and a vessel in its tow is not cargo. See the previous preamble discussion on vessels carrying oil as a secondary cargo under "Discussion of general issues."

Two comments stated that vessels carrying oil-based drilling muds should be exempted from the rule. The FWPCA includes oil-based drilling mud in the definition of oil. As previously discussed, if the vessel is an offshore

supply vessel (OSV) it is no longer considered a "tank vessel" and would therefore not be subject to the requirements of this interim final rule. Further, oil-based drilling mud on board Mobile Offshore Drilling Units (MODUs) is not considered cargo because it is for use by the drilling machinery carried aboard the vessel.

One comment stated that public vessels and private vessels pose similar risks to the environment, and therefore, public vessels should be included in the scope of this rule. The exemption for public vessels is statutory and the Coast Guard cannot make them subject to the interim final rule.

One comment expressed concern that certain vessels moored at an offshore facility may be required to simultaneously possess a vessel response plan prepared under the interim final rule and an oil spill response plan prepared under the rules issued by the Minerals Management Service (MMS). The Coast Guard intends to continue to work closely with MMS to minimize any duplication between the two Agencies' response plan requirements.

A number of comments addressed various issues pertaining to "dedicated response vessels." Most supported classifying dedicated response vessels as secondary carriers although many wanted the status of dedicated response vessels more clearly stated in the rule.

Section 155.1015 exempts dedicated response vessels in response areas from preparing a vessel response plan. The definition of a vessel carrying oil as a secondary cargo has been amended to specifically include dedicated response vessels transporting oil outside of a response area.

Three comments suggested that we amend § 155.1015(d) to state more clearly when certain U.S. vessels, not operating in U.S. waters, are exempt from certain portions of the rule. The Coast Guard agrees and has amended that section of the interim final rule as suggested. As discussed in the guidelines for implementing IMO Regulation 26, the roles of national authorities may vary widely from port State to port State, as may the responsibility for discharge response. We have therefore determined that requiring a U.S. based qualified individual and a shore based spill management team for certain U.S. vessels operating beyond the exclusive economic zone of the U.S. was not appropriate and have revised this section of the interim final rule accordingly.

Section 155.1020 Definitions

There were a number of comments received on the proposed definitions. Most of these comments agreed or did not take issue with the definitions proposed in the NPRM. The following text addresses only those definitions which were the subject of substantive comment and definitions which the Coast Guard changed or added.

One comment suggested that we define "contingency and response plans." Because this interim final rule specifies what a response plan must contain, the Coast Guard has determined that defining a "response plan" is unnecessary. A response plan differs from a contingency plan because the former contains vessel-specific information. Area Committees will develop contingency plans, and the contingency plans will include planning requirements for a variety of spill scenarios and responders.

Average most probable discharge. The Coast Guard received three comments questioning the use of 50 barrels (bbls) for the planning volume for this type of spill. One comment specifically addressed reducing the volume for the Great Lakes area, citing 5 bbls as the average spill for the area.

The Committee used data from the Marine Safety Information System for the years 1984 to 1989, the most current data available, to establish the 50 bbl planning volume. The Coast Guard has determined that 50 bbls is a reasonable volume for planning for an average most probable discharge because it is based on national operational spill data and an evaluation of historical trends in smaller size spills.

The definition has been revised to make it clear that the average most probable discharge means a discharge from a vessel that occurs during oil transfer operations.

Bulk. Three comments stated that marine portable tanks should not be included in this definition because they carry mainly lube oil for the vessel. One questioned if oil recovered from a skimmer and stored in a portable floating tank would be considered "bulk oil." One other comment questioned if oil transported in over-the-road portable containers is considered bulk oil for the purposes of this interim final rule.

Oil carried in a marine portable tank or an over-the-road tank is considered "bulk" only if the oil is transferred into and out of the tank while it is on the vessel. That vessel would have to carry a response plan. Oil recovered from a skimmer and stored in a portable floating tank other than on the vessel also is not "bulk" for the purpose of this interim final rule because it is not an integral or independent tank onboard the vessel.

Captain of the Port (COTP) Zone. A number of comments requested that we clarify the geographic area covered by a COTP zone. The Coast Guard has defined "COTP zone" in this section as a zone specified in 33 CFR part 3 and, for coastal ports, the seaward extension of that zone to the outer boundary of the exclusive economic zone (EEZ). The boundaries of the seaward extension of some zones are not defined in 33 CFR part 3, but the Coast Guard will be revising this part. In the meantime, details on the location of the boundaries may be obtained by writing to the following address: Commandant (G-MEP-6), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001.

Cargo. A number of comments suggested defining "cargo" as a minimum amount of oil carried by a vessel. Most suggested establishing 250 barrels as the minimum threshold because lesser amounts do not pose a significant threat to the environment. Other comments stated that lubricating oils, hydraulic fluids, and helicopter fuel should be exempt from this definition. Two comments suggested rewording the definition to exempt oil that is transferred between a towing vessel and its tow.

In the preamble discussion on "Applicability," we have addressed the question of whether a minimum quantity of oil should be excluded from the definition of cargo. The Coast Guard has revised the definition to make it clear that oil is not "cargo" if it is carried solely for use aboard the vessel; for use by the vessel's machinery or boats; or transferred between a vessel and a vessel in its tow. The Coast Guard agrees that limited quantities of fuel for use by helicopters carried onboard should be regulated in the same manner as fuel for use by small boats carried onboard. The Coast Guard amended the interim final rule to exclude from the definition of cargo, oil carried in integral tanks, marine portable tanks, or independent tanks for use by helicopters carried onboard and directly supporting the vessel's primary operations.

For vessels of opportunity, one comment suggested deleting the term "emergency" from the definition to make it clear that these vessels never carry cargo. The Coast Guard agrees, and has revised the definition accordingly.

This subpart does not apply to dedicated response vessels that are conducting response operations in a response area or to vessels of

opportunity. Consequently, it is not necessary to specifically exempt the oil transported by these vessels from the definition of cargo. We have revised the definition of cargo in the interim final rule by eliminating these two exemptions:

Contract or other approved means. The Coast Guard received 16 letters discussing aspects of this definition. Most comments said that the definition of "other approved means" was too restrictive, depriving vessel owners and operators of a chance to ensure that the required resources are available through means less rigid than a formal contract. However, there were a few comments suggesting that we should require contracts "or a more legally binding and fully detailed self-certification process' in every instance. In discussions at the last Committee session, most of the members suggested we should consider any means acceptable to "ensure" the availability of response resources if the owner or operator and the resource provider create a document that: (1) Clearly identifies the goods and services to be provided; (2) sets out the parties' acknowledgement that the resource provider intends to commit its resources in the event of a response; and (3) permits the Coast Guard to verify the response resources identified through tests, inspection, and exercise.

The Coast Guard agrees with the comments that "other means approved by the President" implies that there are permissible alternatives to contracts. We believe that a document which contains the three elements listed above provides acceptable assurance that the response resource provider has the capability to respond. We have required further that the owners or operator's agreement with the resource provider be referenced in the response plan.

The Coast Guard also revised the definition so that written consent of an oil spill removal organization, with specified equipment and personnel which are available within stipulated response times in the specified geographic areas, is "other approved means" for a vessel to meet the resource requirements in §§ 155.1052(c) and 155.1054(c).

Great Lakes. The definition of the Great Lakes has been changed to be consistent with 33 CFR 160.203.

Maximum Extent Practicable. The Coast Guard received 30 comments on the definition of "maximum extent practicable" (MEP). The greatest number of comments stated that the definition was too vague, and needed to be better defined. These comments did not say what the writers considered "vague," nor did they offer alternative definitions. The Coast Guard has revised the definition to clarify and better reflect the meaning of "maximum extent practicable."

Regarding a number of comments stating that the definition did not reflect the Committee consensus, the Coast Guard notes that its regulatory negotiation agreement committed the Coast Guard to capturing the substance and effect of the Committee's recommendations, and we believe we have in this instance.

Many comments on this definition addressed the question of whether the Coast Guard must consider costs as an essential element of the concept of "practicability." There were comments supporting and opposing the proposition. The Coast Guard believes that we have discretion to determine whether to include cost as an element of MEP, and we have used that discretion to factor costs into the definition. For example, in determining what is "practicable," the interim final rule sets caps on the amount of on-water response resources for which a vessel owner or operator must contract or ensure by other approved means.

The interim final rule also sets out less onerous planning requirements for secondary carriers as a recognition of the reduced risk of potential damage posed by these carriers, and indexes by volume of bulk oil carried the level of detail of the response plan and drill frequency. The interim final rules tier arrival times for response resources so that a vessel owner or operator does not have to plan for all required resources to be located in the area where the vessel is operating.

Some comments stated that MEP should not assume an instant release of the entire cargo. The Coast Guard did not assume an instant release, but a rapid one. At the same time, however, we did not include release rate as a separate factor in calculating planning volumes because the FWPCA requires vessel owners and operators to plan for a worst case discharge. Further, adding a release rate factor to the calculations would also add another level of complexity.

Nonpersistent or Group I oil. One comment stated that the rule must specify what oils fall within this definition. Three comments were opposed to classifying non-petroleum oils as non-persistent because OPA does not address these oils and the response for these oils would be different from petroleum oil or petroleum-based oils. In addition, one comment indicated that the specific gravity criteria for petroleum oils was not applicable to non-petroleum oils and suggested using distillation characteristics.

Because specific gravity criteria do not apply to non-petroleum oils, the Coast Guard agrees that non-petroleum oils should be excluded from the definition of "non-persistent" or "group I" oil. Therefore, we have deleted this portion of the definition. The Coast Guard disagrees that a list of all non-persistent oils should be included in the definition because the characteristics provided are sufficient guidelines to help owners or operators establish whether an oil is non-persistent.

Oil spill removal organization. This definition was amended to alleviate some concerns that it was too narrow, seeming to apply only to existing organizations in certain locations.

On-scene Coordinator. One comment suggested that we define this term to make the rule more clear. The Coast Guard has added a definition of on-scene coordinator that is consistent with the definition in 33 CFR V part 153.

Operating in compliance with the plan. The Coast Guard has added this definition to clarify what this term means.

Operator or vessel operator. Two comments supported the concept that the operator of a towing vessel is not the "operator" of the vessel being towed within the meaning of OPA 90. Two comments were opposed to the definition. One of those suggested deleting the language "but not limited to" because it is inconsistent with the definition of operator under the FWPCA.

The FWPCA does not define the term "operator." "Owner or operator" is the term defined in the FWPCA most nearly applicable to the vessel response plan definition of "operator or vessel operator." In the FWPCA, "owner or operator" is defined with respect to a vessel as "any person owning, operating, or chartering (a vessel) by demise." If we eliminate the words "but not limited to" from the definition of "operator or vessel operator," we may leave the impression that only an owner or demise charter could be an operator under the interim final rule, and that interpretation would be too narrow. For reasons stated in the NPRM, the Coast Guard continues to agree that a towing vessel operator should not fall within the definition. Therefore, we have not amended the definition.

Further, this definition and the definition of "owner or vessel owner" apply only in these vessel response plan regulations, and are inapplicable to any other regulation or statute.

Persistent oils. Four comments objected to the proposed three classes of

persistent oils because the Committee only recommended using persistent and non-persistent oils and because two categories of oil (persistent and non-persistent) are sufficient planning tools for selecting equipment and gauging dissipation. Three comments agreed with the proposal because it avoids penalizing vessels that carry less persistent oils and requires a different level of planning for heavier oils. Two comments added that non-petroleum edible oils should be in their own category because they are biodegradable and have no toxic residuals.

As discussed in the NPRM, the Committee originally recommended using two oil categories: Persistent and non-persistent. They also recommended that the Coast Guard consider the relative persistence of oils and emulsification. We divided persistent oil into four groups, based on a protocol developed by the International Tanker Owners Pollution Federation (ITOPF) to account for the differences in persistence. We have defined oil in five groups: Non-persistent and four other groups based on their specific gravity. Because specific gravity criteria does not apply to non-petroleum oils, non-petroleum oils have been deleted from this definition as suggested.

One comment stated that oil-based mud should not be classified as "oil" because it does not behave like an oil product, is difficult to recover from the water, and historically has not been spilled very much. Section 311 of the FWPCA defines "oil" to be oil of any kind or in any form, which includes oil-based mud. The Coast Guard does not have the authority to define "oil" differently for the purpose of that statute.

Qualified individual and alternate qualified individual. The Coast Guard has revised the definition of qualified individual to state that the qualified individual and alternate qualified individual means a shore-based representative of the vessel owner or operator who meets the requirements of § 155.1026. In the NPRM, we proposed requiring an owner or operator to designate an alternate qualified individual. The Coast Guard has retained this requirement in the interim final rule and has revised the definition to be consistent with this requirement. The designation of an alternate qualified individual is necessary to provide a reasonable assurance of 24-hour availability. Additionally, if an alternate qualified individual were not identified, the owner or operator would have to notify the Coast Guard every time the primary qualified individual went on vacation or was otherwise unavailable. The interim final rule does not limit the number of alternate qualified individuals whom an owner or operator may designate.

We have added a new § 155.1026, which includes the requirements for the qualified individual and alternate qualified individual that were previously listed in the proposed definition. The Coast Guard determined that the proposed definition contained substantive requirements that would be more appropriately placed in a separate section of the interim final rule.

Some comments stated that we should allow the qualified individuals for Canadian flag vessels to be based in Canada. The Coast Guard has determined that Canadian vessels may identify Canadian-based qualified individuals if these individuals meet the same requirements for U.S.-based individuals under § 155.1026(b). This provision only applies to Canadian flag vessels while they are operating on the Great Lakes, the Strait of Juan de Fuca, and Puget Sound, WA. In any other environment, the qualified individual must be based in the United States. The close proximity, reliable communication, and the common water boundary shared by the United States and Canada create a unique situation, which allows a Canadian-based qualified individual to be as effective as a U.S.-based qualified individual.

Several comments objected to the requirement for qualified individuals to have "unconditional" authority to implement the vessel response plan. These comments argued that vessel owners or operators will have difficulty identifying qualified individuals with unconditional authority without making them potentially liable for spill cleanup. The Coast Guard has revised new § 155.1026 of the interim final rule to better describe the authority and responsibilities of the qualified individual. The requirement for "unconditional authority" has been eliminated from § 155.1026.

Of the 44 comments the Coast Guard received on this definition, most asked us to clarify in the interim final rule that a "qualified individual" also is a person exempt from liability for response actions under section 311(c)(4) (33 U.S.C. 1321(c)(4)) of the FWPCA. These comments stated that the failure to identify the qualified individual as a person exempt from liability will hamper the efforts of vessel owners and operators to identify persons with the required qualifications.

A person does not become a responsible party under the FWPCA by being designated a qualified individual for response plan purposes. Under section 1321(c)(4), a person other than a responsible party is not liable for removal costs or damages which result from actions taken or omitted in the course of rendering care, assistance, or advice consistent with the NCP or as otherwise directed by the President. Notwithstanding, such a person whose acts or omissions are grossly negligent, or who engages in willful misconduct may, as a result, become liable for the resulting removal costs or damages. The qualified individual is not, however, responsible for the adequacy of response plans prepared by the owner or operator, nor is the qualified individual responsible for contracting response resources beyond the full authority delegated from the owner or operator.

The Coast Guard does not wish to restrain the appropriate activities of a qualified individual and an alternate qualified individual to hamper owners or operators in identifying such individuals. However, the Coast Guard has no authority to grant immunity to any person, including qualified individuals designated for response plan purposes.

To better define the responsibilities of the qualified individual, the Coast Guard has revised the proposed rule by adding to § 155.1026 a paragraph which states that the qualified individual is not responsible for the adequacy of the response plans, nor for contracting response resources beyond the authority delegated from the owner or operator.

A new section has also been added which allows the vessel's owner or operator to designate an organization to carry out the responsibilities of the qualified individual. However, the designated organization must have identified specific individuals to act as the qualified individual and the alternate. Finally, the proposed rule has been revised to require the qualified individual to be familiar with the implementation of the vessel response plan and to be trained in the responsibilities of the qualified individual under the response plan.

Response Activities. The Coast Guard has revised this definition in the interim final rule by adding the words "public health or welfare." This revision strengthens the definition and makes it consistent with the definition of "removal" contained in section 311(a) of the FWPCA.

Response Area. One comment stated that the proposed definition does not reflect the negotiated rulemaking agreement because the definition encompasses a much greater (or potentially much smaller) area than that contemplated by the Committee. That comment stated that the response area

should be determined on a case by case basis by the Federal on-scene coordinator (OSC) during an actual spill. Another comment suggested that the definition should make it clear that the "response area" may encompass more than one COTP zone.

The Committee recommended using "planning sectors" to define the areas in which dedicated response vessels could operate without a response plan, but the Committee did not suggest a definition. The Coast Guard has reconsidered the definition and agrees with the comment that a "response area" should be determined case by case, depending upon the exigencies of a spill. The Federal OSC is the person with the expertise and authority to make this determination. Therefore, we have revised this definition by stating that the Federal OSC determines what constitutes the response area. The revised definition allows a Federal OSC the flexibility to define the response area as necessary, based on the actual spill size and location.

Rivers and canals. Several comments opposed defining rivers and canals as 12 feet or less in depth because many rivers are greater than 12 feet in depth. One comment recommended that the depth should be increased to 30 feet. The Coast Guard proposed that rivers and canals be defined as 12 feet deep or less because we intended the definition to only cover narrow, inland bodies of water that are reasonably protected and typically have wave heights of one foot or less. It was also our intent to limit this definition to those areas where only shallow draft vessels would operate.

Creation of the limited definition for rivers and canals permitted the development of unique oil spill planning requirements for shallow draft vessels that transit these waters. The Coast Guard disagrees with the recommendation to increase the depth from 12 feet to 30 feet because it would change the characteristics of the operating environment upon which the planning requirements for rivers and canals was based.

Other comments requested that we clarify the term "controlled navigable depth," and one suggested using the "authorized depth." The Coast Guard has revised the definition by deleting the term "controlled navigable depth" and replacing it with "project depth." The project depth is indicated on most navigational charts and represents the design dredging depth of channels maintained by the U.S. Army Corps of Engineers. Unlike the "controlled navigable depth" that may change frequently due to shoaling, the "project depth" is a fixed design standard independent of the actual depth existing in the channel.

Spill management team. One comment requested that the Coast Guard make it clear whether this function can be fulfilled by an organization outside the COTP zone of the spill. The interim final rule does not prevent the spill management team from being located outside of the response area, as long as the plan remains functional for the area where the vessel is operating. Under § 155.1030, the plan must identify a team for each COTP zone, but the plan may identify the same team for all zones.

Substantial threat of a discharge. Two comments objected to using "fuel" in the definition because OPA 90 does not specifically address fuel. MARPOL Regulation 26 recommends that certain vessels carrying oil as "fuel" or as "cargo" carry an approved oil pollution emergency plan. If the owner or operator intends the plan to satisfy the MARPOL Regulation 26 recommendations, the plan should address oil carried as fuel, as well as oil carried as cargo.

Tanker. The Coast Guard added the definition of tanker which is consistent with the definition in 46 U.S.C. 2101.

Vessels carrying oil as primary cargo. In response to comments, the Coast Guard has amended the definition to clarify that it includes only vessels carrying oil in bulk as cargo and has included cargo residue in the definition to make it consistent with § 155.1015.

Vessels carrying oil as secondary cargo. In response to comments, the Coast Guard has amended the definition to clarify that it includes only vessels carrying oil in bulk as cargo or cargo residue. This definition has also been amended to eliminate the possibility that a vessel carrying oil as primary cargo could simultaneously be considered a vessel carrying oil as a secondary cargo. For further discussion on these vessels, see "Discussion of general issues."

Vessel of opportunity. One comment stated that the preamble to the NPRM implied that a vessel of opportunity must carry a response plan if it operated outside of the response area. The Coast Guard agrees that the preamble is misleading, but § 155.1015 specifically exempts vessels of opportunity from the requirements of this subpart. The definition in the interim final rule is clear that these vessels must be engaged in response activities, but it does not limit vessel operations to the response area. The definition has been changed to clarify that a vessel carrying oil as a primary cargo is excluded from the definition.

Section 155.1025 Operating Restrictions and Interim Operating Authorization

The Coast Guard received twenty-one comments on this section. Two comments agreed with the NPRM, one requested clarification on single voyages, and the remainder suggested revisions. The following summarizes the suggestions and the Coast Guard's reasons for accepting or rejecting them. The Coast Guard made minor changes to the interim final rule for clarification.

The Coast Guard has amended paragraph 155.1025(a)(3) to make its text consistent with applicability statements for lightering operations in other Coast Guard regulations.

Three comments recommended that the Coast Guard and not vessel owners or operators be responsible for certifying or approving shore-based spill response contractors. The regulations do not require such a certification or approval. To avail themselves of the provision contained in § 155.1025(c), an owner or operator must simply certify to the Coast Guard that they have identified and ensured the availability of, through contract or other approved means, the response resource required by the interim final rule.

Several comments asked how an owner or operator could certify on February 18, 1993, that the required response resources would be in place on August 18, 1993, when they are not currently in place. If an owner or operator has made reasonable arrangements, such as a contract with an oil spill removal organization, for the necessary response capability to be available for use no later than August 18, 1993, the owner or operator may properly certify, on or before February 18, 1993, that it has identified and ensured the availability of the necessary private response resources. The certification should be submitted with the response plan. It is not necessary to list in the certification those resources that are not currently in place. However, all necessary response resources must be in place by August 18, 1993 for the vessel to continue to operate past that date.

As discussed in the NPRM, the certification can be submitted either at the time of plan submission or in a separate submittal. The Coast Guard encourages owners or operators to submit the certification with the plan. The vessel will not be permitted to continue to operate past August 18, 1993 unless the owner or operator has received written authorization from the Coast Guard to do so. By including the certification at the time of plan

submission, the owner or operator can assure receipt of the required written Coast Guard authorization in a timely manner.

The Coast Guard is still studying the issue of whether the two-year provision provided for in section 311(j)(5) of the FWPCA is for initial submissions only or if it will also apply to future plan revisions and required resubmissions. The Coast Guard intends to clarify this issue prior to publishing the final rule.

Five comments suggest an extension of the February 18, 1993 deadline for filing plans until the ACP and NCP are updated. The Coast Guard has no authority to extend the statutory deadline. Plans submitted by the February 18, 1993 deadline must be consistent with the local contingency plans (LCPs) and the NCP in effect on August 18, 1992. Vessel owners or operators will not have to modify their plans until the five-year review solely for the purpose of making their plans consistent with a subsequently issued ACP or an updated NCP.

The remaining comments deal with the single-voyage exemption. The proposed rule permits the COTP to authorize a vessel to make one voyage to transport or handle oil in a port or geographic area not covered by a response plan if the vessel owner or operator certifies that they have met certain criteria. After further consideration, the Coast Guard has determined that the term "geographic area" is not specific enough, and may lead to confusion over where and when this provision applies. The Coast Guard has revised the interim final rule by eliminating the words "or geographic area" from paragraph 155.1025(e). For the purposes of the single voyage exemption provision, the Coast Guard will consider an offshore lightering area to be a port.

One comment asks whether the exemption is an annual exemption; it is not. Each vessel owner or operator is allowed a total of one exemption for each port. An owner or operator may request single voyage exemptions for multiple ports. For example, a vessel owner or operator could request and receive a separate single voyage exemption for each of several ports contained within one COTP zone.

Another comment asks whether individual COTP's have the authority to allow inland barges without plans to enter ports unexpectedly. A vessel in distress is entitled to seek safe harbor, subject to appropriate controls imposed by the COTP which may be less than all requirements of these regulations. Otherwise, the requirements of the regulations, including response plan requirements, apply.

One comment suggested that single-voyage exemptions should not be granted. Another supported the exemption only for foreign vessels, if the Secretary of DOT reviewed and approved the vessel's manning, qualification, and watchstanding standards. The Coast Guard has determined that a single-voyage exemption is warranted because it will allow vessels a one-time opportunity to call on a port for which they have not submitted a geographic-specific appendix. However, these vessels must have a response plan that meets all of the VRP requirements (except for the applicable geographic-specific appendix) or have a plan approved by the flag state as meeting the requirements of MARPOL Regulation 26; and have designated a qualified individual and ensured the availability of response resources.

Two comments suggested that the exemption will be of little help to vessel owners and operators, because they are still required to ensure response resources. Section 311 of the FWPCA does not provide an exemption for vessels making a one-time call on a port. The Coast Guard has provided the maximum flexibility for these vessels to meet the statutory requirements to ensure the availability of response resources.

One comment suggested that vessels visiting ports infrequently should be subject to the same exemption as those making a single voyage. The Coast Guard disagrees. The exemption is intended for a truly unexpected diversion, for which it is unreasonable to require an owner or operator to plan in advance.

Another comment mentioned that it will be a significant administrative burden to maintain geographic-specific information aboard a vessel that visits numerous ports. The Coast Guard believes that it is appropriate to have all area specific information contained in one section of the plan and carried onboard. This will facilitate reference for the vessel crew during an emergency and assist the local COTP in reviewing the information during routine boardings.

One comment suggested that owners or operators of time-charter vessels in service before February 18, 1993, with an approved response plan should have 90 days to submit a new geographic-specific appendix if a vessel changes its regular port of call. The comment suggested that the vessel be allowed to operate during that 90 days. The Coast Guard disagrees. The interim final rule already permits the COTP to grant a single-voyage exemption in such cases.

Section 155.1026 Qualified Individual and Alternate Qualified Individual

The Coast Guard has added this section to set out the requirements for the qualified individual and the alternate qualified individual. To clarify the interim final rule, we have incorporated in this section the substantive information previously included in the definition of qualified individual.

Section 155.1030 General Response Plan Requirements

This section of the interim final rule outlines general response plan requirements for all vessels. Most comments on this section addressed the plan format and where the plan must be located.

A new section has been added to the interim final rule that describes the procedure that an owner or operator can follow to address the provisions of Regulation 26 of Annex I to the International Convention for the Prevention of Pollution from Ships, 1973 as modified by the Protocol of 1978 (MARPOL). See "Discussion of general issues" for additional details.

One comment stated that copies of the plans should be kept at Coast Guard Marine Safety Offices and Coast Guard District offices to ensure that information is readily available to State and Federal agencies in case a spill occurs. The Coast Guard will retain a copy of the plans at one central location and believes that one copy is sufficient. Response plans must include procedures for coordinating with State and Federal agencies, but these plans are for the vessel owner or operator and its agents or employees who will have primary responsibility to mitigate and clean up a spill.

One comment stated that the Coast Guard should write a model plan that vessel owners could modify for their vessels. As discussed, response plans are for the owner or operator and its agents or employees. Therefore, we think it appropriate to give owners or operators as much flexibility as reasonably possible to determine what level of complexity and substance addresses their needs. A "cookbook" plan would unnecessarily restrict these owners or operators from devising the best plans for their operations and may unnecessarily increase their paperwork burden.

One comment stated that the plans should identify who to call for protection of environmentally sensitive areas and identify protection strategies.

The Coast Guard does not agree because that information is included already in the LCPs and will be included in the ACPs.

One comment objected to the wording used in proposed paragraph 155.1030(a) concerning the requirement for plans to be written in a language understood by "crew members responsible for carrying out the plan," because the wording implies that crew members must carry out the plan. The Coast Guard has changed the text of this paragraph to require the plan to be written in English and in a language understood by those crew members "with responsibilities under the plan."

Two comments stated that on-board plans should be concise and deal with only those issues specific to the ship. One other comment stated that a detailed and complex plan would be useless to shipboard personnel in an emergency. The Coast Guard agrees that only certain portions of the plan are needed for shipboard response operations.

Consequently, to minimize the paperwork burden on vessel crew members and to help ensure that the plan is useful during a spill, the Coast Guard has amended § 155.1030 to divide the plan into shipboard and shore components. The interim final rule specifies what must be in each component and requires the vessel to carry the shipboard component. The plan must include all of the required sections, but the owner or operator can tailor the length and complexity of the plan as appropriate for the vessel's operations.

One comment stated that the plan should identify communication methods and spill-tracking equipment and procedures. The Coast Guard already requires the owner or operator to identify their response command and control organizational structure in the plan. Communication procedures are an integral part of that structure. The ACPs will address equipment and procedures for spill-tracking, and the Coast Guard is studying the issue as the Committee recommended.

One comment recommended that the vessel response plans should assure the compatibility of communications among all responding private parties and agencies. The Coast Guard agrees that efficient and reliable communications is essential during an oil spill recovery operation. However, it is not possible for each vessel owner or operator to establish a common communications plan with all parties that may respond to an oil spill. This is the role of the NCP, ACPs, and OSC during a spill.

One comment stated that the Coast Guard should require vessel owners or operators to distribute to company personnel a separate document that summarizes key notification and response information. The Coast Guard is requiring owners or operators to use checklists and diagrams in certain parts of their plan. The Coast Guard believes owners or operators should have the flexibility to distribute this information to company personnel as necessary and has not made this a requirement. Requiring distribution of lists or diagrams may increase the paperwork burden on organizations with relatively limited operations.

One comment stated that the Coast Guard should require a vessel owner or operator to include in each plan, a letter authorizing the qualified individual to commit response resources when a plan is activated. The Coast Guard believes requiring an owner or operator to submit an unconditional letter of commitment creates a redundant requirement. An owner or operator already must name a qualified individual who must be notified in the event of a spill. That individual must have the authority to commit response resources.

One comment stated that the rule should require the qualified individual to implement the response plan and activate all resources for a worst case discharge unless the OSC says otherwise. The Coast Guard has sufficient authority to direct the responsible party to clean up a spill. The response plan is largely a planning document, covering such items as preparation of lists and compilation of data, training, and drills. The resources used in the event of an actual spill will depend on the specifics of the incident.

One comment stated that a dedicated response vessel should not be required to have a response plan if the vessel is released from its dedicated area to respond to a spill in another area, and is not transporting oil to or from the spill site. The Coast Guard agrees. A dedicated response vessel is only required to have a shipboard response plan when operating outside a response area and carrying oil in bulk as cargo.

Several comments stated that it was impossible to make the vessel response plans consistent with the unrevised NCP and incomplete ACPs. Most of these comments argued that the Coast Guard should delay the filing deadline for vessel response plans until the NCP and ACPs are finished.

The Coast Guard already has addressed this issue under "Discussion of general issues." In the absence of the revised NCP and completed ACPs, the Coast Guard will evaluate response plans based on the existing NCP published in 40 CFR part 300 and the ACP in effect on August 18, 1992.

There were a number of comments suggesting that we consider the proper content, format, and other issues when developing the ACPs. These comments are beyond the scope of this rulemaking.

In the NPRM, we proposed that a response plan that was completed prior to the effective date of the rule follow any format so long as the plan was supplemented with a cross-reference section to identify the location of the applicable sections required in the rule. The Coast Guard revised the interim final rule to clarify that the cross-reference section must address all required information and not simply the sections.

One comment indicated that owners or operators cannot "complete" their plans before they are submitted because the rule will require some elements that are not yet finalized. The Coast Guard agrees and changed the provision to address plans submitted on or before February 18, 1993.

The purpose of this provision is to reduce the initial burden on owners or operators who already have begun developing a response plan. The Coast Guard eliminated the requirement that a plan completed prior to the effective date of the interim final rule and using a cross reference must be submitted in the required format at the next required resubmission date. The Coast Guard intends to work with the various States to develop a universal format by the time the 5 year resubmittal is due. At that time, a plan utilizing a cross-reference section may be required to be resubmitted in a universal formal. See "Discussion of general issues" for information on submitting response plans based on the NVIC.

Several comments opposed a strict format and suggested allowing companies flexibility to create plans that fit their operation. These comments also suggested allowing owners or operators to submit a State approved plan to meet Federal requirements. Four comments stated that the Coast Guard should allow owners or operators to use their own or a State plan format if they cross-reference the format required under the VRP rules.

The Coast Guard made a number of small changes to the interim final rule to provide an owner or operator with more flexibility in organizing and submitting their plan. We have deleted the proposed requirement for the plan sections to be in a specific order. We added a provision to allow an owner or operator with multiple vessels to submit

one plan with separate vessel-specific appendices to satisfy the plan requirements for each of its vessels.

The revised interim final rule will permit the owner or operator to insert sections as necessary to satisfy any additional State or IMO requirements. However, the required sections and specific information required in those sections must remain distinct, and the appendix or table of contents must provide sufficient detail on the location of these distinct sections. As many comments recognized, this standard format will ease the administrative burden in reviewing the plans and create uniformity for responders who may not be familiar with a particular plan.

Three comments argued that the plan format was inconsistent with the recommendations of MARPOL Regulation 26. Three other comments stated that the plan format was useful in implementing Regulation 26 of MARPOL. The Coast Guard recognizes that OPA 90 plan standards exceed MARPOL standards but does not believe that these requirements are inconsistent with Regulation 26 standards. U.S. courts have recognized that Congress may direct the Coast Guard to set a stricter standard than the international standard as a condition of port entry. Although these requirements meet and exceed the MARPOL recommendations, the Coast Guard believes they are a logical extension of the IMO concept.

After reviewing the NPRM, the Coast Guard amended § 155.1030 by adding the requirement for the vessel owner or operator to maintain and make available copies of the submitted and approved plan. This provision was previously in § 155.1065, but we have determined that it is placed more appropriately in § 155.1030(i). This section has been revised to make it clear that it is the responsibility of the owner or operator to ensure that the qualified individual is provided with a current copy of the entire plan.

Sections 155.1035(a), 155.1040(b), and 155.1045(b) General Information and Introduction

The Coast Guard revised §§ 155.1035(a), 155.1040(b), and 155.1045(b) to require the call sign to be included in the response plan for each vessel covered by the plan. The Coast Guard is adopting this requirement to reflect a recommendation in the MARPOL Regulation 26 emergency plan guidelines.

The Coast Guard has moved the requirement in §§ 155.1035(a) and 155.1040(b) for owners and operators to identify the geographic areas covered by the plan to the appropriate geographic-specific appendix.

Sections 155.1035(b), 155.1040(c), and 155.1045(c) Notification Procedures

Several comments addressed the type and extent of the notification requirements. Four expressed concerns that the amount of notification requirements are cumbersome, and stated that the vessel owner or operator should have to report the discharge only to the National Response Center or the Coast Guard. Some of these comments also suggested including the requirements for State and local reports only in the Area Contingency Plans. One comment suggested that the Coast Guard maintain a centralized list of all notification requirements, with the COTP and Area Committees updating the list.

Two other comments stated that MARPOL Regulation 26 requirements should be used for contacts because a proposed notification checklist could be confusing in a disaster. Finally, one comment opposed descriptions of notification requirements and primary and secondary communication methods because descriptions are unnecessary and add complexity to the requirements.

The interim final rule requires that only the qualified individual be notified. However, other statutes and regulations establish oil spill reporting requirements, and the Coast Guard believes that owners or operators should set procedures for these notifications in their response plans. To minimize the burden on vessel owners and operators and facilitate rapid notification of a spill, most of this information can be provided in a checklist, which is consistent with MARPOL Regulation 26. To clarify that we need only a listing of notification procedures, we deleted the requirements in proposed §§ 155.1035(b)(2), 155.1040(c)(2), and 155.1045(c)(2) for owners or operators to "discuss" in the response plans notification requirements that apply in the vessel's area of operation.

The Coast Guard also revised the interim final rule to eliminate the requirement for response plans to include local notification requirements and for this information to be duplicated in the geographic-specific appendix. Under the revised notification sections, a response plan must describe primary communications methods for all vessel types and secondary methods if they are available.

To ensure consistency with IMO Resolution A648(16), the Coast Guard has revised the interim final rule to require response plans to include various additional items that must be identified in the initial notification and to establish guidelines for follow-up reports.

Sections 155.1035(c), 155.1040(d), and 155.1045(d) Shipboard Spill Mitigation Procedures

Two comments disagreed with the use of the term "fuel" in § 155.1035(c) because OPA 90 refers to "cargo" and not "fuel." The Coast Guard has deleted the term fuel from these sections. See the preamble discussion of "General issues" and "Section 155.1030" for further information on how U.S. vessels can meet the MARPOL Regulation 26 requirements.

To make § 155.1035 consistent with § 155.1040, the Coast Guard has moved to § 155.1035(j) (vessel-specific appendix) the requirement in § 155.1035(c)(1) for the response plan to identify the volumes of cargo that would be involved in the maximum most probable discharge and the worst case discharge. We have revised this provision to require that the response plan also identify the type(s) of oil cargo involved.

A few comments stated that owners or operators should not have to identify responsibilities of named personnel in the plan under proposed § 155.1035(c). Because identifying individual personnel responsibilities is cumbersome and goes beyond OPA 90, these comments suggested using a checkoff sheet.

Section 311(j)(5)(C)(iv) of the FWPCA states that in a response plan, the owner or operator must describe "the response actions of persons on the vessel." Section 155.1035(c) states that an owner or operator must identify the vessel crew's responsibilities by job title for these scenarios: transfer system leak, tank overflow, or suspected cargo tank, fuel tank, or hull leak.

Two comments opposed the requirement in § 155.1035(c) for the response plan to detail crew responsibilities for keeping records on and sampling of spilled products. The comments stated that vessel crews do not presently sample spilled products, and they objected to exposing personnel to safety and health hazards. The comments also noted that spill sampling is a government enforcement responsibility.

Section 155.1035(c) does not require or recommend that the crew take spill samples. We have revised the interim final rule to require owners or operators to identify only those procedures that the vessel already has in place for spill sampling. The interim final rule is also consistent with MARPOL, which recommends that response plans

include crew responsibilities, if any, for recordkeeping and sampling of spilled products.

One comment stated that the plans should include spill mitigation requirements for owners or operators to carry sorbent boom and to train crew members how to deploy the boom. Another comment stated that the onboard equipment requirements should be kept to a minimum. The Coast Guard is developing a separate rule to set out the types and amounts of equipment which must be onboard a vessel.

One comment stated that the vessel owner or operator should maintain the information on the availability, location, and contact numbers for lightering equipment because this information will benefit shore-based personnel more than shipboard personnel. The Coast Guard agrees and has deleted this requirement from §§ 155.1035(c) and 155.1040(d), and added it to §§ 155.1035(e) and 155.1040(f), the list of contacts section of the response plan. If more appropriate, the information may be included in the geographic-specific appendix and referenced in the list of contacts.

Sections 155.1035(d), 155.1040(e), and 155.1045(e) Shore-Based Resources

A number of comments stated that the vessel crew should not be responsible for supervising shore-based resources because their primary goal is to ensure the safety of the crew, vessel, and cargo. These comments recommended that the crew "advise" rather than "supervise" shore-based resources pending the arrival of the qualified individual. Many also argued that it is the Coast Guard's responsibility to remove a spill.

The interim final rule does not require the crew to supervise shore-based operations. We revised the interim final rule to clarify that crew responsibilities for supervising shore-based resources should be identified in the plan only if the owner or operator assigns such responsibilities to the crew. The Coast Guard has also deleted the term "pending arrival of qualified individual" to eliminate the perception that the qualified individual must be on scene. Under section 311 of the FWPCA, the Coast Guard has authority to ensure the effective and immediate removal of a spill, but it remains the owner's or operator's responsibility to remove the spill.

To ensure that the crew is aware of any responsibilities they may have to initiate a response and supervise shore-based resources, the Coast Guard has determined that this information should be kept onboard the vessel. We have deleted the requirement to identify these responsibilities from §§ 155.1035(d), 155.1040(e), and 155.1045(e) and added it to §§ 155.1035(c), 155.1040(d), and 155.1045(d) (shipboard spill mitigation).

Two comments stated that the requirements for shore-based response activities go beyond the scope of the onboard plan and do not need to be carried on the vessel. The Coast Guard agrees and will allow response plans to be divided into shipboard and shore components. The vessel does not have to carry the section on shore-based resources.

Five comments stated that the interim final rule should clarify who sets up the command center because setting up the command center is beyond the facilities and resources available to many independent shipowners. These comments felt that the command center was the Coast Guard's responsibility.

The interim final rule does not require that the vessel owner or operator set up a command center, but a command center may be part of the organizational structure of a response plan. The Coast Guard has determined that the owner or operator should identify the organizational structure that will be used to manage the response actions.

Many comments stated that the Coast Guard should require the use of the Incident Command System (ICS) under the National Interagency Incident Management System (NIIMS). These comments argued that NIIMS would facilitate cleanup efforts by creating a standard management system and allowing the operator to draw upon local community resources. One comment stated that we should not require the use of the NIIMS ICS.

The interim final rule does not require the use of the NIIMS ICS, but vessel owners and operators may choose to use this system or any organizational structure, as long as the response plan identifies the structure and the structure addresses the elements required in the interim final rule.

One comment stated that the number of shore-based management teams should be limited to one per COTP zone and these teams should be ad hoc committees to Area Committees. Some suggested that Federal, State, and private resources should fund the ad hoc committees. The comment rationalized that such a team would be used to working together and could coordinate with the OSC during spills to support area plan process, reduce costs, manage the qualified individual, and increase efficiency.

It is the responsibility of the vessel owners or operators to set up spill management teams. The Coast Guard will not specify the number of teams or fund the teams. The Area Committee membership is limited to members of Federal, State, and local governments. The COTP will determine the types and numbers of subcommittees involved in the Area Committee planning process.

Two comments stated that the requirements to identify oil spill removal organizations and list equipment and supplies in this section of the response plan duplicate the requirements for the geographic-specific appendix and § 155.1050. The comments suggested deleting the provisions under shore-based response activities in §§ 155.1035, 155.1040, and 155.1045 because they are unnecessary.

The Coast Guard agrees the requirements are duplicative and has revised the interim final rule so that a vessel owner or operator needs to identify these resources only in the geographic-specific appendix. We revised the interim final rule by deleting proposed §§ 155.1035(d)(6), 155.1040(e)(5), and 155.1045(e)(5), and by clarifying the existing requirements in §§ 155.1035(i), 155.1040(j), and 155.1045(j). Section 155.1050 is not duplicative because it defines the operating criteria of required response resources.

Some comments also expressed concern about the owner or operator having to identify sufficient resources to staff the oil spill removal organization for seven days. Three comments objected to this provision because owners will not have resources to run a major response for seven days. One comment suggested including this provision in a supplement or annex to a plan to reduce the burden of updating and reapproving the plan each time the personnel identification changes.

The Coast Guard is not requiring the owner or operator to name specific individuals of the oil spill management team or oil spill removal organizations in the response plan. The plan must contain a list with the name and number of the organization(s) that will supply personnel to staff a response for seven days, and the owner or operator must ensure that this organization has adequate resources to staff the response. To clarify the requirements, we now instruct the owner or operator to list the "sources of" trained personnel in the plan. Personnel changes are not "significant," therefore, the Coast Guard does not require the plan to be reapproved if personnel changes occur. However, the owner or operator must update the plan and send the changes in sources to the Coast Guard.

Two comments stated that the Coast Guard should list approved oil spill response organizations in the rule. Other comments stated that the Coast Guard should ensure that resources are available and capable. One comment disagreed with the need for pre-contracting resources.

Under section 311(j)(5), the responsible party must ensure, through contract or other approved means, that sufficient resources are available to respond to a worst case discharge or threat of such a discharge. The Coast Guard is not responsible for securing or listing the services available for the owner or operator. The Coast Guard expects to issue guidance on classification of oil spill removal organizations.

One comment stated that the rule should define "OSC" because the response plan must provide for coordination with that official. Another comment indicated the need for responders to coordinate with other levels of government that have responsibilities during a spill, not just the OSC.

The Coast Guard agrees and has added a definition of "OSC" to the interim final rule. The OSC's responsibilities include coordination with other appropriate government agencies. We have revised the interim final rule to make it clear that the plan must identify the qualified individual's responsibilities for immediate communication with the OSC.

Sections 155.1035(e), 155.1040(f), 155.1045(f) List of Contacts

Two comments disagreed with the requirement to list phone numbers (except for the qualified individual) in a public document because of privacy concerns. The comments suggested that the numbers could be "blacked out" in copies sent to Coast Guard. The Coast Guard disagrees. We believe that the phone numbers are essential to the overall effectiveness of the plan. We are not requiring that the 24-hour contact number be a personal or home phone number.

One comment stated that requiring owners or operators to update their response plan each time the vessel's insurance representative or agent changes is an unreasonable burden. The Coast Guard does not anticipate that keeping current the insurance representatives and vessel agent information will be a large burden. This requirement is consistent with MARPOL Regulation 26 and is generally known by vessel personnel. The Coast Guard will not require that the plan be reapproved whenever that information changes.

One comment disagreed with listing an alternate for the qualified individual because most owners will designate more than one qualified individual. The Coast Guard has determined that identifying an alternate will ensure that a qualified individual is accessible if the primary qualified individual cannot be reached.

One comment stated that Protection and Indemnity (P and I) Clubs publish lists of correspondents who are available to act for and assist shipowners, but it will be difficult for the vessel owner or operator to identify representatives of the individual P and I Clubs.

The proposed rule had a requirement to identify the vessel's P and I Club representative and a separate requirement to identify other applicable insurance representatives. Realizing that a P and I Club is one of many types of insurers, the interim final rule combines these two requirements together. The Coast Guard recognizes that individual P and I Club representatives may not exist for each vessel. In this situation, it would be permissible for an owner or operator to include a listing of the P and I Club organizational contact.

Sections 155.1035 (f) and (g), 155.1040 (g) and (h), and 155.1045 (g) and (h) Drills and Training

Sections 155.1055 and 155.1060 set out specific training and drill requirements. Two comments stated that the requirements for "drills" and "training" in §§ 155.1035, 155.1040, and 155.045 duplicate the requirements in §§ 155.1055 and 155.1060. The requirements in §§ 155.1035 and 155.1040 are not redundant because they only require that drill and training procedures be included in the vessel response plan. Section 155.1045 has unique training and drill requirements that do not reference §§ 155.1055 and 155.1060.

Sections 155.1035(i), 155.1040(j), 155.1045(j) Geographic-Specific Appendices

The Coast Guard has added two provisions to §§ 155.1035(i) and 155.1040(j) to facilitate plan preparation and review. First, as discussed in the preamble discussion of "Sections 155.1035(a) and 155.1040(b)," we have included the requirement for the plan to identify geographic areas covered by the plan. The owner or operator need only list the general area(s) (i.e., port areas, rivers and canals, Great Lakes, inland, nearshore, offshore, or open ocean) in which the vessel intends to handle, store, or transport oil. This allows an owner or operator the flexibility to plan only for those areas of the COTP zone in which the vessel will transit.

Second, the Coast Guard has added a requirement to identify the volume and type of oil on which the required level of response resources are calculated. This information must be included only if it differs from that identified in §§ 155.1035(j) and 155.1040(k). This provision allows the owner or operator to plan only for the quantity of oil actually handled, stored, or transported within the applicable COTP zone.

The Coast Guard received a number of comments on geographic-specific appendices. One comment agreed that plans should contain a geographic-specific appendix because ACPs cannot anticipate all available resources. The appendices should be consistent with ACPs. Another comment expressed concerns that having such an appendix implies that the rule will be applied inconsistently. This comment stated that plans must be consistent within the U.S. and with the international Oil Pollution Emergency Plans (OPEPs).

To ensure consistency among the plans, the Coast Guard will review the plans centrally and will provide COTPs with standard guidance for developing the ACPs.

One comment stated that if a vessel stays in the open ocean, it should not need an appendix. The Coast Guard disagrees. The information contained in the geographic-specific appendix is important for an effective response and for plan review.

One comment stated that developing a geographic-specific appendix is onerous for vessels operating on the spot market. Section 155.1025 allows a vessel a single-voyage exemption to this requirement for vessels making only one voyage to a port.

Three comments stated that some of these requirements duplicate those for shore-based response activities and suggested that they should be deleted. The Coast Guard deleted the duplicate provisions under shore-based response activities and made it clear that the appendix must identify the oil spill removal organizations which will provide the equipment and supplies required in §§ 155.1050, 155.1052, and 155.1054, as applicable.

We added §§ 155.1035(i)(7) and 155.1040(j)(7) to require the owner or operator to list in the appendix the response resources and related information required in the response plan. As an alternative, we added §§ 155.1035(i)(8) and 155.1040(j)(8) to allow owners or operators to identify only the organization(s) and their

applicable classification if the organization(s) have been evaluated by the Coast Guard and their capability has been determined to equal or exceed the response capability needed by the vessel. This alternative may reduce the burden on owners or operators in detailing their response resources. The Coast Guard is currently developing guidance for classifying oil spill removal organizations.

To be consistent with the requirements in §§ 155.1050, 155.1052, and 155.1054, the Coast Guard has added a paragraph to §§ 155.1035(i) and 155.1040(j) requiring the appendix to contain a separate list of identified companies that will provide salvage, vessel firefighting, lightering, and, if applicable, dispersant capabilities.

One comment stated that these appendices will cause plans to be out of date continuously. The Coast Guard requires owners or operators to amend their plan and submit for approval only significant changes to the plan. The appendices should change very infrequently.

One comment opposed requiring owners or operators to identify response resources for every geographic zone. The comment stated that owners or operators should rely on local response contractors who can identify environmentally sensitive locations and describe the best response strategies for these areas. OPA 90 requires owners or operators to plan for any area in which their vessel(s) will handle, store, or transport oil. Further, owners or operators must identify response resources in their plans. The ACP will identify response strategies.

Section 155.1035(j) and 155.1040(k) Vessel-Specific Appendices

One comment stated that the requirement under vessel-specific information for vessels to maintain damage stability data conflicts with the option for either the shore-based personnel or vessel personnel to maintain the data. We have revised the requirements to allow owners or operators to maintain the damage stability data apart from the plan if the plan identifies the location of the data.

Two comments opposed identifying the location of information on the name, description, physical and chemical characteristics, health and safety hazards, and spill and firefighting procedures for the oil cargo and fuel aboard the vessel. The interim final rule allows vessels to use Material Safety Data Sheets (MSDSs) to meet this requirement. Some stated that vessels do not usually carry MSDSs for fuel because its hazards are well-understood. Other comments stated that safety data sheets are not available for physical, chemical characteristics, or health and safety hazards for different crudes. Those comments proposed referencing the International Safety Guide for Oil Tankers and Terminals (ISGOTT) by OCIMF and requiring the cargo owner to supply the information on the cargo or fuel before it is taken aboard.

Vessels already are required under 33 CFR 155.750 to carry information on their cargo. Sections 155.1035(j) and 155.1040(k) will ensure that a plan user will know where to find this information. The Coast Guard has revised the interim final rule by deleting the requirement for owners or operators to identify this information for fuel. The interim final rule requires the plan to state only the location of this information for the oil cargo and the location of the cargo and fuel stowage plan. ISGOTT does not provide the detail of cargo information necessary to satisfy this requirement.

Section 155.1040 Requirements for Unmanned Tank Barges

Most comments supported requiring the barge to carry a checklist with emergency information. However, a few stated that towing vessels should also carry plans or written information for each barge they tow to facilitate access to those plans in the event of a spill. Others opposed dividing the plans for unmanned barges into a two part format because first responders would need access to the entire plan.

The Coast Guard has determined that requiring the towing vessel to carry individual plans for each barge it may tow is unreasonably burdensome. The owner or operator of the barge must inform the towing vessel operator of the plan location and any responsibilities the towing vessel operator may have under the plan. These plans are intended for use by the towing vessel's crew and spill management team, who will coordinate with the first responders.

A few comments objected to the requirements for barges to provide damage stability, emergency towing, and salvage plans. Others said that barges should not have to maintain a barge diagram or create lines plans or tables of offsets for the response plan.

The interim final rule requires the vessel owner or operator to provide emergency towing plans, damage stability information, lines plans, or tables of offsets only if they are available. If these documents already exist, the plan must reference the existing manual and note where the manual is located. The Coast Guard has determined that a tank barge plan must state the location of general arrangement plans, midship section plans, and tank tables. The Coast Guard revised § 155.1040 to make these requirements clear.

Three comments stated that a barge plan should not have to identify lightering resources because of the cost to barge owners or operators. One comment indicated that barges already have transfer procedures and these should not be repeated in the vessel response plans.

The Coast Guard has determined that barge owners or operators need to identify lightering resources because barges pose a risk to the environment similar to tankers. The response plan may reference any existing vessel transfer procedure that meets the requirements of the interim final rule. We have deleted the requirement for barges to follow the OCIMF Guide because the Guide does not specifically address barge operations.

One comment stated that the requirement to identify procedures for certain casualties was too cumbersome, and the circumstances, not the type of casualty, will ultimately dictate appropriate procedures. The Coast Guard recognizes that the incident circumstances will ultimately dictate appropriate response, but it has determined that identifying procedures for responding to various casualties is an important planning tool.

One comment opposes any implication in the interim final rule that the tankerman may have responsibility to mitigate spills because the barge owner or operator is the responsible party. Under 46 CFR 35.35, the tankerman is the person in charge of an unmanned barge during a transfer operation; and in an emergency, the tankerman must judge and pursue the most effective action to rectify the conditions causing the emergency. However, the barge owner or operator remains the responsible party.

One comment stated the requirement in proposed § 155.1040(e)(1) to identify the responsibilities of the towing vessel's crew duplicates the requirements under spill mitigation. The Coast Guard has moved the requirement for identifying crew responsibilities from § 155.1040(e)(1) to § 155.1040(d)(8). Section 155.1040(d)(8) states that the responsibilities need to be identified only if the vessel owner or operator requires the towing vessel crew to take action under the plan during a response.

We have revised § 155.1040(k)(2) to require that the response plan also identify the type(s) of oil cargo in

addition to the volumes of oil cargo involved in the maximum most probable discharge and worst case discharge.

Section 155.1045 Requirements for Vessels Carrying Oil As a Secondary Cargo

A number of comments disagreed with using 50% of the fuel capacity plus the cargo tank volume to derive the cargo volume for which an owner or operator must plan. Most comments said that 25% of the fuel capacity is a more appropriate amount to use for this calculation.

Based on the data these comments presented, the Coast Guard agrees. Based on an evaluation of actual transfer data, we changed paragraph 155.1045(a). For vessels that transfer a portion of their fuel as cargo, 25% of the fuel capacity of the vessel plus the capacity of any cargo tank(s) will be assumed to be the cargo volume for determining applicable response plan requirements, unless the vessel owner or operator indicates otherwise. If the actual volume transferred is greater than 25%, the interim final rule requires the owner or operator to plan for the greater volume. A vessel owner or operator may use a volume less than 25% if the owner or operator submits historical data showing that the vessel transfers a lower percentage of its fuel capacity as cargo between refuelings.

A number of comments addressed the issue of non-contractual written agreements with shore-based responders. Some opposed non-contractual written agreements, recognizing that contractors need incentive to maintain and improve their response capability. These comments stated that an owner or operator should not have to obtain letters of consent because the owner or operator already must provide a list of contractors in the response plan.

OPA 90 specifically requires owners or operators to identify and ensure the availability of response resources through contract or other approved means. The Coast Guard has determined that for secondary carriers, a written letter of consent constitutes "other approved means" to ensure the availability of the response resources. The interim final rule does not preclude these vessel owners or operators from contracting for these resources. (See the preamble discussion on the definition of "contract or other approved means" for further information.)

In proposed § 155.1045(j)(3), the Coast Guard required that response plans for vessels carrying oil as a secondary cargo list the required response resources. We have revised § 155.1045(j)(3) to require that the geographic-specific appendix list the oil spill removal organizations available to respond to the vessel's worst case discharge. The identified oil spill removal organizations must be capable of commencing oil spill containment and on-water recovery within the tier 1 response times.

One comment opposed requiring refresher training because already trained individuals would have to drill even if the individuals were not assigned to a vessel. Other comments argued that maintaining training records on the vessel imposes an undue burden on the vessel crew and only a logbook should be required onboard.

The interim final rule requires refresher training only as necessary. We have revised the interim final rule by adding a provision that allows the owner or operator to count documented work experience toward training. Only individuals onboard the vessel at the time of a drill must participate in the drill. We also have revised the interim final rule so that drill records may be maintained on the vessel, at the U.S. location of the spill management team, or with the qualified individual. However, the plan must specify the location of the records.

Paragraph 155.1045(i) of the proposed rule discusses the procedures for plan review and update. The Coast Guard has determined it appropriate to expand this paragraph in the interim final rule and include a new provision for revising the plan to address deficiencies identified by the Coast Guard. A provision has also been added to provide an appeals process for owners or operators. The title of this paragraph has been renamed "Plan revision, update, and appeal procedures."

The Coast Guard has revised paragraph (i) to require resubmission of the plan for approval 6 months before the end of the Coast Guard approval period. This replaces the proposed requirement for resubmission exactly five years from date of approval. The Coast Guard has also revised this paragraph to require, under certain circumstances, a resubmission of the plan when there is a change in the owner or operator of the vessel.

Section 155.1050 Response Plan Development and Evaluation Criteria for Vessels Carrying Groups I Through IV Petroleum Oil as a Primary Cargo

The Coast Guard has renamed this section and made many changes to the text to limit § 155.1050 to vessels that carry group I through IV petroleum oil as a primary cargo. We have done this to account for the new sections §§ 155.1052 and 155.1054, which address primary carriers of new group V petroleum oil and non-petroleum oils respectively. Some comments questioned whether § 155.1050 applied to vessels that carry oil as a secondary cargo. Only portions of § 155.1050 apply to secondary carriers, and these portions are specifically referenced in § 155.1045(j).

Section 155.1050(a)

This paragraph directs the vessel owner or operator to use specific criteria to evaluate the operability of response resources identified in a response plan under certain conditions. Six comments were received on this paragraph and the corresponding section in appendix B. Two comments requested that we make it clear that owners or operators should use the referenced criteria only for planning purposes and should not consider the criteria as limitations on the equipment used during a response.

Evaluating equipment under § 155.1050(a) is intended only to identify that equipment which the owner or operator expects to operate in the significant wave heights in Table 1. It does not restrict certain equipment to the geographic areas specified in the plan. Paragraph (a)(1)(ii) of the interim final rule has been modified to reflect better the intended use of the criteria.

For evaluating equipment, one comment recommended that we consider the categories of calm water, protected water, and open water as used in the "World Catalog of Oil Spill Response Products—Third Edition" instead of the geographic-based criteria. ASTM is also considering this approach The Coast Guard has determined that the World Catalog approach is burdensome because it would require all bodies of water to be evaluated before the owner or operator would know what type equipment would be required. The classification based on the four geographic areas (ocean, inland, river, Great Lakes) sets a baseline that an owner or operator can use without additional action. The procedures that allow the COTP to reclassify specified bodies of water using significant wave height frequency will address variations in conditions similar to those addressed by the World Catalog.

Section 155.1050(b)

Six comments addressed the criteria included in paragraph (a)(3) of the NPRM for the COTP to reclassify a body of water to a more or less stringent operating environment that better reflects the local conditions. These comments requested that we clarify the process for reclassifying bodies of water;

how affected interests would be notified and involved in the process; and when the reclassifications might happen. One comment requested that we reclassify Prince William Sound from "inland" to "ocean."

To make this provision clear in the interim final rule, we have included this provision in a renumbered paragraph (b). (Note: Because we have added a new paragraph to § 155.1050, proposed paragraphs (b) through (p) have been renumbered as paragraphs (c) through (q) in the interim final rule. The preamble discussion will refer to the paragraphs as numbered in the interim final rule.)

Paragraph (b) allows the COTP to evaluate bodies of water using historical data available from the National Weather Service, port authorities, or other sources, and reclassify a body of water or any portion of a body of water. The COTP will give information to potentially affected entities by including the reclassification in the area contingency plan, by responding to specific inquiries, and by informing the maritime community through appropriate local methods.

Four comments offered alternative percentages to the criteria included in the proposed rule. Some suggested using the more stringent operating environment if prevailing wave heights exceeded the significant wave height criteria in Table 1 for more than 5 percent of the year. Others wanted the COTP to reclassify a less stringent operating environment if the prevailing wave heights were less than the significant wave height criteria in Table 1 for more than 65 percent of the year. Some comments were confused about how the COTP would reclassify a body of water from a stringent operating environment to a less stringent operating environment.

The Coast Guard has retained the percentages from the proposed rule. The 35 percent threshold provides balance between anticipated area environmental conditions and equipment available to operate in those conditions. Setting a lower threshold would require new areas to stockpile equipment with the capability of operating in unlikely conditions.

Regarding reclassification to a less stringent operating environment, a COTP could reclassify an area only if the significant wave heights in the area do not exceed the wave heights for a less stringent operating environment for more than 35 percent of the year. For example, to reclassify a body of water from ocean to inland, the significant wave heights in the body of water could not exceed 3 feet over 35 percent of the year. The COTP would use a similar approach in reclassifying an area to a more stringent environment.

Note also that any COTP reclassification of a body of water affects only the type of equipment that an owner or operator must identify in a plan for a given area in which a vessel may operate, and does not affect the other planning criteria.

Section 155.1050(c)

This new paragraph includes the proposed requirement for an owner or operator to identify only that equipment in a response plan meeting the specific design criteria included in Table 1 of appendix B. The identified equipment must be capable of functioning in the applicable operating environment. The Coast Guard received one comment on this paragraph. This comment requested we make it clear that Table 1 of appendix B criteria are used for planning and not equipment operations. The Coast Guard agrees and has deleted the reference to "operating" in subparagraph (c)(1) of the interim final rule.

A new requirement has been added to new paragraph (c) of the interim final rule requiring response equipment to be appropriate for the petroleum oil carried. "Appropriate" in this paragraph means the response equipment identified must be capable of performing its assigned task and not be in violation of any existing regulations. For example, any certificated recovery vessel identified for credit in the vessel response plan, must be certificated for recovery of the grade of oil spilled. This requirement was contained in § 155.1050(e)(2)(3) of the proposed rule, and has been moved to paragraph (c) to consolidate the discussion of response equipment in one location and to make it applicable to all spill scenarios.

Section 155.1050(d)

This paragraph requires an owner or operator of a vessel carrying oil as a primary cargo to identify resources for a response to the average most probable discharge (50 barrels) at the point of an oil transfer. We received twenty comments on this paragraph and the corresponding section in appendix B. Five comments supported the requirement as proposed. Three comments opposed the requirement arguing, among other things, that the cost to comply was unreasonable, that providing resources in remote areas was difficult, and that addressing a discharge other than a worst case discharge was beyond our authority under OPA 90.

One comment argued that planning for an average most probable discharge should not be subject to the statutory deadlines in OPA 90 because planning for anything less than the worst case discharge goes beyond the OPA 90 mandate. The deadline for complying remains the same in the interim final rule as in the proposed rule. Applying the same implementation dates for the worst case discharge and the average most probable discharge reduces the burden on the marine transportation industry to comply with the requirements of this interim final rule. Having different implementation dates would add to the burden by requiring multiple submission dates for plan components. See the preamble discussion under "Discussion of general issues" for Coast Guard authority to require planning for an average most probable discharge.

The Coast Guard received seven comments concerning subparagraph (d)(1) requirements for containment boom, oil recovery devices, and temporary storage capacity to be available at or near the point of oil transfer within specified time frames. One comment recommended excluding transfers of non-persistent oils from this requirement because the characteristics of these oils may hamper oil containment and recovery. The Coast Guard disagrees. When discharged, non-persistent oils tend to dissipate more rapidly than persistent oils, but in many instances, spills of such products can be contained and recovered. Even if the containment equipment is not used for recovering the spilled product, responders could use the boom to protect sensitive areas or to minimize the spread of the product.

One comment stated that subparagraph (d)(1) does not apply to unmanned barges. This is incorrect. The provision applies to all vessels carrying groups I through IV petroleum oil as a primary cargo, including unmanned tank barges. Subparagraph (d)(1) also applies to transfers of oil from a barge or tanker to another vessel for use as fuel because the fuel is "cargo" for the delivering vessel.

One comment indicated that it might be impossible to meet the proposed response times on inland rivers. The Coast Guard believes that compliance will be the same in inland rivers as in other areas of the country. Therefore, we have not changed the requirement in the interim final rule.

Two comments indicated that it was unclear how long it could be for the necessary containment boom to be on scene and recommended one hour be used. The Coast Guard agrees and has

modified subparagraph (d)(1)(i) in the interim final rule to state that an owner or operator must plan for deploying the containment boom at the site of oil transfer operations within one hour of detection of an oil discharge. The equipment must be sited to meet this criteria.

Three comments were received concerning equipment sharing by multiple vessels in a lightering area as proposed in subparagraph (d)(2). Two comments asked that this provision be extended to multiple vessels moored at a common facility and one comment asked whether equipment could be staged to cover transfers involving vessels at nearby facilities. The Coast Guard has modified the language in the interim final rule to permit the use of common equipment for any location with multiple vessel transfers, whether at a facility or in a lightering area. The purpose of the requirement is to ensure that the equipment is available and deployable at the point of oil transfer within the indicated times. If the equipment is located so that it can arrive within those times, then the planning criteria have been met.

Eight comments were received concerning proposed subparagraph (c)(3) that authorizes a vessel owner or operator to contract with a facility to provide the average most probable discharge response capability. Four comments indicated that the facility, not the vessel, involved in the transfer should be required to provide the response capability. Three comments also supported this, further noting that response resources were limited on the inland river system and the facility at which the transfer occurs should provide the average most probable capability. One comment supported the requirement as proposed, noting that many facilities are not equipped to provide this capability, but should be able to contract with a vessel.

The Coast Guard considered these comments. In the interim final rule, we are not requiring the owner or operator of a vessel conducting transfer operations at a facility required to submit a response plan under 33 CFR 154.1017 to identify and ensure the availability of response resources to respond to an average most probable discharge. The Coast Guard has determined that it is not necessary to require both the facility and vessel owners or operators to plan for resources to respond to an average most probable discharge. Requiring the facility to plan for and ensure the availability of these resources is consistent with 33 CFR 154.545, which already requires facilities to have access to discharge containment equipment to control an oil discharge from operations from that facility. If the facility has identified these response resources, the Coast Guard believes that they will be readily available to respond to an average most probable discharge from the vessel occurring during transfer operations.

Section 155.1050(e)

This paragraph addresses the requirements for the vessel response plan to identify the response resources to prepare for the maximum most probable discharge (MMPD) (2500 barrels or 10% of the cargo capacity, whichever is less). Fifty-nine comments were received on this paragraph and the corresponding section appendix B. Two comments supported the requirement as proposed.

Three comments opposed the requirement arguing, among other things, that the cost to comply was unreasonable, providing resources in remote areas was difficult, and addressing a discharge other than a worst case discharge was beyond our authority under OPA 90. See the preamble discussion of these issues under "Section 155.1050(c)" and "Discussion of general issues."

Two comments specifically opposed applying the requirement in remote areas of Alaska and the islands in the Pacific. For reasons stated earlier in the preamble discussion of "Discussion of general issues," the Coast Guard made no changes to the interim final rule to address remote areas.

One comment asked whether the owner or operator needed to identify and ensure separate resources to respond to a maximum most probable discharge and a worst case discharge. Response resources identified in a response plan must reflect a continuum in capability to respond to anything from minor operational discharges up to worst case discharges. With the exception of the Great Lakes, the response times for the maximum most probable discharge are the same as those for a tier 1 worst case discharge. Therefore, the Coast Guard does not require an owner or operator to identify separate resources for a maximum most probable discharge and a worst case discharge, unless the identified tier 1 oil spill removal organization is limited by charter or contractual agreement to responding to discharges that exceed the owner's or operator's MMPD planning volume.

On the Great Lakes, the response times for a MMPD are less than those for a tier 1 worst case discharge (WCD). The owner or operator will have to take into consideration the different response times when identifying resources for a MMPD and a WCD.

Nineteen comments addressed the response times in subparagraph (e)(1). Of these, many recommended that the times be reduced to periods ranging from 2 hours to 6 hours in higher volume port areas and 12 hours in all other areas. Others supported the times as proposed. Except for the open ocean, the Coast Guard has retained the times as proposed. The response times represent the maximum time needed for resources to arrive on scene at the farthest distance from port in the geographic planning area. The closer a vessel is operating to a port, the quicker the response resources should arrive on scene.

We received four comments on the open ocean response times. One comment believed that on-water recovery capability should not be required in the open ocean, eliminating the need for a response time. One comment supported the time as proposed, and one comment believed that travel time to the open ocean should be measured from shore and not from 50 miles offshore.

The Coast Guard has revised the interim final rule to indicate that the response time for open ocean areas will be 24 hours plus travel time from shore. This travel time is measured from the closest shoreline area; not the closest port, effectively adding 5–10 hours (depending on travel speed assumptions) to the response times in these areas. This change should further increase the incentive for vessel owners to operate their vessels greater than 50 miles from shore.

Seven comments stated that the Great Lakes should be treated like all other water bodies and allowed a 24-hour maximum response time for the MMPD because the spill history and oil traffic in the Great Lakes is completely different from that in higher volume port areas. The Coast Guard disagrees and retained the 12-hour requirement for response to a maximum most probable discharge. The Great Lakes are unique, self-contained, bodies of fresh water especially vulnerable to spills. Because spills occur infrequently, it is especially important that the response capability be available to respond rapidly. The maximum most probable discharge response capability provides a base capability that can be deployed rapidly to the scene of a discharge to mitigate its effects.

One comment asked that we make it clear that the response time clock starts to run when the responsible party discovers the discharge and not a third

party. Another comment asked that the response time be measured from the notification of the response resources, not from discovery of the discharge.

We did not change the proposed requirement that for planning, the response time clock starts at discovery of a spill by a person with responsibility under the plan to initiate notice and to mobilize resources. To encourage planners to incorporate provisions in the plan for rapid notice, discovery is the baseline for measuring response times. During the planning and resource identification process, owners or operators must factor in the time necessary to notify the identified oil spill removal organizations.

Two comments stated that requiring the response plan to include specific information on the oil recovery devices identified for response plan credit is burdensome. The Coast Guard believes that this information is necessary for plan review. As discussed under "General Issues," the Coast Guard is considering classifying oil spill removal organizations to minimize the burden on owners or operators.

The Coast Guard received thirty-nine comments concerning the condition in subparagraph (e)(5) for the MMPD response resources to remain prepositioned in an area, unless the COTP approves moving the identified response resources to the scene of another spill outside the area. One comment stated that the response plan should remain valid only if the owner or operator identified and ensured other sources of response capability to replace the released resources.

Thirty-five comments were concerned with the vessel owner's or operator's potential liability if the Coast Guard "directed" response resources to another spill, and some requested that we make it clear that a vessel owner or operator would not have additional liability under OPA 90 if the response was delayed because the COTP approved resources for use in another spill. One comment challenged the COTP's authority to disapprove the movement of private equipment. Three comments also asked that we require the COTP to identify public and private resources available when the COTP "approves" moving response resources.

The Coast Guard modified subparagraph (e)(5) in the interim final rule to address these concerns. The required resources must be capable of meeting the planned arrival times in subparagraph (e)(1) of this section, but the resources may be located in an adjacent COTP zone. Our intention in requiring the COTP to "approve" the mobilization of equipment to another spill was to keep the COTP apprised of the port's overall readiness and ability to respond to discharges; it was not intended to control the movement of equipment. We have made this clear by changing the interim final rule to require that the COTP be "notified" whenever the identified response resources are not capable of meeting planned arrival times.

If the COTP is notified, a vessel response plan will remain valid. The Coast Guard will not require a vessel owner or operator to identify alternate sources of response resources. However, it may be prudent for a vessel owner or operator to plan for alternate sources of spill response capability with a response resource identified in the plan. We cannot exclude owners or operators from their statutory responsibility to clean up a spill or from potential liability if their identified resources are unavailable.

Section 155.1050(f)

This paragraph requires response plans to identify and ensure the availability, through contract or other approved means, of resources necessary to respond to the worst case discharge volume of the oil cargo to the maximum extent practicable.

Three comments supported the general approach for determining equipment requirements for responding to a worst case discharge. Nine comments argued that there is no precedent for a worst case discharge and therefore it is unnecessary to plan for one. Numerous comments suggested that the vessel response plan should plan for cleaning up a "maximum most probable spill" rather than the worst case discharge. One comment suggested that a most likely spill scenario of ⅓ the dead weight tonnage would be reasonable. Another comment recommended that all planning factors in appendix B be revised down because the discharge will not be instantaneous.

Six comments recommended that the Coast Guard give various types of credit against response capability required for a worst case discharge. For example, five comments recommended that up to a 50% credit be given for double hulls. One comment recommended that credit should be given for all preventative measures, not just double hulls.

As amended by OPA 90, section 311(j)(5)(C) of the FWPCA requires an owner or operator to prepare and submit a plan that identifies and ensures the availability of, by contract or other approved means, private personnel and equipment necessary to remove, to the maximum extent practicable, a worst case discharge. A worst case discharge is defined as "a discharge in adverse weather of a vessel's entire cargo."

The Coast Guard acknowledges that there are many valuable actions and measures that can be taken that reduce the likelihood of an accident occurring, or that potentially reduce the volume of oil that may be spilled after a grounding or collision. These include double hulls, measures to improve navigation, and measures to reduce human error such as training and manning procedures. However, it is difficult to quantify the benefit of these measures, and they do not guarantee that a worst case discharge will not still occur. Therefore it is still necessary to plan for a worst case discharge. and to identify adequate spill response resources. Under certain conditions, the Coast Guard will grant credit against on-water recovery capability for dispersants, effectively replacing oil-recovery equipment (skimmers, containment, and temporary oil storage) with a mitigating technology (dispersants). Applying the credit will not diminish the on-water spill recovery capability.

One comment suggested that vessels planning for the Great Lakes area should receive credit against required response capability because most major spills on the Great Lakes have historically occurred in locks where containment equipment already exists. The Coast Guard does not agree with this recommendation. Although a lock may provide a high level of oil spill containment, a vessel spends a relatively short transit time inside a lock. The probability of a spill occurring while the vessel is outside of a lock is much greater, and therefore it would be inappropriate to rely on locks for oil spill containment.

One comment specifically asked if the resources required by § 155.1050(f) have to be retained within the applicable geographic area. There is no requirement that the equipment identified in a vessel response plan to respond to a worst case discharge must remain within the geographic area. The resources necessary to respond to a worst case discharge must be located to meet the response times for the applicable geographic area(s).

Twelve comments recommended that the rule direct the owner or operator to plan for nearshore spills. Several comments suggested that an owner or operator plan for spill response equipment capable of operating in 6 to 12 feet of water. The Coast Guard agrees and has added a new subparagraph to § 155.1050(f) describing the requirements for close-to-shore response activities in shallow water. The amount of equipment required to be capable of

operating in waters of 6 feet or less diminishes as the distance from shore increases. The requirement reflects that for open ocean spills, there will usually be time to obtain oil spill recovery equipment with shallow water capability before the spill arrives in shallow water.

For higher volume ports, one comment recommended oil spill removal capability of 20,000 bbl per day on vessels capable of operating in 12 feet of water or less. The Coast Guard did not adopt this recommendation because it is excessive for this planning area and inconsistent with the response capability caps.

One comment recommended that the planning criteria for a worst case discharge should not apply to chemical tankers carrying less than 5,000 metric tons of petroleum oil as cargo because these tankers are typically double-hulled and highly subdivided with small cargo tanks. The comment argued alternatively that if owners or operators were required to plan for these tankers, the vessel response plan should be deferred until the rules for hazardous substances are developed. The statute is explicit that chemical tankers carrying oil in bulk as cargo must prepare and submit a vessel response plan under the requirements of this interim final rule.

One comment recommended that we exempt vessels carrying non-persistent edible oil from the planning requirements for a worst case discharge because these vessels do not pose a significant threat to the environment. The Coast Guard disagrees that non-persistent petroleum oils do not pose a significant threat to the environment.

One comment suggested that vessels carrying edible oils should be subject to reduced requirements because edible oils pose less relative risks to the environment. The Coast Guard disagrees. There is insufficient data to support a finding that a spill of a large quantity of edible oil will have less adverse impact on the environment than a spill of other kinds of oil. A new section has been added to the interim final rule in recognition of the unique characteristics of non-petroleum oils. Section 155.1054 specifies the response plan development and evaluation criteria for vessels carrying non-petroleum oils as a primary cargo.

One comment asked that we clarify the circumstances in which an owner or operator can ensure the availability of resources necessary to respond to a worst case discharge with written consent from a response organization.

We have revised the definition of "contract or other approved means" in § 155.1020 to indicate clearly that written consent of an oil spill removal organization is an acceptable alternative under the 9 situations described in § 155.1020.

Section 155.1050(g)

This paragraph sets out three tiers of response times for the worst case discharge response resources to arrive on scene. Tiering resources allows the owner or operator to identify resources outside the geographic area to meet the requirements.

Three comments supported the response times and the tiering of equipment. Six comments argued that the response times were too long. Most comments recommended that all geographic-specific response times be reduced by half. One comment requested clarification and rationale for the response time frames.

The Coast Guard does not concur with the recommendations to decrease the response times. The response times, although not specifically recommended by the Committee, are based largely on discussions of the Committee. It must be possible to have the required response equipment arrive on scene within the stated response times, and these times take into account the outermost boundaries of the applicable area. For locations closer to shore within the applicable area, the achievable response time may be less than the required response time.

The Coast Guard believes that the response times are appropriate because they represent the planned arrival time at the outermost boundaries of the applicable area and recognize the need to cascade additional equipment as time progresses.

For example, in a higher volume port area, the equipment required for tier 1 must be capable of arriving on scene within 12 hours at a location 50 miles seaward of the entrance to the higher volume port. For a vessel operating in the offshore area (12 to 50 miles from the shore), the equipment required for tier 1 must be capable of arriving on scene at the most distant point of this zone in which the vessel plans to transit, within 24 hours of discovery of a discharge. Resources for tiers 2 and 3 must be capable of arriving in 24-hour increments. This approach ensures a steady stream of spill response resources arriving during the first 3 days of the spill when oil recovery is most likely. The 24-hour interval permits resources to cascade in from increasingly distant locations.

One comment recommended a 6-hour response time for rivers and the nearshore area. Another comment recommended that rivers should have shorter response times because longer response times may result in the progression of oil into drinking water intakes.

Six comments stated that a worst case discharge would not be instantaneous, and therefore the required clean up resources could be planned for over a 30 day period (the vessel response plan has a 3 to 10 day planning window). One comment further argued that because the worst case discharge would not be instantaneous, response times should be directly related to the size of the vessel. One comment stated that historically less than 30% of tanker capacity is instantaneously discharged. Numerous comments noted that the tiered response times for the worst case discharge ignored the Committee's recommendation that the Coast Guard consider that a worst case discharge from any vessel is likely to occur over time and not instantaneously.

There is historical precedent for the near instantaneous discharge of a vessel's entire cargo. However, the Coast Guard acknowledges that a worst case discharge is more likely to occur over time, and has established the response tiers accordingly. The Committee recognized the importance of early equipment arrival at the scene of a discharge and recommended that equipment mobilization occur within the first 3 days of a discharge when oil recovery is most likely. The tiered response times accomplishes this Committee recommendation and requires the vessel owner or operator to plan for the early arrival of equipment.

Two comments recommended that the tiered response times should be measured from notification instead of discovery of the discharge, and one argued that the response times should be increased by 30 minutes to allow for notification. The Coast Guard believes that measuring the response times from the time of discovery will encourage owners or operators to establish expedient spill reporting procedures. The Coast Guard does not agree with the recommendation that the response time tiers should be increased to take into consideration the 30 minutes allowed for notification, because we have already factored the time required for notification and mobilization into the tiered response times.

One comment recommended that owners or operators should be able to calculate the travel time for open ocean response resources from shore rather than from a point 50 miles from shore. The comment argued that this would encourage vessels to stay fifty miles or more offshore and, therefore minimize potential harm to the shoreline from an

oil spill. The Coast Guard concurs and has revised § 155.1050(e), § 155.1050(g), and section 7.2.3 of appendix B to allow greater travel time for open ocean response resources.

One comment stated that the term "tier" has a different meaning in certain industry publications, and suggested that we use a different term in § 155.1050 to avoid confusion. The Coast Guard believes that no confusion exists within the context of this regulation and has not changed the interim final rule. We are establishing a consistent national standard and believe that adjusting terms to accommodate specific publications would create greater confusion in the interim final rule.

In the proposed rule, the Coast Guard solicited comments on whether to grant credit for the early arrival of oil recovery devices and other response equipment when determining overall capability required to be planned for. Four comments were received. Three comments stated that we should grant credit for the early arrival of equipment, but their proposed methodologies were either too general or would increase greatly the complexity in calculating required equipment. In the absence of a workable recommendation, the Coast Guard has decided not to recognize or give credit for the early arrival on-scene of oil recovery devices.

Response time tiers were the source of confusion for readers of the NPRM. The tiered response times in § 155.1050(g) apply only to the boom, oil recovery devices, and storage capacity identified for responding to a worst case discharge. The response time tiers do not apply to dispersants, salvage and firefighting resources, shoreline protection or cleanup resources, or any other types of oil spill recovery equipment or supplies. The Coast Guard has amended § 155.1050 to clarify these points.

Section 155.1050(h)

This paragraph identifies 14 areas designated as higher volume port areas. The Coast Guard selected these areas based on a weighted index of oil volumes and vessel traffic.

One comment requested clarification on how the area 50 nautical miles seaward of the entrance will be measured. The distance is measured as an arc from the entrance(s) to the higher volume port area. For most higher volume port areas, this distance will be measured from the appropriate COLREG demarcation, entrance buoy, or natural entrance into the port. For Prince William Sound, this distance would be measured from Seal Rock to be consistent with the definition of the Sound in subpart E.

Section 155.1050(h) also has been revised to accommodate those higher volume port areas with multiple entrances from the sea. In these areas, an owner or operator must plan for multiple 50 nautical mile entrance arcs.

One comment stated that certain parts of the Sacramento and Delaware Rivers extend far upstream into areas that, although still navigable, do not experience high volumes of traffic. The Coast Guard agrees with this observation and has amended § 155.1050(h) to create upstream boundaries for both these higher volume port areas. In redefining the description for the port of San Francisco and adjacent high volume traffic areas, we deleted the Sacramento River and replaced it with a more representative description of the higher volume port area. The Coast Guard established these upstream boundaries in consultation with the local COTPs and based the boundaries on observed traffic volumes and the location of primary shore-based facilities.

One comment observed that in the geographic boundary of the proposed higher volume port area of the Strait of Juan De Fuca and Puget Sound, WA, response equipment could not arrive at a point 50 miles seaward from the entrance to the Strait within the planning response times for a higher volume port area. The comment recommended that the geographic point from which 50 miles seaward is measured be the pilot station off Port Angeles, WA. The Coast Guard concurs with this recommendation and has revised § 155.1050(h) to make Port Angeles, WA the reference point for measuring the 50 nautical mile seaward arc for the Strait. We did this by revising the geographic description of the higher volume port area.

This change reflects the unique geography of the Strait of Juan De Fuca, including the lack of deep water ports in the western portion of the Strait and the practical limits on the transit speed of dedicated response vessels. Further, this designation is consistent with the designation of Port Angeles as the point at which State pilotage is required.

One comment observed that although the Louisiana Offshore Oil Port (LOOP) was not designated as a higher volume port area in the proposed rule, LOOP was indirectly captured as a higher volume port area because it is within the 50-mile seaward radius of the Mississippi River higher volume port area. The comment recommended that LOOP be exempted from the increased planning standards for higher volume port areas. The Coast Guard concurs with this recommendation and has amended § 155.1050(h)(6) accordingly.

Two comments recommended designating Cook Inlet, AK as a higher volume port area based on the environmental sensitivity, tidal range, ice, currents, and other risks in that area. One comment noted that the designation of higher volume ports ignored the issue of environmental sensitivity. That comment also recommended that the ACPs have the responsibility for determining response capability. For a uniform national standard, the Coast Guard continues to believe that the overall volume of shipped oil—and not environmental sensitivity—is the best indicator of those areas requiring an enhanced standard for response equipment. The ACPs may contain additional strategies based on unique local considerations, including environmental sensitivity.

One comment recommended that we designate the Florida Straits as a higher volume port area because virtually all the oil transported to or from seven of the fifteen identified higher volume port areas will transit within 50 miles of the environmentally sensitive Florida Straits. The Coast Guard does not have the data to support or refute this recommendation, and the comment does not supply a source for this assertion. The Coast Guard is conducting a study to determine if there is a need to establish Tanker Exclusion Zones (TEZs) in various areas, including the Florida Straits. In a TEZ, tankers must remain a predetermined distance offshore from environmentally sensitive areas.

Ten comments recommended that the Great Lakes should not be considered a higher volume port area. The Great Lakes are not a higher volume port area under these rules. The Great Lakes response times are based on considerations different from those used in determining the higher volume port areas. The response times for the Great Lakes have been revised as previously discussed in the preamble.

Section 155.1050 (i) and (j)

These sections describe the notification and mobilization criteria for tier 1, 2, and 3 resources. One comment asked that we require that all tier 1 resources to be "capable" of being mobilized within 2 hours after notification, but not require all to arrive on scene in the initial stages of a response. For example, an owner or operator must plan to mobilize temporary storage resources within 2 hours, but may not need them on scene until oil recovery has started. The Coast

Guard believes that the interim final rule as written is clear.

One comment stated that we should not require the same response for a threat of a spill as for a worst case discharge, and recommended deleting the phrase "* * * or substantial threat of discharge." The Coast Guard disagrees. The statute directs owners or operators to plan for "a worst case discharge or a substantial threat of such a discharge," and does not provide for reduced planning requirements for situations involving the substantial threat of a discharge.

Section 155.1050(k)

In the NPRM, we proposed requiring vessels carrying group II or III persistent oils as a primary cargo in offshore and open ocean areas to identify and ensure, through contract or other approved means, the availability of resources to apply dispersants. The NPRM also required the resources to be capable of arriving at the scene of a discharge within 24 hours.

We received a total of 68 comments on these proposed requirements. Most of the comments opposed the requirement to contract for dispersant capability in advance. The concerns ranged from the high cost of providing the necessary capability with no assurance of approval for use; the lack of existing capability to provide the volumes of dispersants proposed; the inability to meet the required response times in remote areas; and the general uncertainty of receiving approval for the use of dispersants during a spill response.

One comment supported the use of dispersants as a high-rate response strategy, essential during a response to a worst case discharge volume. Four comments supported planning for dispersant use, but opposed any requirement for contracting for capability until the decision making process under the National Contingency Plan was revised to improve the likelihood of approval for use. Twenty comments supported contracting for dispersant use only after pre-approval is received for an area. As discussed below, the Coast Guard has deleted the general requirement for vessels to contract for dispersant capability.

Twelve comments addressed the issue of credits for dispersants against response plan on-water oil recovery capacity requirements. Five comments supported the ability to receive a credit for dispersant capability in pre-approved areas. Three comments believed that any vessel that contracts for dispersant capability should be allowed to use that capability as a credit against on-water recovery capacity. Four comments objected to a credit for dispersant capability. Two comments argued that not enough information was available about dispersant effectiveness to make decisions on their use, and two comments opposed reducing the on-water requirements for any reason.

Thirteen comments addressed the proposed volumes of dispersant capability required and the response times. Eight comments indicated that the requirement to provide dispersant capability for the largest storage tank was unrealistic due to the massive volumes of dispersants that would be required. Some comments suggested a study be conducted to determine a practical volume of dispersant capability to plan for. Others suggested that the vessel owner or operator be allowed to decide what quantity of dispersants to plan for. As discussed below, the Coast Guard has modified the volume of oil to be used for planning in the interim final rule.

Five comments addressed the response times. All noted that allowing 24 hours of dispersant capability to arrive on scene was too long since dispersants are most effective early in a spill while the oil is still fresh and unweathered. Recommended arrival times on scene ranged from 6 hours to an unspecified time less than 24 hours. The Coast Guard agrees and has modified the interim final rule to require that dispersants be capable of being on scene within 12 hours of discovery of a discharge.

The Coast Guard has considered the comments and modified the interim final rule to delete the requirement for all vessels carrying group II or III petroleum oil in offshore and open ocean areas to contract for dispersant capability. The interim final rule provides that such vessels operating in any area with year-round pre-approval for dispersant use may identify in their response plan and ensure, through contract or other approved means, the availability of the necessary resources to apply dispersants. No vessel is required to provide this capability. Vessels operating in such areas may request a credit for up to 25 percent of their on-water oil recovery capacity for each worst case discharge tier required under this interim final rule if the owner or operator can document in its plan the availability of the necessary dispersant stockpiles, application equipment, and monitoring capability. The credit will be given only if the vessel owner or operator can identify sources of dispersant supplies to provide the equivalent daily dispersant application rate. The credit will only apply in those pre-approval areas; the owner or operator would still have to identify full mechanical recovery capacity in all other areas that the vessel operates.

The Coast Guard believes that such a credit in pre-approved areas is appropriate for those areas where the regional response team has considered the use of dispersants and made a decision to pre-authorize their year-round use as a primary response method. The interim final rule also retains the language indicating that identification of dispersant capability in a response plan provides no assurance that their use will be authorized during a spill response.

Section 155.1050(l)

As proposed, this paragraph requires vessel owners or operators to identify in their response plans and ensure, through contract or other approved means, the availability of private response resources for salvage and vessel firefighting. We received 66 comments on the proposed requirements for salvage in subparagraph (l)(1), and 68 comments on the proposed requirements for vessel firefighting capability in subparagraph (l)(2).

Most comments received on salvage capability opposed the requirement to contract in advance for the capability. Some reasons for opposing the requirement were that there was little existing capability in the United States, that contracting for this capability in advance was too expensive, and that such a requirement was inconsistent with the historical practice of arranging for such services when needed.

A few comments supported directing an owner or operator to identify potential sources of salvage capability, but opposed requiring them to contract in advance. One comment suggested that the United States government provide the required capability and charge vessels on a per visit basis. One comment noted that the Marine Board of the National Academy of Sciences is conducting a study on the status of the salvage industry in the United States and recommended that we delay any requirement for salvage and firefighting until the study is completed in 1993. Six comments supported only identifying sources of firefighting capability. Eleven comments supported the proposed requirement to contract for salvage capability, with some noting that requiring contracts for salvage capability could result in expanding salvage resources in the U.S. Two of those comments recommended specific salvage resource capabilities that should be identified, noting that it was better to

have no salvage resources rather than inadequate prepared resources.

Most comments on vessel firefighting opposed any requirement to contract for the capability. Thirty-five comments said that vessel firefighting was best left to local port (in most cases public) firefighting capabilities. Two comments challenged the Coast Guard's position that public resources could not be identified to meet the requirement.

Many comments were also concerned that private vessel firefighting capability in the United States is limited and that contracting for such capability in advance would be prohibitive. Eleven comments supported only identifying sources of firefighting capability. Eleven comments supported the proposed requirement to contract for private vessel firefighting capability in advance, and two recommended that we specify response times ranging from 12 to 36 hours and specify equipment.

In response to these comments, the Coast Guard has modified the requirements both for salvage and marine firefighting capability in the interim final rule. The Coast Guard has retained the requirement for a vessel owner or operator to identify private salvage and vessel firefighting capability in their response plan because this approach is consistent with Congressional intent that a vessel owner or operator plan for the resources that may be necessary to remove, prevent, or mitigate the effects of a worst case discharge or threat of such a discharge.

The Coast Guard does not agree that an owner or operator may identify public resources in a vessel response plan. First, public firefighting resources that are available within port areas may not be available to fight a fire aboard a vessel. Second, in most instances, these public firefighters will respond only to fires within the immediate port area; a vessel operating offshore and transiting from port to port may not be protected by such resources. Third, a private citizen cannot ensure the availability of a public resource. For these reasons, the Coast Guard retains the requirement that an owner or operator must identify private marine firefighting resources for each COTP zone in which the vessel operates. United States Navy salvage resources also are public resources, and whether these resources are available depends on their specific location and assignments.

The Coast Guard recognizes that public resources may be employed during an actual incident. The Area Contingency Plan will identify available public resources, the process to access those resources, and the integration of both public and private capability.

The Coast Guard has revised the interim final rule to permit an owner or operator to list private salvage or marine firefighting capability in a response plan if the salvage or firefighting resource provider gives its written consent. The resource provider's written consent is necessary to ensure that the provider has the necessary capability, and is willing to provide it in a response to an incident involving the owner's or operator's vessel. The plan does not need to include this written document. The certification by the vessel owner or operator that it has obtained written consent is sufficient for plan review. However, the Coast Guard may request a copy of this written consent during plan review.

The Coast Guard has left it up to vessel owners or operators to evaluate available salvage and firefighting resources and determine what capabilities they will need for their plan. In reviewing a response plan, the Coast Guard will assess whether the identified companies are capable of providing the necessary capability.

The Coast Guard recognizes that private salvage and marine firefighting capability is currently limited in the United States. Consequently, the interim final rule does not require owners or operators to specify response times for the resources identified in plans submitted before 1998. However, we have revised the interim final rule to require plans submitted or resubmitted for approval after March 1998 to identify salvage and firefighting resources and plan to deploy them to a port nearest the water area where the vessel operates within 24 hours of notification. The Coast Guard has determined that delaying this requirement until 1998 provides sufficient time for the industry to assess the existing capability fully and to take steps to address any shortfalls.

Section 155.1050(m)

As proposed, this paragraph requires a vessel owner or operator to identify in the response plan and ensure, through contract or other approved means, the availability of fendering, transfer hoses, and lightering pumps necessary to perform vessel-to-vessel lightering in an emergency within specified response times. We received 42 comments addressing this proposed requirement.

One comment specifically supported the requirement as proposed. One comment supported it, but recommended that we require owners or operators to contract in advance for mooring masters. Thirty-six comments said that identifying and ensuring the availability of lightering capability was too costly and burdensome. Some comments also believed that requiring a contract went beyond the recommendations of the Committee. The Coast Guard asked the Committee for additional input on this issue, but received differing views on what the Committee meant when it made its lightering recommendation. The Coast Guard has determined that this requirement is necessary and appropriate to meet the statutory intent that the availability of such resources be ensured.

We have reduced the burden of complying with this requirement by changing the definition of "contract or other approved means." The burden has been reduced further for tank barges that operate on rivers and canals by authorizing the barge owner or operator simply to identify resources in a response plan to meet this requirement with the written consent of the resource provider.

Four comments stated that extending the requirements to tank barges was inconsistent with the Committee recommendations. The Coast Guard reviewed the Committee's work and found no Committee determination to exclude tank barges from all lightering requirements. The Coast Guard believes that planning for lightering capability is as necessary for transfers from tank barges in an emergency as it is for transfers from other vessels. The Coast Guard has retained the requirement for tank barges in the interim final rule.

Six comments addressed what equipment arrangements should be planned in advance. Two comments recommended that we not require owners or operators to list specific equipment because the equipment needed will depend on the incident. Two comments recommended pumps ranging from a capacity to lighter the largest cargo tank in 24 hours to lightering the entire vessel in 96 hours. The Coast Guard has determined that the requirement for owners or operators to identify lightering equipment capable of off-loading the vessel's largest cargo tank in 24 hours of continuous operation results in sufficient pumping capacity for most emergency lightering situations. We also believe that a required pumping capacity will provide a basis for the owner or operator and the Coast Guard to evaluate lightering capability more effectively.

The Coast Guard has made three other revisions to this paragraph in the interim final rule. First, a plan for a tanker loading cargo at a TAPAA facility in Prince William Sound, Alaska does not need to address the response times in subparagraph (m)(2)(i) for inland

waters, because a separate response time for this capability is included in § 155.1130(h). Second, subparagraph (m)(2)(ii) has been revised to include a response time of 18 hours for rivers and canals. Third, the Coast Guard inadvertently did not address rivers and canals in the NPRM and believes that using the 18-hour response time for these areas is reasonable and practical. The Coast Guard has revised the interim final rule to permit barges operating in rivers and canals areas to meet the requirements of this paragraph by ensuring availability of response resources through written consent from the oil spill removal organization.

Section 155.1050(n)

This paragraph requires planning for boom for shoreline protection according to criteria set out in Table 2 of appendix B.

In Table 2 of appendix B, the Coast Guard proposed a minimum amount of boom for shoreline protection based on the general environment in which the vessel operates. The Coast Guard considered setting a planning requirement for boom based on vessel size, but discarded that approach because equipment necessary to protect shoreline areas is generally the same regardless of the size of the vessel that may be the source of the discharge. A discharge from a larger vessel has the potential to affect more shoreline area than one from a smaller vessel. However, in general, there is not a one-for-one relationship between the quantity of oil spilled and the number of miles of shoreline contaminated.

We received many comments on the best way to determine how much boom to require for shoreline cleanup. Six comments agreed that until the ACPs are published, owners or operators should plan for an amount of boom based on the geographic area of vessel operation rather than vessel size. Nearly an equal number of comments argued that an owner or operator should plan for protective boom based on vessel size, cargo capacity, and type of cargo. None of the comments suggested a methodology to account for these factors.

Many comments addressed the quantity of boom proposed in Table 2 of appendix B. Two comments supported the proposed quantity. Two comments argued that 30,000 feet of boom for persistent oils in the nearshore and inland areas was excessive. Two comments recommended that vessels with less risk of a spill should have to plan for a lesser quantity of boom for shoreline protection. One comment recommended requiring 50,000 feet of boom in higher volume port areas. One comment recommended that an owner or operator plan for sufficient boom to encircle the vessel only. Five comments recommended that there should be no planning requirements for shoreline protection until publication of the ACPs.

The Coast Guard has determined that it is appropriate to require a minimum level of response equipment based on the vessel's area of operation and believes that the quantity of boom specified in Table 2 of appendix B is reasonable.

The Coast Guard has determined not to tie adjustments to the boom requirements to the ACP, because the ACPs will set mostly response strategy rather than response resource requirements. However, we agree with the Committee that the methodology for determining an appropriate planning quantity of boom for shoreline protection is sound—look to the geographic-specific area of a potential spill. Therefore, the Coast Guard has deleted the instruction to adjust the boom planning amount according to the applicable ACP. Instead, when an Area Committee articulates a shoreline protection response strategy in its ACP, the Coast Guard may propose to adjust the boom requirements in 33 CFR part 155 accordingly.

We received three comments on boom requirements for rivers. One comment noted that it is impossible to protect a large section of river shoreline. For persistent oils, one comment questioned by an owner or operator must plan for more boom nearshore than for rivers. One comment asked that we require only a minimum quantity of boom until the ACPs are developed because the locks and dams help contain a spill, and boom is used largely to facilitate recovery by diverting oil into slow-moving water.

The Coast Guard recognizes that shoreline protection in rivers and canals may require different strategies than other areas. Although it may be difficult to protect river shoreline, boom is still required to protect sensitive areas, deflect oil from impacting the shoreline, or collecting it in other less sensitive areas. Locks and dams may be part of this overall strategy, but they are not sufficient by themselves because they may be far apart and not optimally located for the particular spill scenario.

The amount of boom required in Table 2 reflects the relative amount of shoreline that must be protected from persistent and non-persistent oils. The relative difference in boom quantities between nearshore and river areas is based on the differences in shoreline protection strategies employed in rivers and the fact that a spill occurring in the nearshore area (up to 12 miles off shore) has the opportunity to spread and impact a large section of shoreline as it travels towards the shore.

For non-persistent oils discharged into a river operating area, it is likely that the oil will encounter shoreline before it has dissipated into the air and water column. In the nearshore operating area, a larger amount of non-persistent oil is likely to dissipate before encountering shoreline. Consequently, more shoreline is likely to be affected in the river operating area than in the nearshore area.

In Table 2 of appendix B, the Coast Guard has eliminated the requirement that an owner or operator must identify shoreline protection boom in a plan for a vessel that operates in the open ocean and carries persistent oil, and for a vessel that operates offshore and carries non-persistent oils. This change reflects the low relative risk that oil discharged from these vessels will impact shorelines. For reasons stated earlier in this discussion, we have eliminated Table 2 references to the ACPs.

Many comments recommended that for shoreline protection requirements, vessels using the Louisiana Offshore Oil Port (LOOP) and vessels lightering in the open ocean (greater than 50 miles offshore) should be treated the same. Under the proposed rule, an owner or operator does not have to plan for shoreline protection for vessels transiting or lightering more than 50 miles offshore. The comments stated that using LOOP was a preferred alternative to lightering in the open ocean, and that the proposed rule would be a disincentive for vessels to use LOOP. The comments noted that offshore lightering of large tankers require off-taking shuttle ships to transport the crude oil from the lightering area into the inland waters for final unloading at terminals and refineries, and that this increase in traffic on inland waters increases the risk of collisions and groundings and resulting oil spills. The comments point out that LOOP offloads the large tankers offshore and delivers the crude oil via buried pipeline, thus eliminating the shuttle ship traffic and attendant risk of collisions, groundings, and oil spills. We received similar comments on § 155.1050(o) for planning for shoreline clean-up operations.

For the reasons stated in the comments, and because Congress wishes to encourage the use of deep-water ports, the Coast Guard agrees that regarding shoreline protection, vessels using LOOP should be treated the same

as vessels lightering in the open ocean. Consequently, the Coast Guard has changed this section of the interim final rule to allow vessels under certain circumstances to call at LOOP without having to ensure the availability of shoreline protection resources through contract or other approved means. This provision applies only when the vessel is approaching or departing the LOOP terminal within the LOOP Shipping Safety Fairway, and when either moored at the terminal or anchored in the designated anchorage area. Making this opportunity available only when a vessel is using this obstruction free Safety Fairway will provide an extra measure of safety for these vessels.

Two comments noted that Table 2 of appendix B did not include the Great Lakes and requested clarification on whether the Great Lakes should be in the table. We have revised Table 2 of appendix B to include the Great Lakes in the nearshore and inland classification because oil spilled and not recovered on the Great Lakes, like oil spilled in any essentially closed system, in highly likely to come ashore.

Two comments expressed concern that this section established a performance standard rather than a planning standard. One comment recommended we revise this section to make it clear that it is a planning standard only, and another comment requested a revision to make it clear that the owner or operator is ultimately responsible for shoreline protection and cleanup, irrespective of the amount of response equipment for which the owner or operator must plan.

The appendix B criteria referenced in this section are for planning purposes only. Section 155.1010 already clearly makes this point.

Six comments are received on how the ACP strategies for shoreline protection should be phased in to replace the temporary requirements of Table 2 of appendix B. Two comments agreed that the ACP requirements should be phased in by 1998, as proposed in the NPRM. All other comments recommended that the ACP requirements become effective at some calculable time after the publication of the applicable ACPs. The recommended phase-in time ranged from immediately to three years.

For the reasons stated earlier in this discussion, the Coast Guard has decided against using the ACPs to set adjustments for response resource requirements. The Coast Guard will evaluate the shoreline protection response strategy provided for in the various ACPs when they are issued and may adjust vessel response plan requirements as warranted.

Many comments confused requirements under this section for protective boom with requirements under §§ 155.1050 (d) through (f) for containment boom. Any owner or operator of a vessel subject to these regulations must plan for a quantity of containment boom and a quantity of protective boom.

For determining the planning amount of protective boom, the owner or operator of a vessel carrying group I through IV petroleum oil as primary cargo must use Table 2 for the geographic area where the vessel operates. For containment boom, these owners or operators should identify sufficient boom to handle the average most probable discharge, the maximum most probable discharge, and a worst case discharge.

One comment questioned whether an ACP can revise a regulatory requirement without complying with the notice and comment requirements of the Administrative Procedure Act. For reasons stated earlier in this discussion, this comment is moot.

Section 155.1050(o)

This paragraph establishes the requirement to plan for shoreline cleanup operations. It is impossible to articulate detailed requirements for shoreline response resources in advance, because the need for these resources is intricately connected to the geography of the shore and its environmental sensitivity. Therefore, the NPRM proposed to use a qualitative evaluation based on a planning volume of oil that could reach the shoreline.

Four comments supported the qualitative planning approach. Two comments argued that the requirements were too vague and that it was unclear how the Coast Guard would evaluate shoreline cleanup resources. Three comments expressed concern that it was either impracticable or infeasible to plan to simultaneously cleanup vast reaches of shoreline. One comment recommended that the applicable ACPs address shoreline cleanup requirements—not the vessel response plan rules.

The vessel response plan rules give an owner or operator maximum flexibility to develop an operations strategy for shoreline clean up, restrained only by the NCP and the local plan in any area where its vessels operate. Appendix B supplies a formula by which an owner or operator may calculate a volume of emulsified oil that may reach the shore. The Coast Guard will evaluate the sufficiency of shoreline response planning based on the planning volume and the strategic consistency with the NCP and any applicable local plan.

The owner or operator must identify and ensure by contract or other approved means, an oil spill removal organization who is capable of conducting a shoreline cleanup based on the planned worst case volume of emulsified oil that will reach the shore. Using our criteria, the Coast Guard does not believe an owner or operator will have to plan for the simultaneous cleanup of all shoreline along the vessel's planned route.

One comment expressed concern that the regulation would require an excessive number of contracts and asked whether an owner or operator could rely upon one principal contractor and require that principal to contract for any necessary, specialized equipment. The Coast Guard has set out an approved means other than a contract by which an owner or operator can ensure the availability of required resources. The owner or operator is free to make whatever arrangements it chooses as long as it ensures the required resources by contract or other approved means.

Nine comments recommended that there should be no requirement to contract for shoreline cleanup operations because the required equipment is generic, not specialized, generally available, and there is no urgency to immediately clean up the oil once it impacts the shoreline. The Coast Guard disagrees. The statute clearly requires an owner or operator of a vessel to ensure that private resources are available, by contract or other approved means, to "remove" to the maximum extent practicable a worst case discharge. In the statute "removal" or "remove" refers to the containment and removal of oil from the water or shorelines. The Coast Guard contends that the interim final rule properly reflects the statutory requirement to contract for resources to remove oil from the shoreline. Because we have added an "approved means" other than a contract, an owner or operator may ensure the availability of these resources without a contract.

One comment stated that we should require vessels operating in the open ocean to contract for shoreline cleanup operations. The NPRM exempted these vessels from the requirement to contract for this capability. The Coast Guard has made every effort to require only that level of planning which is appropriate for a reasonably likely spill scenario.

For oil discharged from a vessel greater than 50 miles from shore, it is unlikely that the spill will impact shorelines before the oil sinks,

evaporates, or is recovered. If conditions are such that the oil could foreseeably threaten the shoreline, there will be sufficient time to arrange for the necessary resources. For these reasons, the Coast Guard has eliminated the requirement for a response plan of a vessel operating in the open ocean to identify an oil spill removal organization capable of conducting shoreline cleanup operations.

One comment requested to know if the tier response times described in § 155.1050(g) apply to shoreline cleanup operations. The response time tiers do not apply to planning for shoreline clean-up. There are no response times in the interim final rule associated with planning for shoreline clean-up.

For the reasons cited in the discussion of shoreline protection under "Section 155.1050(n)," the Coast Guard has determined not to tie future adjustments of the shoreline cleanup requirements to the ACPs. We have eliminated this provision in the interim final rule. The Coast Guard will evaluate the ACPs when they are issued and may amend the vessel response plan rules as warranted.

For the same reasons cited in the discussion of shoreline protection under "Section 155.1050(n)," the Coast Guard has determined that regarding shoreline cleanup requirements, vessels using LOOP should be treated the same as vessels lightering in the open ocean. Consequently, the Coast Guard has revised this section to allow vessels to call at LOOP under certain circumstances without having to ensure the availability of, through contract or other approved means, response resources necessary to perform shoreline protection operations. This provision applies only when the vessel is approaching or departing the LOOP terminal within the LOOP Shipping Safety Fairway, and when either moored at the terminal or anchored in the designated anchorage area. Making this opportunity available only when a vessel is using this obstruction free Safety Fairway will provide an extra measure of safety for these vessels.

Section 155.1050(p)

This section and Table 6 of appendix B establish limits on the amount of response resources required. Many comments expressed uncertainty and confusion over the purpose and use of caps. The purpose of the caps is to recognize a practicable level of on-water removal capacity which an owner or operator reasonably can be required to ensure through contract or other approved means in planning for a worst case discharge.

Caps apply only to on-water recovery capacity for a worst case discharge, and not to other types of response resources or discharges. Further, caps apply only to vessels carrying group I through IV petroleum oil as a primary cargo.

We received over 200 comments on caps. Over 40 comments recommended that there be no caps, and that the owner or operator be required to identify and contract for whatever equipment is required to respond to an immediate discharge of a vessel's entire cargo in adverse weather. One comment noted that the caps do not adequately address the worst case discharge scenario, and that the manufacturers of oil spill recovery equipment have the capacity to deliver additional equipment before 1993.

Another comment strongly opposed the concept of caps, and argued that market availability of spill response resources should determine what is practicable. The comment argued that the caps may discourage growth of the oil spill response equipment industry.

The majority of the comments supported the basic concept of caps, but varied widely on an appropriate level for caps. Approximately 150 comments recommended that they be doubled, but did not address the issue of whether it was practicable for an owner or operator to plan a response for so great a quantity of oil. One comment stated that the current 1993 caps failed to set an equipment requirement based on the definition of "maximum extent practicable," and therefore was not in keeping with the intent of Congress. Several comments stated that in certain areas of the country, oil spill resources already exceed the proposed 1993 caps. Another comment argued that the proposed caps are too low because they would supersede the calculated worst case discharge planning volumes as determined in appendix B for 99% of all crude carriers. Several comments recommended that the caps should be set higher to establish ambitious targets for improving private response capability or to force an increase in those resources.

One comment observed that the proposed caps for 1993 were reasonable based on current manufacturing capacity, but that within 3 years it would be reasonable for manufacturers to triple the available equipment. One comment recommended that the five year cap increases should not be greater than 25%.

A number of comments supported the proposed caps as a reasonable method of recognizing technological and practical limitations, and one comment noted that without caps, complying with the regulations would be impracticable.

Through caps, the Coast Guard has established a quantity of oil for which a response is practicable given 1993 technology and response resources. Through two rulemaking documents and various public meetings, including Committee meetings, the Coast Guard sought data from environmentalists, industry, State governments, the general public, and response contractors on how we could assess what is practicable in 1993.

We learned that it is impracticable in 1993 to instruct a vessel owner or operator to plan for the discharge of a vessel's entire cargo for several reasons. First, in many geographic areas of the U.S., on-water recovery capability and containment and protection resources simply do not exist at any price for responding to a large spill—especially from a very large crude carrier or ultra large crude carrier. Second, we believe Congress did intend to encourage both developing and enlarging the response community, but not at the price of a significant adverse economic impact to oil markets. When we assess all these factors, the Coast Guard continues to believe that, with the exception of the Great Lakes, the proposed caps represent imperfect, but reasonable and practicable quantities to plan for given technology, existing capability, and costs.

The Coast Guard recognizes that in certain geographic areas the existing response capabilities already exceed the 1993 caps. The Coast Guard has established a nationwide standard rather than attempting to establish unique caps for every port or geographic region, because there is neither the time nor sufficient Federal resources to take account of the peculiarities of each port and region.

The caps also reflect that inherent in the concept of practicability is an acknowledgment of a reasonable and practicable limit to the amount of resources that can be constructively used during the first stages of a spill response. Therefore, the caps place a practical limit on the amount of response resources for which an owner or operator must ensure the availability of in advance, by contract or other approved means. Vessel owners or operators will be expected to activate the response resources necessary for the particular circumstances of the spill, regardless of what has been ensured by contract or other approved means.

Many comments recommended that caps for the Great Lakes should be lower than proposed. Some suggested that the Great Lakes caps should be the same as

those for rivers and canals. The reasons were that the risk of spills on the Great Lakes is small as demonstrated by historical spill data; that most tankers transiting the Great Lakes have small cargo capacities and are double-hulled; and that adequate private response capability does not exist in the Great Lakes. Many argued that a relatively small number of vessels would have to share the costs of establishing and maintaining response equipment to respond up to the cap for a number of propositioned sites large enough to cover the Great Lakes.

The Coast Guard agrees the caps for the Great Lakes should be reduced. The size of the Great Lakes and the relatively small number of affected vessels makes it impracticable for owners or operators to plan for the proposed level of private spill response capability. Therefore, the Coast Guard has revised Table 3 of appendix B and set a response capability cap for the Great Lakes based on the available private removal capability and the unique environment of the Great Lakes. For these reasons and other reasons discussed earlier in the preamble, we have also adjusted the response times for the Great Lakes in § 155.1050(g).

We received a great number of comments on the proposed cap increases for 1998 and 2003. Many argued that it was impractical and premature to establish cap increases and that a number of issues needed to be considered before increasing the caps, including changes or advances in: Oil spill recovery equipment; spill management techniques; daily sustainability factors; bioremediation techniques; and other research and development initiatives.

Some argued that setting cap increases now ignores benefits that OPA 90 will bring. One comment recommended that cap increases should be used as an incentive for research and development, and not as an instrument to add automatically to the quantity of equipment and other response resources. Several comments supported leaving the cap increases in the rule because fixed dates and quantities give ample notice of what will be required and encourage market forces to make greater response resource capability available.

The Coast Guard agrees with setting the 1998 cap now to provide a clear upper target for which the vessel owners or operators and the oil equipment response industry must plan. An increase of 25% will encourage the industry to increase its response capability. Consequently, it facilitates meeting this important goal of OPA 90.

Establishing caps for 2003 may be premature. Therefore, the caps for 2003 in Table 6 of appendix B have been eliminated and replaced with an entry indicating that they will be determined later. Section 155.1050(q) establishes the procedure for developing the 2003 cap.

Four comments noted that the Committee did not agree to either automatic or specific cap increases and argued that 25% cap increases were arbitrary. One of these comments further stated that setting future caps today is counterproductive and against the spirit of the Committee recommendation.

The Coast Guard believes that the proposed cap increases capture the substance and effect of the Committee recommendation. The Committee recommended response capability caps increase at appropriate intervals that roughly correspond to the review period for response plans. They also recommended factors that should be considered when evaluating the ability to meet this increase. The Committee recommendation left to the Coast Guard what the caps should be set at in 1993 and how this increase should be approached. The 25% cap increase selected by the Coast Guard falls within the range of values discussed by the Committee, and reflects what the Coast Guard believes is obtainable and desirable for 1998 and beyond. These caps also recognize the practical limit of how much equipment needs to be pre-contracted for and how much equipment can be productively deployed during the initial response. For the reasons discussed in other sections of the preamble, the Coast Guard did not consider public resources and the possible benefits of other provisions of OPA 90 in determining what was practicable.

Proposed section 5.3 of appendix B required the owner or operator whose vessel's calculated effective daily recovery capacity exceeds the applicable contracting caps in Table 6 of the appendix to identify sources of additional equipment. Several comments questioned the practicality of identifying additional resources beyond the caps, and requested we clarify how much more equipment had to be identified. Some comments interpreted proposed section 5.3 of appendix B to require the identification of equipment capable of responding to the entire worst case discharge planning volume and argued that sufficient capability did not exist to respond within the specified response time.

The Coast Guard agrees that this requirement was ambiguous, and has clarified the requirement in the interim final rule. Section 155.1050(p) of the interim final rule requires the owner or operator of a vessel carrying groups I through IV petroleum oil as a primary cargo, whose required daily recovery capacity exceeds the applicable contracting caps in Table 6, to identify sources of additional equipment equal to twice the cap listed in tier 3 or the amount necessary to reach the calculated planning volume, whichever is lower. The equipment so identified must be capable of arriving on scene no later than the tier 3 response times contained in § 155.1050(g). No contract is required for this equipment.

The Coast Guard concurred with a recommendation of the Committee that we evaluate the proposed cap increases before they become effective to determine if they remain practicable. The Coast Guard proposed to conduct these evaluations through a public notice and comment process approximately two years before the cap increases become effective.

Several comments supported this evaluation process, but one comment recommended that we conduct a review just before the effective date of the increase rather than two years in advance. Another comment opposed having the Coast Guard waive the proposed increases if they are found impracticable. The Coast Guard will review the proposed caps before their effective date to determine if they remain practicable. We have codified this approach in new § 155.1050(q). During this review, we will consider recent developments in oil spill recovery and reduce the caps if it is impracticable to plan a response for that quantity of oil.

Section 155.1050(q)

This new section establishes a procedure for systematic Coast Guard review of proposed cap increases and phased-in requirements for firefighting and salvage capabilities.

During the last session of the Committee, some members expressed concern that the scheduled cap increases for 1998 and 2003 would occur without benefit of a Coast Guard review. To address this concern, the Coast Guard has added language to this section that makes the effective date of the cap increase either the scheduled date (February 18, 1998 and 18 February 2003), or 90 days after public notification of the results of the review, whichever occurs later.

Section 155.1052

The Coast Guard has included a new § 155.1052 in the interim final rule. This new section covers the specific response

plan development and evaluation criteria for vessels carrying group V petroleum oil as a primary cargo. This new section was created to address concerns of some comments that many of the criteria proposed in § 155.1050 and appendix B were not applicable to petroleum oils such as asphalt and carbon black that, because of their specific gravity, would sink when discharged. The Coast Guard agrees and has included in this new section applicable portions of § 155.1050. The only portion of appendix B that remains applicable are sections 2.1 through 2.4 and Table 1.

Paragraph (a) of this section requires the owner or operator of a vessel that carries a group V petroleum oil as a primary cargo to include in their response plan procedures and strategies and sources of response resources that would be necessary to locate, contain, recover, or mitigate the effects of such oils. Because these oils behave differently than those that float, the response plan needs to address specific methods for responding to such spills.

Paragraph (b) of this section parallels the requirements in § 155.1050(a) that any equipment identified in the response plan to meet the requirements of this section be capable of operating in the specific conditions expected in the geographic area that the vessel will operate. The specifics of this requirement were discussed in the preamble to the proposed rule.

Paragraph (c) requires that the vessel owner or operator identify in the response plan and ensure, through contract or other approved means, the availability of response resources appropriate for oils that sink. The owner or operator may ensure the availability of these response resources by using the fifth element contained within the definition of "contract or other approved means." For details, see the preamble discussion of "Section 155.1020 Definitions."

The types of equipment include those necessary for locating, containing, and recovering oil from the water column or the bottom. Unlike the specific criteria for determining the quantity of resources included in § 155.1050, this section does not require minimum quantities of resources. The Coast Guard intends to evaluate information submitted by the vessel owner or operator to determine whether the resources identified are consistent with the volume of such oil carried as cargo.

Paragraph (d) of this section requires that the resources identified in a response plan be capable of being deployed to the port nearest the area where the vessel is operating within 24 hours. Because of the variability in the types of resources that may be required, the Coast Guard has determined that this is a better approach for these unique oils than using the specific response times that vary by location, as required in § 155.1050.

Paragraph (e) of this section requires that the vessel owner or operator identify in their response plan and ensure, through contract or other approved means, the availability of salvage and vessel firefighting capability. Paragraph (f) provides for the phased implementation of this requirement. These requirements parallel those in § 155.1050(l). The previous preamble discussion for that section also applies to this section.

Paragraph (g) of this section requires that the vessel owner or operator identify in the response plan and ensure, through contract or other approved means, the availability of certain equipment necessary to conduct vessel-to-vessel lightering in an emergency. This requirement parallels that in § 155.1050(m). The previous preamble discussion for that section also applies to this section.

The Coast Guard has not included a requirement to identify resources in the response plan for the average most probable and maximum most probable discharge. The resources identified in the plan will be expected to be capable of responding to any size spill up to and including the worst case discharge.

The Coast Guard has determined that the requirements of this new section are within the scope of those included in the proposed rule. However, because the specific provisions were not included in the proposed rule, the Coast Guard solicits comments on the specific provisions of this section. All comments will be considered and this section may be revised based on these comments.

Section 155.1054

The Coast Guard has included a new section 155.1054 in the interim final rule. This new section covers the specific response plan development and evaluation criteria for vessels carrying non-petroleum oil as a primary cargo. This new section was created to address concerns of some commenters that many of the criteria proposed in § 155.1050 and appendix B were not applicable to non-petroleum oils, such as edible oils.

One comment suggested that vessels carrying edible oils should be subject to reduced requirements because edible oils pose less relative risks to the environment. The Coast Guard disagrees. There is insufficient data to support a finding that a spill of a large quantity of edible oil will have less adverse impact on the environment than a spill of other kinds of oil. However, the Coast Guard acknowledges that non-petroleum oil may behave differently from a petroleum or petroleum-based oil.

The Coast Guard conducted a literature search on these oils and was unable to find much information on their behavior when spilled, their environmental persistence, or tendency to emulsify. Because it was unable to verify that the criteria and methodology used for petroleum oils would apply to non-petroleum oils, the Coast Guard has determined that the specific factors (natural dissipation, emulsification) included in appendix B for petroleum oils would not be applicable. Thus, a new section to address these oils has been added, and it includes applicable portions of § 155.1050. The only portion of appendix B that remains applicable are section 2.1 through 2.4 and Table 1.

Paragraph (a) of this section requires the owner or operator of a vessel that carries non-petroleum oil as a primary cargo to include in their response plan procedures and strategies and sources of response resources that would be necessary to contain, recover, or mitigate the effects of such oils. Because these oils may behave differently than petroleum oils when spilled, the response plan needs to address specific methods for responding to such spills.

Paragraph (b) of this section parallels the requirements in § 155.1050(a) that any equipment identified in the response plan to meet the requirements of this section be capable of operating in the specific conditions expected in the geographic area where the vessel will operate. The specifics of this requirement were discussed in the preamble to the proposed rule.

Paragraph (c) requires that the vessel owner or operator identify in the response plan and ensure, through contract or other approved means, the availability of response resources appropriate for the non-petroleum oils carried as cargo. The owner or operator may ensure the availability of these response resources by using the fifth element contained within the definition of "contract or other approved means." For details, see the preamble discussion of "Section 155.1020 Definitions."

The types of equipment include those necessary for containing and recovering these oils from the water and to protect shorelines from impact. Unlike the specific criteria for determining the quantity of resources included in § 155.1050, this section does not require minimum quantities of resources. The Coast Guard intends to evaluate

information submitted by the vessel owner or operator to determine whether the resources identified are consistent with the volume of such oil carried as cargo.

Paragraph (d) of this section requires that the resources identified in a response plan be capable of commencing an effective on-scene response within the applicable tier 1 response times in § 155.1050(g).

Paragraph (e) of this section requires that the vessel owner or operator identify in their response plan and ensure, through contract or other approved means, the availability of salvage and vessel firefighting capability. Paragraph (f) provides for the phased implementation of this requirement. These requirements parallel those in § 155.1050(l). The previous preamble discussion for that section also applies to this section.

Paragraph (g) of this section requires that the vessel owner or operator identify in the response plan and ensure, through contract or other approved means, the availability of certain equipment necessary to conduct vessel-to-vessel lightering in an emergency. This requirement parallels that in § 155.1050(m). The previous preamble discussion for that section also applies to this section.

The Coast Guard has not included a requirement to identify resources in the response plan for the average most probable and maximum most probable discharge. The resources identified in the plan will be expected to be capable of responding to any size spill up to and including the worst case discharge.

The Coast Guard has determined that the requirements of this new section are within the scope of those included in the proposed rule. However, because the specific provisions were not included in the proposed rule, the Coast Guard solicits comments on the specific provisions of this section. All comments will be considered and this section may be revised based on these comments.

Section 155.1055 Training

The Coast Guard received twenty-six comments on this section. Four comments agreed with the NPRM, and the remainder suggest revisions.

One comment suggested that it is impossible to train in advance the thousands of workers needed to clean up a major spill and to keep records on them. The Coast Guard has clarified the interim final rule by requiring that vessel owners and operators identify in the response plan the training to be provided only to specific individuals. For manned vessels carrying oil as a primary cargo, these individuals are members of the vessel crew having responsibilities under the plan, the qualified individual, and the spill management team. For unmanned tank barges carrying oil as a primary cargo, these individuals are the spill management team, the qualified individual, and other personnel with specific responsibilities under the plan.

Eleven comments stated that the owner or operator should not be responsible for training shore-based personnel. The comments recommend that either the Coast Guard or the response contractors should be responsible for training of these personnel. Several of these comments also stated that it is not possible for the owner or operator to check every contractor employee for compliance with the OSHA training requirements.

The owner or operator is not required to personally conduct any training. However, the owner or operator remains responsible for ensuring the training of the qualified individual, shore maintenance team, vessel crew with responsibilities under the plan, and other appropriate personnel, and ensuring that any oil spill removal organizations it identifies in the vessel response plan are capable of actually providing the resources identified in the plan. Part of these resources are the trained personnel to operate the response equipment. It is the responsibility of the owner or operator to ensure the availability of records sufficient to document any training.

The Coast Guard has revised § 155.1055 by adding a new paragraph (d) to make it clear that it is necessary to ensure the availability of training records.

Several comments noted that the Coast Guard is already developing rules for certification and approval of shorebased contractors for oil recovery, and stated that it was therefore not necessary for the owner or operator to ensure the training of contractors which will already be certified by the Coast Guard. The Coast Guard is developing a voluntary system for classifying oil spill response organizations by equipment capacity. The Coast Guard will assess whether an oil spill response organization has or has access to sufficient trained personnel to operate its equipment. However, Coast Guard classification of an oil spill removal organization cannot relieve the owner or operator of their ultimate statutory responsibility to ensure the adequacy of the spill response resources identified in a response plan.

One comment noted that it will be very difficult for foreigners to meet the OSHA training requirements. It was not clear if the comment was concerned about vessel personnel or shore-based personnel. As noted in the preamble to the ANPRM, the OSHA training requirements only apply to shore-based personnel and not to the vessel's crew.

In the NPRM, the Coast Guard requested comments on whether to include specific training requirements in the interim final rule. Only one comment suggested that they should be specific. One noted that training standards should be developed once a database is created based on early training records. One comment suggested that if requirements are specified, they must take into account the wide variety of vessels and cargo, and four suggested that specific requirements are impossible because of that variety.

The majority of comments addressing this issue gave reasons against creating strict training guidelines. One comment noted that more training may cause difficult contractual labor problems. Another suggested that traditional maritime skills will suffice. One comment mentioned that specifics should not be required because no legislation can ensure their effectiveness. Another mentioned that the Coast Guard should simply review the training plans together with the remainder of the response plan when the latter is submitted for review and approval.

The Coast Guard agrees that specific training requirements are inappropriate. The interim final rule grants vessel owners or operators maximum flexibility in choosing the training appropriate for their vessels and crew. Three comments mentioned that some companies already have training programs for specific vessels, cargos, or specific jobs. Nothing in the interim final rule prevents an owner or operator from identifying an existing training program to satisfy all or part of the training requirements of this section. Based on the comments, the Coast Guard has also amended the interim final rule to permit a vessel owner or operator to identifying equivalent work experience which fulfills specific training requirements.

Three comments suggest that training records should not be required to be kept aboard ship because personnel rotate too quickly, and the paperwork would be excessive. The Coast Guard agrees. We have revised the interim final rule to allow the records to be kept aboard the vessel, with the qualified individual, or at a U.S. location of the spill management team. The response plan must specify the chosen location.

Section 155.1060 Drills

The interim final rule requires a vessel owner or operator to have a drill program which ensures that persons with responsibility under the response plan are prepared to fulfill their responsibilities. This program must include both announced and unannounced drills conducted by the vessel owner or operator as necessary to ensure that a response plan will function in an emergency. The interim final rule does not require drills to cover specific sections of a response plan. Because response plans are to ensure that responsible parties are prepared for spill emergencies, the interim final rule allows a vessel owner or operator to tailor drills to exercise either components of a plan, or an entire plan, and to exercise those sections of the response plan that the owner or operator believes are most appropriate.

The interim final rule specifies a minimum frequency for drills for both the vessel's crew and the shore-based personnel with responsibilities under the plan. Additionally, a vessel owner or operator is required to conduct a drill which exercises the entire plan at least once every 3 years. This minimum frequency in no way intimates that vessel owners or operators may not need additional drills. Vessel owners or operators are required to conduct drills "as necessary" to ensure the response plan will work as intended.

The Coast Guard has revised §§ 155.1055 and 155.1060 to clarify that the owner or operator is required only to "ensure" the oil spill removal organization(s) conducts an annual drill and is adequately trained.

Several comments suggested that higher volume port areas should have at least one drill per year. We encourage this, but will not mandate it for vessel owners or operators. Each Area Committee will look at its drill program and take steps to enhance the overall port spill readiness posture. Coast Guard unannounced drills will also be conducted in all port areas on a sporadic basis, approximately twelve per year.

Some comments suggested that the Coast Guard verify oil spill removal organization drills and equipment deployment drills, and inform vessel owners and operators of the results. Although the Coast Guard intends to participate in about twelve unannounced drills a year, it will not "verify" the results. The thrust of OPA 90 is to develop private sector responsibility for all aspects of oil spill response planning. However, the Coast Guard's assessment of any drill it observes will be publicly available. Vessel owners or operators retain responsibility for implementation of their response plans and need to drill the various entities with responsibilities in the plan to the extent necessary to implement the plan. Accordingly, the interim final rule does not implement this suggestion.

Several comments said that the monthly shipboard emergency procedures and qualified individual notification drills requirements are too burdensome on industry. Considering crew turnovers, the routine unavailability of all members of the crew, and our experience with firefighting, lifesaving, and other shipboard emergency drills, the Coast Guard does not concur that these drills should happen less than once per month. The initial actions by a ship's crew to handle an emergency, and the notification of the qualified individual, can be critical to mitigate the effects of a spill, and vessel owners or operators need to ensure these events happen as planned.

Additional comments suggested that the drill requirements for unannounced drills will be too burdensome for vessel owners or operators, and that credit should be given for participation in other unannounced drills. Section 311(j)(7) of the FWPCA requires that the Coast Guard periodically conduct unannounced drills of removal capability in areas designated for development of Area Contingency Plans. The Coast Guard will involve vessels and facilities in these drills. These drills will be infrequent. A vessel owner or operator selected to participate in such a drill will be expected to activate the spill management team and oil spill removal organizations identified in the plan to the extent required by the COTP. The cost of activating these resources must be borne by the vessel owner or operator. The Coast Guard anticipates holding up to 12 drills per year throughout the country.

While the probability of any one vessel being involved in a drill is low, the Coast Guard has eased the potential burden of unannounced drills by allowing credit for participation in an unannounced Federal or State oil spill response drill within the last twenty-four months. To take advantage of this credit, the vessel owner or operator must immediately provide records of the unannounced drill to the Captain of the Port who is directing them to participate in a subsequent unannounced drill. This should allow the drill to proceed with other participants. The Coast Guard also does not envision that vessel operations will be significantly impacted when an unannounced drill does happen. Unannounced drills will be designed to stress response systems, including that of potential responsible parties. The focus of unannounced drills will be on those entities which the vessel owner or operator has identified to carry out its response plan, not the vessel itself.

One comment suggested that drill credit should be given for training. This is inappropriate because training and drills serve different purposes. Drills test the response organization of the potentially responsible party. They should be designed to stress the entire response system, or portions of the system. Training supplies individuals having assigned tasks with basic response knowledge and skills, and is a prerequisite for an effective drill.

Several comments stated that the owners or operators should not have to keep records of drills performed by shore-based personnel. The Coast Guard agrees that drill records need not be kept with the vessel owner or operator, but records still need to be maintained and available for Coast Guard examination. We have revised the interim final rule to require the records to be maintained, but they may be kept at the United States location of either the qualified individual, the spill management team, the vessel owner or operator, or the response organization. The response plan must specify the location of the drill records.

To further ease the potential burden of these rules, while still ensuring that response plans can be implemented as designed, the interim final rule allows vessel owners or operators to take credit for drills in which their spill management team or identified oil spill response organization(s) participate for the areas in which the vessel operates. The Coast Guard recognizes that many vessel owners and operators will rely on the same response resources. There is no need for these resources to be exercised continually to meet the requirements of individual owners and operators. Documented drills involving identified response resources can be used to meet the requirements of this section. This would also apply to vessel owners or operators with multiple vessels. Participation in one drill held by a common spill management team will meet the requirement for all vessels utilizing that team.

Section 155.1062 Inspection and Maintenance of Response Resources

OPA 90 amended the FWPCA to require the periodic inspection of containment booms, skimmers, vessels,

and other major equipment used to remove discharges. (See 311(j)(6).) These requirements were not included in the NPRM, and the Coast Guard has since determined that it is appropriate to implement them through this rulemaking.

A new § 155.1062 of the interim final rule requires vessel owners or operators to ensure that containment booms, skimmers, vessels, and other major equipment listed in a vessel response plan are periodically inspected and maintained in good operating condition, in accordance with manufacturer's recommendations and best commercial practices.

The Coast Guard may visit equipment locations listed in response plans to verify that the equipment inventories exist as represented and that the records of inspection and maintenance reflect the actual condition of the equipment. The Coast Guard may also inspect and require operational tests of equipment to verify readiness.

The Coast Guard considers these requirements to be a logical extension of the vessel response plan requirements contained in the NPRM. The Coast Guard assumes that responsible owners or operators would already require the periodic inspection and maintenance of the response equipment identified in their response plan. Otherwise they could not ensure that the equipment they have identified in their plan is capable of responding to a discharge.

The Coast Guard solicits comments on the specific provisions of this section. All comments will be considered, and this section may be revised based on these comments.

Section 155.1065 Plan Submission, Approval, and Appeal Procedures

There were 16 comments on this section. A number of these comments addressed the issue of who should review the plans. Three comments agreed that the Coast Guard should centralize the review of plans. One comment stated that plan review should be delegated by the Coast Guard to the individual States and that the Area Committees formed under section 4202(a) of OPA 90 should be involved in plan review. This comment also stated that a Coast Guard requirement for review was a duplication of effort because some States already require plans to be submitted and approved.

The Coast Guard has determined that the initial review and approval of plans will be done at Coast Guard Headquarters. A centralized review by the Coast Guard will ensure the consistency of administrative review. The Coast Guard cannot delegate a Federal function to an individual State. To eliminate any duplication of effort, States should consider accepting plans approved by the Coast Guard rather than requiring a separate submission to and review by the State.

The Coast Guard does not agree that Area Committees should be involved in the review and approval of vessel response plans. Area Committees were formed by Congress to develop Area Contingency Plans in conjunction with State and local officials to ensure effective preplanning for joint response efforts. Because at least one Area Committee will be formed to focus on local issues for each Captain of the Port zone, there will be a large number of Area Committees. Review by any number of Area Committees will be cumbersome and unnecessary.

Five comments stated that Regional Citizens Advisory Councils (RCACs) should be involved in the plan review. Section 5002(d)(6)(D) of OPA 90 requires that the RCACs of Prince William Sound and Cook Inlet should review the adequacy of contingency plans for crude oil tankers operating in these areas. The Coast Guard will coordinate with the appropriate RCAC the review of plans submitted by the vessels using those two areas.

One comment suggested that the interim final rule should include the address to which plans should be sent. The Coast Guard agrees and has provided the address in the interim final rule.

Two comments stated that there should be a time limit for the Coast Guard to approve the plans; 60 days was suggested. The Coast Guard anticipates a large initial influx of plans to approve and has determined that a 60-day time limit would be difficult for the Coast Guard to meet and, because the vessel will be permitted to continue to operate during the review period, would be unnecessarily restrictive. Section 155.1025 allows a vessel to continue to operate for up to two years after the date of submission of a response plan, pending approval of that plan, as long as the owner or operator certifies that resources have been identified and ensured available to respond to a worst case discharge. This provision effectively allows the Coast Guard two years to approve the plans without adversely affecting vessel operations.

Two comments stated that the Coast Guard should allow for appeals if a plan is disapproved. The Coast Guard has determined that appeals will be allowed and has added paragraph (d) in this section to specify how to appeal to the Chief, Office of Marine Safety, Security and Environmental Protection.

Five comments argued that more than 30 days is needed to correct deficiencies and resubmit the plan or corrected portions of the plan. The Coast Guard agrees and will provide up to 45 days depending on the scope of the deficiency. The person submitting the plan will be notified of the time frame allowed to correct the deficiency.

One comment noted that requiring vessels to carry and maintain the entire response plan was unnecessary. The comment stated that a vessel master should only maintain and have available those sections of the plan that contain information applicable to the vessel. The Coast Guard agrees that vessels should carry only those portions of the response plan that are applicable to shipboard operations or that the master may need to know. The sections of the plan that will be required to be carried on the vessel are identified in § 155.1030.

Section 155.1065 describes submission and approval procedures. In the NPRM, paragraph 155.1065(d) describes where the response plan must be kept and requires the master and qualified individual to maintain the plan. Because proposed paragraph 155.1065(d) is not pertinent to submission and approval procedures, that paragraph has been moved to § 155.1030, General response plan requirements.

The Coast Guard has added two new provisions to this section of the interim final rule. First, we revised § 155.1065(a) to require response plans submitted on or after August 18, 1993 to be submitted at least 60 days before the vessel intends to handle, store, transport, transfer, or lighter oil. This will provide the Coast Guard sufficient time to review the plan for compliance with the interim final rule. Second, the Coast Guard has added a provision for handling significant plan deficiencies for vessels temporarily authorized to operate without an approved plan pending final Coast Guard approval.

Section 155.1070 Plan Review, Revision, Amendment, and Appeal Procedures for Vessels Carrying Oil as a Primary Cargo

The Coast Guard has revised the title of this section to make it clear that the provisions only apply to vessels carrying oil as a primary cargo. For vessels carrying oil as a secondary cargo the provisions of § 155.1045(i) apply. We have also revised paragraph (c) of this section to require a resubmission of the plan when, under certain circumstances, there is a change in the owner or operator of the vessel.

There were 20 comments on this section. More than half of the comments stated that the time provided to correct deficiencies or submit appeals was insufficient. Many felt that the 3 day period permitted to correct deficiencies involving the identification of a qualified individual or response resources was particularly restrictive.

The Coast Guard wants deficiencies to be corrected quickly. Having a qualified individual and response resources ready and available to respond is a basic requirement that vessel owners or operators must meet in order to store, transfer, or handle oil in areas subject to the jurisdiction of the United States. The Coast Guard has determined that instead of fixed time periods during which deficiencies should be corrected, the COTP issuing the deficiency notice will determine the time allowed to correct the deficiency. The time allowed may range from immediate to longer periods depending on the significance of the deficiency. A provision has also been added to the interim final rule that requires the vessel owner or operator to notify the Coast Guard office that issued the deficiency whenever a deficiency has been corrected.

Owners of foreign vessels stated that they should be required to correct deficiencies only prior to the vessel's next visit to U.S. waters and not within the specified time frames. The Coast Guard recognizes that foreign vessels in waters not subject to U.S. jurisdiction do not need to correct the deficiencies unless they intend to return to U.S. waters. Foreign flag vessels must correct identified deficiencies before they return to U.S. waters or within the deadlines stated by the COTP if they continue to operate in areas subject to U.S. jurisdiction.

The Coast Guard has revised the interim final rule to require resubmission of the plan for approval 6 months before the end of the Coast Guard approval period. The approval period will be up to five years. This replaces the proposed requirement for resubmission exactly five years from date of approval.

Three comments stated that the proposed rule did not address what will happen if the Coast Guard did not complete the review of a plan submitted for its required 5 year review and the 5 year period expired during the review time. The comments were concerned that the vessel would not be allowed to operate between expiration and reapproval because it would no longer have an approved plan. As discussed above, the interim final rule has been revised to require resubmission of the plan for approval 6 months before the end of the Coast Guard approval period. Six months will provide sufficient time for the Coast Guard to review and reapprove the plan. The level of effort required by the Coast Guard to reapprove a plan should be considerably less than that required for the initial review of a new response plan.

One comment stated that the requirement to report an annual review is an excessive paperwork burden. The Coast Guard agrees and will only require that the annual review be noted on the page where changes to the plan are recorded.

One comment stated that reviews of plans should coincide with other State requirements, and therefore be resubmitted every 3 years rather than every 5 years, as proposed. The Coast Guard believes that the required annual review and the requirement for owners or operators to resubmit the plans for approval whenever there is a significant change is sufficient to ensure that the plans remain current for the approval period. Reapproval every 3 years would create an excessive burden with little benefit.

Four comments suggested revising the conditions in paragraph 155.1070(b) that trigger the need for a plan to be amended so that only significant changes would require a plan revision. The Coast Guard agrees that plans must be revised or amended only when significant changes are made and has revised the wording of the paragraph to make this clear.

One comment stated that the Coast Guard did not explain what guidelines it would use when considering appeals. The Coast Guard intends to use the requirements set forth in the interim final rule to guide its determination on whether or not a plan is deficient.

Subpart E—Additional Response Plan Requirements for Tankers Loading Cargo at a Facility Permitted Under the Trans-Alaska Pipeline Authorization Act

Section 155.1110 Purpose and Applicability

Since the publication of the proposed rule, section 352 of the FY93 DOT Appropriations Act amended section 5005 of OPA 90. The amendment changed which vessels operating within Prince William Sound (PWS) are subject to the additional response planning requirements of this subpart E.

Only tankers loading cargo at a facility permitted under the Trans-Alaska Pipeline Authorization Act (TAPAA) (43 U.S.C. 1651 *et seq.*) must comply with this subpart. Vessels operating on PWS that do not load cargo at a TAPAA facility and all tank barges operating on PWS are no longer subject to this subpart. Military Sealift Command (MSC) chartered vessels which off-load cargo at Whittier, AK are not subject to subpart E. Any public comments received on the applicability of the subpart to non-crude carriers have not been addressed in the preamble.

The Coast Guard revised subpart E by eliminating the definition of crude oil and non-crude oil, replacing all references to "vessel" with "tanker," and eliminating the requirements for vessels carrying non-crude oil. We also added the definition of "tanker" to § 155.1020 of subpart D.

Section 155.1115 Definitions

One comment recommended that the criteria for certifying equipment should not be based on the manufacturers' specifications. The comment reasoned that there is no review or approval process for manufacturer specifications, and therefore they are not necessarily correct or obtainable. The Coast Guard agrees and has revised the definition of "certification of equipment" by changing the criteria to be that the equipment must be in good operating condition. The new definition was incorporated in § 155.1125(a)(3)(iii) and was deleted from § 155.1115.

Section 155.1120 Operating Restrictions and Interim Operating Authorization

Four comments were received. Two recommended that approval of vessel response plans must be contingent on funding of citizens' advisory programs. The Coast Guard disagrees. There is no statutory basis to require this. Three comments stated that the owner or operator should be required to do more than simply "identify" the necessary response resources to remove a worst case discharge or 200,000 bbls in Prince William Sound. Because section 5005 of OPA 90 requires pre-positioned equipment within Price William Sound, it is reasonable to establish a higher standard. The Coast Guard has changed the term "identified" to "provided."

Section 155.1125 Additional Response Plan Requirements

One comment recommended an area-wide cooperative to serve as a single response organization. While the Coast Guard may agree that such an approach is logical, it does not have the discretion to mandate it. The Coast Guard amended the language of § 155.1125(a)(1)(ii) to state that training programs should include local residents and fishermen.

Numerous comments stated that it was not practicable to require the oil spill removal organization to, among other things, consist of sufficient numbers of trained personnel to remove a worst case discharge or a discharge of 200,000 barrels of oil, whichever is greater. The Coast Guard agrees and has amended § 155.1125(a)(1)(iii) to require that the oil spill removal organization identified in a response plan must consist of sufficient numbers of trained personnel with appropriate technical skills to respond to a worst case discharge, and has added a new § 155.1125(a)(iv) to require the identified oil spill removal organization to provide a plan for training sufficient numbers of additional personnel.

The oil spill removal organization should have in their employment, or under contract, a sufficient number of skilled personnel who can handle the technical aspects of responding to a worst case discharge. However, the unskilled laborers that will be required to respond to a worst case discharge can be trained in relatively short order and therefore do not need to be in the continual employment of the oil spill removal organization. It is the Coast Guard's opinion that this is a reasonable way of assuring that the desired number of trained individuals are available when needed. This change does not affect the requirement of § 155.1125(a)(1)(ii) to actually train personnel from certain locations in Prince William Sound.

The same comment recommended that a 200,000 bbl response capability should be available throughout Alaska. Section 5005 of OPA 90 only extends certain additional response plan requirements to Price William Sound.

One comment recommended that certification of equipment should be performed by contractual arrangement either through Coast Guard or State inspections or through routine updates of inventory requirements. In response to this, the Coast Guard added § 155.1125(a)(3)(iii) to state that an independent entity, with appropriate training and expertise, should certify that equipment is on-site and in good operating condition.

The Coast Guard has amended § 155.1125(a)(1)(ii) to remove the formal names of fish hatcheries listed in proposed § 155.1125(a)(1)(ii) (F)–(J). This action was taken because of the possibility of names changing or new hatcheries opening. By specifying the areas, rather than the names, the Coast Guard believes it has strengthened the applicability of the rulemaking.

There was a comment that training should be limited to on-water recovery and that training drills be limited to those people identified as having initial response duties in the response plan. The Coast Guard disagrees with both suggestions. To assure an effective spill response capability, all aspects of oil spill removal need to be addressed through training.

Another comment recommended that separate response criteria should be adopted for low density traffic areas. This issue has been addressed in other sections of the preamble.

Section 155.1130 Requirements for Pre-Positioned Response Equipment

One comment recommended that 200,000 bbl crude storage capacity be available within six hours of notification of discharge and 450,000 within 24 hours. Another recommended on-water crude oil recovery equipment with minimum daily recovery rate of 300,000 bbls/day within six hours; on-water storage capacity of 300,000 bbls/day within six hours; and additional storage of 600,000 bbls/day within 12 hours.

Based on these comments and upon review of oil spill recovery equipment that currently exists within Prince William Sound, the Coast Guard has amended this section. Section 155.1130(c) now requires additional on-water recovery equipment with a minimum daily recovery capacity of 40,000 barrels capable of being on-scene within 18 hours of notification of discharge. This revision brings the total required on-water daily capacity to 80,000 barrels after 18 hours, and 110,000 barrels at the end of 36 hours.

Numerous comments were received expressing the opinion that the proposed Federal response requirements were far below the limits mandated by the State of Alaska, and that the Federal standards should be raised to those of the State. This issue has been addressed in other sections of the preamble.

One comment recommended that shoreline protection equipment should include intermediate transfer devices to transfer large volumes of oil of various viscosities under various temperatures. Section 2.1 of appendix B already requires that all equipment identified in a response plan must be capable of operating in the conditions expected in the geographic area in which a vessel operates. This would include considering the effect of temperature on the viscosity of the oil that must be recovered.

Section 9.2 of appendix B also requires a vessel owner or operator to evaluate the availability of adequate temporary storage capacity to sustain the effective daily recovery capacities from the equipment identified in the plan. It is the opinion of the Coast Guard that this issue is already adequately addressed in the interim final rule, and additional requirements are not needed.

All comments received opposed the requirement in the proposed rule for two escort vessels, each fitted with skimming and onboard storage capabilities, for each oil-laden vessel transit. Based upon these comments, and a review of the statutory language, the Coast Guard has amended the requirement to state that of the two escort vessels, only one must be equipped with skimming and storage capabilities.

One comment noted that the lightering provisions in proposed §§ 155.1130 (f) and (h) were inconsistent with § 155.1035(c)(5) because they contained conflicting guidance on the required arrival times. Section 155.1050 has been amended to eliminate this conflict.

One comment recommended that the lightering resources should be sufficient to remove the entire cargo within 96 hours. The Coast Guard agrees that some planning standard should be provided. Section 155.1050(m) has been revised to require that the response plans identify sufficient portable pumps and ancillary equipment necessary to off load the vessel's largest cargo tank in 24 hours of continuous operation.

One comment recommended that it was not necessary to require the pre-positioning of skimmers at specific locations so long as the six-hour response requirement contained in § 155.1130(a) was met. The Coast Guard agrees that the owners or operators of tankers should be provided the flexibility to preposition this equipment in those locations that provide the best overall protection for Prince William Sound.

The existing requirement that a certain quantity of on-water recovery equipment must be capable of being on-scene within six hours of notification of a discharge will adequately guarantee an appropriate response capability for those locations identified in § 155.1125. A new § 155.1130(e) was added to require that on-water recovery devices and storage equipment be located in communities and at strategic locations within the Sound to meet the specified arrival times. Proposed § 155.1130(d)(1) of the NPRM was deleted.

One comment stated that the proposed rule imposed requirements that were impossible to meet, especially the identification of shoreline cleanup capabilities for Prince William Sound within 36 hours of a worst case

discharge. The comment recommended that shoreline capability should not be addressed in the regulation, because shoreline cleanup methods would be decided upon by the spiller, Coast Guard, and the State of Alaska on an incident-specific basis. The Coast Guard disagrees with this interpretation of the proposed rule. Section 155.1050 requires the owner or operator of certain vessels to identify and ensure the availability of an oil spill removal organization capable of effecting a shoreline cleanup operation commensurate with the quantity of emulsified oil to be planned for in shoreline cleanup operations. There are no specific time frames for this organization to be on scene or within which the cleanup operation must be completed. The Coast Guard acknowledges that the actual resources used to respond to a spill will depend on the specific circumstances encountered. This does not diminish the desirability of having the owner or operator pre-identify through his vessel response plan which resources he intends to utilize in the event of a spill.

Section 115.1135 Response Plan Development and Evaluation Criteria

Only two comments were received. One supported the tiered response requirements, and the other said that response times were meaningless in Prince William Sound and recommended deleting the section. The tiered response times contained in this section replace those contained in proposed § 155.1050(g) for tankers subject to the requirements of subpart E. They require a more rapid response and an accelerated tiering of resources to satisfy the statutory requirements of section 5005 of OPA 90.

Section 155.1140 Special Consideration for Vessels Contracting with a Facility Permitted Under the Trans-Alaska Pipeline Authorization Act

Three comments were received. Two protested the special consideration given to TAPS-trade tankers. One recommended that the provision be deleted until the Coast Guard can justify the implication that Alyeska's Ship Escort Response Vessel System (SERVS) meets the requirements of section 5005 of OPA 90 and only when Alyeska's response capability and contracts had met certification regulations.

The other comment agreed with this objection and asked that we consider other alternatives, such as the planned Alaska Nearshore Response Strike Teams and the concept of an Alaskan Coastal Community Cooperative. In addition, the COTP should be given more guidance and should be required to consult with the RCAC before making decisions. The third comment agreed with the section, saying that vessels could contract with Alyeska to meet any requirements of subpart E.

The Coast Guard disagrees that special consideration is being given to TAPAA trade tankers or to SERVs. Any vessel in any geographic location is permitted to contract with any capable organization, including marine transportation-related facilities, to ensure the availability of certain equipment or capabilities that is required to be identified in a vessel response plan. It will be up to the discretion of these various organizations (including any marine transportation related facility) whether they want to get into the business of being an oil spill removal organization. Section 155.1130 was included in subpart E to make it clear that each vessel owner or operator does not have to establish its own oil spill removal organization.

Section 155.1135 does not automatically pre-qualify SERVs as being capable of providing all or some of the requirements of either subpart D or E. The resources and capabilities of SERVs must be evaluated as would any other oil spill removal organization. The COTP will utilize the guidance contained in the IFR to evaluate the equipment and abilities of a facility permitted under the Trans-Alaska Pipeline Act.

The Coast Guard has amended this section to clarify the intent and purpose of this section. It has removed the words "Special consideration for * * *" from the title to eliminate the impression that this is a provision only applicable to certain vessels or facilities. It has also been changed to make it clear that an owner or operator may contract with a facility permitted under the Trans-Alaska Pipeline Act to meet some or all of the requirements of this subpart.

Section 155.1145 Submission and Approval Procedures

One comment stated that the plan approval process did not include RCAC approval as set forth in OPA 90 5002(d). The Coast Guard appreciates the importance of RCAC review of response plans under section 5002(d) of OPA 90 for vessels in Prince William Sound and the role of RCACs in advising, monitoring, and making recommendations to industry and the government. However, we do not believe that section 5002 grants authority for a RCAC to approve a vessel response plan.

Appendix B to Part 155—Guidelines for Determining and Evaluating Required Response Resources for Vessel Response Plans

We received many comments concerning Appendix B. One comment maintained that nothing in the appendix could be binding because it was not part of the rule.

The Coast Guard does not agree. Section 5 U.S.C. 552 sets out the minimum procedure that the Coast Guard must follow in issuing a rule. The Coast Guard's obligation under this law is to give interested parties notice which "affords (them) a reasonable opportunity to participate in the rulemaking process" (*Illinois Commerce Commission* v. *I.C.C.*, 776 F.2d 355 (D.C. Cir. 1985). This decision updated an ICC regulation published in the Code of Federal Regulations as an appendix, because "the proposal was clear on its face and the complainant had a full opportunity to address it." Further, Code of Federal Regulation format encourages the use of an appendix in a regulation when its use will improve the quality or utility of a regulation. Using an appendix is also appropriate for providing supplemental, background, or explanatory information or for detailed text or evaluation procedures which must be used with regulatory text.

Appendix B, Section 1

As proposed, this section of the appendix describes the purpose and use of the appendix. We received no comments on this section. However, the Coast Guard revised this paragraph to make it clear that the guidelines in the appendix also apply to evaluating response resources identified under subpart E. Subpart E sets out additional requirements for Prince William Sound, Alaska.

Appendix B, Section 2

This section of the appendix gives guidance and sets out procedures for an owner or operator to evaluate the readiness and operability of equipment to be identified in a response plan. We received seven comments on this section.

Two comments supported paragraph 2.1, which requires that equipment identified in a response plan be operable in the geographic area where the vessel operates. When we said in the proposed rule that an owner or operator must identify equipment "designed" for the geographic area where the vessel operates, we did not mean to exclude equipment designed for an area more demanding than the vessel's operating area. One comment questioned our use

of the term "designed" in this context. We have revised the interim final rule to state that equipment identified in a response plan must be "capable" of operating in the applicable area.

The Coast Guard has revised section 2.4 of the interim final rule to include procedures for demonstrating that the boom identified in a vessel response plan meets the criteria of Table 1. Demonstration will only be required if there is doubt over the suitability of the identified boom. The Coast Guard has also revised paragraph 2.6 to make it clear that the equipment evaluation criteria in the appendix also apply to the requirements in subpart E.

We received two comments concerning the on-water speed to be used for response planning. Both agreed that the proposed 10 knots was beyond the speed capability of towed barges and many self-propelled skimmers. The Coast Guard agrees. Therefore, we have reduced the on-water transit speed for response planning to 5 knots. The vessel owner or operator may provide information to show that a higher transit speed is appropriate for the specific response resources identified in a plan.

Four comments addressed section 2.7 of the proposed appendix. Two comments stated that the requirement to identify overall boom height should note that the term meant draft plus freeboard as was included in Table 1. The Coast Guard agrees and has added the specific reference in the paragraph.

Two comments addressed the requirements for providing information on response equipment, one stating that we asked for too much, and another stating that we asked for too little. The Coast Guard has required only that information which is necessary to evaluate whether the owner or operator has identified equipment in a response plan that reasonably correlates with the planning volume in quantity and capability and with the area where the vessel operates. Asking for more information would impose a burden not commensurate with the benefit.

The Coast Guard has also changed the term "effective daily recovery rate" to "effective daily recovery capacity," so that people understand we are establishing a planning standard—not a performance standard.

One comment stated it was inappropriate for the vessel owner or operator to be responsible for ensuring compatible connectors for boom, recommending that we require response contractors to do this. The FWPCA states that the owner or operator must ensure the availability of resources. Any requirements in the interim final rule are placed on those owners or operators. The vessel owner or operator and an oil spill response resource can settle this issue.

Appendix B, Section 3

This section of the proposed appendix provides information for determining the response resources required for the average most probable discharge. Three comments addressed this section, although many comments made on the proposed requirements in § 155.1050(d) apply to this section of the appendix.

Three comments questioned the amount of containment boom required to be available for deployment. As proposed, the interim final rule requires boom twice the length of the vessel. One comment believed that the amount should be less than the length of the vessel, but did not specify a length. One comment recommended that 1000 feet be the maximum amount required, and another said we should require boom sufficient to encircle two vessel(s) involved in a transfer.

The amount of boom required is based on an estimate of how much boom would be needed for initial containment of a 50 barrel oil discharge either alongside or between two vessels involved in an oil transfer operation. Because we want to require only that amount of boom for which it is practicable to plan, we will not revise this provision. A 50 barrel spill is the average most probable discharge (AMPD) volume.

One comment recommended that we increase the required oil recovery capacity in proposed paragraph 3.1.2 to 200 barrels per day. No change was made to the interim final rule. The 50 barrel per day recovery capacity reflects the average most probable discharge volume.

The Coast Guard has also deleted the requirement in the proposed paragraph 3.1.2 for vessels carrying oil as a secondary cargo to identify sources of equipment. We received many comments concerning the burden imposed on secondary carriers to identify these resources. Data provided indicated that the total volume of oil transferred by secondary carriers frequently was less than 50 barrels, and the transfers occurred in remote areas. Therefore, identifying recovery capacity for a 50 barrel spill may constitute planning for a discharge of the vessel's entire cargo.

Thus, § 155.1050 and this paragraph have been revised to delete the requirement for a secondary carrier to identify resources sufficient to respond to the average most probable discharge. However, we kept the requirement in § 155.1045(j)(3) for a secondary carrier to identify an oil spill removal organization in the area or areas where its vessels operate.

The Coast Guard has revised paragraph 3.1 to make it clear that an owner or operator must arrange for resources identified in a response plan to address the average most probable discharge through contract or other approved means. This phrase was left out of the proposed rule inadvertently.

The Coast Guard has revised paragraph 3.1.1 to require that the containment boom identified in the response plan be capable of being deployed at the site of oil transfer operations within 1 hour of spill detection. This revision parallels a change in § 155.1050(d).

Appendix B, Section 4

This section of the proposed appendix provides information for determining the resources required for response to the maximum most probable discharge volume. We received three comments concerning this section. One comment fully supported the requirement as written. One comment recommended that the section be revised to make it clear that an owner or operator had to ensure this capability by contract or other approved means. The Coast Guard has so revised paragraph 4.1. This phrase was left out of the proposed rule inadvertently.

One comment recommended that we require additional storage capacity under paragraph 4.5 if the effective daily recovery capacity is limited by available storage capacity. No change has been made in the interim final rule. the purpose of the provision is to inform owners or operators that the Coast Guard will use available storage capacity in evaluating whether the response plan indicates sufficient capacity for the maximum most probable discharge planning volume. The vessel owner or operator will still need to identify storage capacity to meet the provisions of section 9.2 (twice the effective daily recovery capacity or less under certain circumstances) to have its response plan approved.

In addition to the above changes, the Coast Guard has made many other changes in the interim final rule to be consistent with revisions made to § 155.1050. We have revised the travel times for open ocean in paragraph 4.3 to match the revisions made in § 155.1050(e), and changed paragraph 4.4 to make it clear that the vessel owner or operator must ensure the availability of oil collection and containment boom through contract or other approved means.

Appendix B, Section 5

As proposed, this section of the appendix describes the methodology for determining the response resources required for the worst case discharge to the maximum extent practicable.

A number of format and content changes have been made to this section. As previously noted, the discussion of caps contained in section 5.3 of the proposed rule has been revised and moved to 155.1050(p). Section 5 has been renumbered to accommodate two new subsections. Section 5.5 has been added to describe the process for determining what percentage of on-water response equipment must be capable of operating in waters of 6 feet or less in support of close-to-shore response activities. Section 5.7 has been added to describe the process for determining the volume of emulsified oil that may impact the shoreline during a spill.

Section 5.6 has been revised to make it clear that boom is required for both shoreline protection and for oil containment and collection. Table 2 of Appendix B identifies specific quantities of boom for shoreline protection. The quantity of boom that is required for oil containment and collection is not explicitly stated, and is left to the owner or operator to determine based on the specific recovery equipment and strategies that will be employed. However, in both instances the boom's availability must be ensured through contract or other approved means.

Several comments were received concerning the basic planning methodology. Three comments supported the simple process by which vessel owners will plan for the worst case discharge. An equal number of comments argued that the calculations and procedures are too complicated and confusing.

The Coast Guard disagrees that the calculations are too complicated. Although numerous sequential steps must be followed, none of the individual calculations require more than simple arithmetic and the applications of factors contained in various tables. The example contained in section 7.3 has been modified to better explain the calculations and the use of the various tables.

Two comments recommended that the process be simplified by precalculating the requirements and placing them into one table. The Coast Guard has conducted a preliminary analysis and determined that it would require at least 16 tables to cover all of the needed information. However, these table(s) would become extremely complicated and difficult to maintain when the issues of caps, cap increases, and the identification of equipment above the caps were taken into consideration. If upon further review the Coast Guard deems it practicable and useful to prepare such tables, it will do so through a NVIC or some other form of policy guidance document, rather than in a rulemaking. This approach would provide the desired simplification, while preserving in the regulation the actual methodology of how the specific numbers were calculated.

Appendix B, Section 6

This section of the proposed appendix provides information for determining the effective daily recovery capacity for oil recovery devices. We received thirteen comments on this section.

One comment was concerned that the use of the term "effective daily recovery rate" could be misinterpreted as a performance standard and recommended that it be changed to "effective daily recovery capacity." Another comment said the "effective daily recovery rate" could be divided by 24 hours to obtain an "effective hourly recovery rate" for use in determining temporary storage capacity required.

The "effective daily recovery rate" is used as a planning criteria for determining whether sufficient on-water recovery capacity has been identified in a response plan and does not equate to an expected hourly recovery rate. An owner or operator must determine temporary storage capacity using an assumption of the number of hours per day that the oil recovery devices identified in a response plan can sustain operations. The factors used to estimate the daily rates include time of skimming, encounter rates, and other factors. To eliminate confusion, the Coast Guard has revised the phrase "effective daily recovery rate" to "effective daily recovery capacity" throughout the interim final rule.

Six comments were concerned that the method in paragraph 6.2 for calculating effective daily recovery capacities oversimplified the many complex factors by which you can assess the efficiency and effectiveness of oil recovery operations. Some of those comments stated that the method favors certain types of oil recovery devices and requested we use some alternative method to rate these devices. Others stated that the 20% derating factor was too low for some devices and too high for others. One comment said that oil encounter rate was the critical variable in oil recovery device performance and it should be a factor in determining the effective daily recovery rate.

The Coast Guard has considered these comments and has retained the methodology in the interim final rule. The effective daily recovery rate accounts for a number of variables, and facilitates identifying relative capacities of different recovery devices. The resulting "effective daily recovery capacity" will not predict how a device will perform during an actual response; there are too many variables to make such a prediction. The purpose of calculating an "effective daily recovery capacity" is to help an owner or operator plan for ensuring that there are sufficient oil recovery devices available to initiate a response action.

One comment asked that section 6.2.1 be revised to allow the Coast Guard to increase the standard efficiency factor above 20% if performance data supported an increase. The Coast Guard has determined that this change is unnecessary. Oil spill recovery technology is dynamic, and the Coast Guard may amend these rules whenever new information warrants making a change. In the meantime, if a vessel owner or operator can document that an oil recovery device has an effective daily recovery capacity greater than the formula in section 6.2.1 reflects, the owner or operator is free to submit data to document this different capacity under section 6.3.

Five comments were confused about the method proposed in section 6.2.3 for calculating throughput for mop or belt type oil recovery devices. After further review, the Coast Guard has determined that there are too many differences in these devices to develop a standard formula. Therefore, we have revised section 6.2.3 to indicate that an owner or operator should base the throughput rate on manufacturer's data for nameplate rated capacity. A new section 6.2.4 has been added so that a vessel owner or operator may submit data to support an alternative method for calculating a throughput rating if the vessel owner or operator includes in their response plan oil recovery devices, with capacities that cannot be measured using pump capacity (i.e., vacuum devices).

One comment stated that the formula in section 6.3.1 failed to account for equipment breakdowns, oil encounter rates, or the time needed to empty storage devices. Although all these factors affect performance during a response, the Coast Guard does not consider them applicable for use in this regulation, because effective daily recovery capacity is a planning criteria. These same factors will affect all

devices the same, thus adding an additional derating for them is not appropriate for response planning.

Regarding temporary storage capacity, the Coast Guard notes that the effective daily recovery capacity of an oil recovery device identified in a response plan is limited by the available temporary storage capacity which will sustain that device. In addition, the Coast Guard believes that the number of hours per day that recovery device operations can be sustained under spill conditions will account for these variables.

Two comments were concerned that decisions related to reducing the standard 20% derating factor would be arbitrary and recommended a central review location rather than having each COTP deciding. The Coast Guard agrees and has added a new section 6.5 indicating that the Commandant will make determinations of alternative efficiency factors under section 6.2 or alternative effective daily recovery capacity ratings under section 6.3.

One comment said that because an equipment manufacturer or response contractor is in the best position to provide the specific information in support of an alternative effective daily recovery capacity for a given oil recovery device, the vessel owner or operator should not have to provide the information. The Coast Guard agrees that the necessary information likely will come from the equipment manufacturer, but the responsibility to prepare and submit a response plan with the necessary information lies with the vessel owner or operator. However, the Coast Guard has included in the new section 6.5 a provision that allows an equipment manufacturer or response contractor to submit information directly to the Coast Guard on behalf of multiple vessel owners or operators that identify such equipment in their response plans.

Appendix B, Section 7

As proposed, this section of the appendix provides the procedure for calculating the worst case discharge planning volumes.

Section 7.2.3 has been changed to reflect the addition of unique response times for the Great Lakes. This section has also been amended to reflect the changes made in the calculation of the additional travel time permitted for spill resources responding to a spill in the open ocean area. As previously noted in the preamble, the assumed transit speed has been reduced from 10 kts to 5 kts, and the point of measurement has been changed from the point 50 miles from shore to the shoreline.

One comment stated that it was burdensome to require the owner or operator of a vessel that carries varying amounts of different types of oil to calculate the planning volume for each type of oil separately. The comment reasoned that the owner or operator would need to continually recalculate and possibly resubmit the vessel response plan for each trip if the quantity, mix, or type of oil changed from the previous trip.

It is permissible for an owner or operator of a vessel to create and submit a vessel response plan for each unique configuration of cargo their vessel may carry. However the Coast Guard suggests, that in the situation where the cargo mix changes frequently, the owner or operator of the vessel submit one vessel response plan based on the vessel cargo loading scheme that results in the largest foreseeable required planning volume. A vessel response plan submitted and approved using this planning volume, would also cover any situations that resulted in a lesser level of planning. It would remain the responsibility of the owner or operator to recalculate the required planning volume and the resulting on-water recovery capacity as necessary to assure that the submitted vessel response plan is adequate. The Coast Guard does not consider these calculations to be overly burdensome.

Section 7.2.4 has been clarified to indicate that for a vessel that carries multiple groups of oil, the required effective daily recovery capacity for each group is calculated and added together before applying the caps contained in Table 6.

Only two specific comments on the example provided in section 7.4 of Appendix B were received. One stated the example was confusing, the other noted that the examples was incorrect because the owner or operator would be required to contract with an oil spill removal organization capable of conducting shoreline cleanup operations only if the vessel came closer to shore than 12 miles and not 50 miles as stated in the example.

The Coast Guard has revised the example to make it easier to understand and to incorporate the revised planning factors used in this interim final rule. The example was correct in that when a vessel operates closer than 50 miles from shore the owner or operator must identify and ensure the availability of an oil spill removal organization capable of effecting a shoreline cleanup operation.

In the calculation for planning volumes for onshore recovery, the calculation for open ocean has been eliminated. This reflects the elimination of the open ocean requirement for shoreline cleanup planning contained in § 155.1050(o)(1) of the proposed rule. The paragraph following the onshore recovery calculations also has been revised accordingly.

A new paragraph has been added after the last table of calculations to discuss the new requirement for a certain percentage of on-water recovery capability to be capable of operating in water with a depth of 6 feet or less. This calculation must be done for all tiers and for all applicable geographic areas.

Appendix B, Section 8

This section of the proposed appendix provided information for evaluating high-rate response methods (for example, dispersants, in-situ burning) in a response plan. We received fifteen comments on this section. Most of these comments repeated issues raised and addressed in our discussion on proposed § 155.1050(k), and will not be repeated here.

Throughout Appendix B, we have revised the requirements for dispersant planning, response times, and methodology for receiving plan credit just as we did in § 155.1050(k).

The Coast Guard has revised section 8.2.2 of appendix B by adding section 8.2.3 to provide information on how we will assess whether to recognize a credit against required on-water recovery capability. Any dispersant capability identified for plan credit must include sufficient resources to sustain that capability for at least three days at the rate proposed for plan credit. This time period reflects the generally accepted "window of opportunity" to disperse oil before it becomes too weathered for dispersants to be effective. Section 8.2.3 provides an example of how this credit would be calculated and applied against tier 1, 2, or 3 resource requirements.

The Coast Guard has added a new section 8.5 to make it clear that any credit against a portion of the 1993 or 2003 cap increases based on dispersant capability will apply only to vessels that operate in areas where using dispersants has been pre-authorized by the Regional Response Team.

We received seven comments on using in-situ burning as a high-rate response method. As proposed, the rule would not allow an owner or operator to use in-situ burning as a response strategy for reducing required oil recovery capability in 1993. Four comments recommended that a vessel owner or operator receive a credit of up to 25 percent against mechanical recovery capacity for in-situ burning. None of the comments suggested what in-situ burning capability should be

demonstrated to obtain this credit. One comment suggested that all owners or operators identify resources for in-situ burning and for required mechanical recovery and dispersant capability. Three comments recommended that the Coast Guard study in-situ burning as a viable response option. These comments did not address using a credit against mechanical recovery as an incentive for developing this capability.

The Coast Guard will not permit an owner or operator to use in-situ burning as a planning response strategy for 1993. The use of in-situ burning is still being studied. The Coast Guard has added language to the renumbered section 8.6 (proposed 8.5) to indicate that we will evaluate in-situ burning as a permissible response strategy for capability increases required in 1998.

One comment opposed using bioremediation as an acceptable emergency response strategy, indicating that there was no evidence it was effective for treating floating oil. The Coast Guard continues to evaluate all potential high-rate response methods for use in spill response, but did not include bioremediation in appendix B because its effectiveness for use in emergency response is uncertain. Responders have used this technique mostly for shoreline treatment as part of the later stages of a shoreline cleanup. If new data show bioremediation or any other high-rate response method to be effective for emergency response, the Coast Guard will consider their application to response planning.

Appendix B, Section 9

This section of the proposed appendix provides information for determining the resources for which an owner or operator must plan to sustain response operations. The section covers trained personnel, temporary storage capacity, and other support equipment required for a response. We received thirty comments on this section.

One comment recommended that vessel response plans should require sorbent boom in addition to containment boom in a quantity sufficient to encircle the containment boom. The comment also recommended that the vessel owners or operators should plan for enough sorbents to sorb the statistically average shipboard spill. Section 9.1 already requires the vessel owner or operator to ensure that a sufficient quantity of sorbent material is available to sustain response operations to completion, and the Coast Guard believes that sorbent material includes sorbent boom. However, we have revised section 9.1 to explicitly mention sorbent boom.

Section 155.1050(o) requires certain owners or operators to identify and ensure the availability of shoreline cleanup resources in an amount commensurate with the planning volume of emulsified oil. The Coast Guard fully expects owners or operators to consider whether a resource has sorbent material and sorbent boom in determining if the resource is capable of effecting a shoreline cleanup operation.

In the NPRM on Discharge-Removal Equipment for Vessels Carrying Oil, we proposed requiring certain vessels to carry sorbent material. The Coast Guard believes that the section 9 requirements and the proposed equipment carriage requirements will ensure that sufficient sorbents are available to respond to a spill, and that no further requirements for sorbents are necessary.

Two comments supported the provision in section 9.1 that the vessel owner or operator also ensure the availability of support equipment and supplies to sustain response operations. One comment recommended that the support equipment also be capable of use in the same operating conditions as the oil recovery devices, boom, and temporary storage capability. The Coast Guard has revised this section in the interim final rule to state explicitly that the support equipment must be suitable for use with the primary equipment (oil recovery devices, boom, and temporary storage capability) identified in the response plan. The Coast Guard also has revised the last sentence of section 9.1 to make it clear that an owner or operator does not need to supply detailed information on the support equipment capability in the response plan.

Four comments supported the requirement in section 9.2 that an owner or operator identify temporary storage capability in the response plan. Three of those comments recommended that owners or operators plan for a defined initial storage capacity to arrive with an oil recovery device. One comment recommended that we evaluate oil recovery devices and temporary storage as a system. The Coast Guard has determined that requiring an owner or operator to identify a defined volume of storage capacity during the initial response is unnecessary. An owner or operator should match storage capacity to the types and quantities of oil recovery devices identified in the plan.

For example, each oil recovery device must have sufficient temporary storage capacity matched to its expected recovery capacity. If the planned response strategy is to operate ten such devices independently, each must have separate storage capacity. This storage capacity does not have to be dedicated for a given device. Most oil recovery devices have limited storage capacity because they are designed principally for recovery and emptied into a larger storage device. Although this is acceptable, the vessel owner or operator must assess how much time it takes to transfer oil from a recovery device to a storage device in calculating the effective daily recovery capacity.

Twenty-three comments opposed the requirement under section 9.2 to contract for temporary storage capacity as being too costly. The Coast Guard added an alternate approved means by which an owner or operator may ensure the availability of resources for which it must plan.

Five comments opposed requiring owners or operators to identify daily temporary storage capacity equivalent to double the effective daily recovery capacity, and recommended that storage capacity be equivalent to recovery capacity if the capability to decant water from the storage device exists. One comment recommended that the Coast Guard allow either twice the daily recovery rate or a lesser volume if the owner or operator provides a waste stream analysis to show that a volume less than the section 9.2 volume would need to be stored daily.

The Coast Guard has considered these comments and retained the requirement for storage capacity to equal twice the recovery capacity. All oil recovery devices collect some water with the oily material, and the volume of this water varies with the design of the device and the thickness of the oil on the water's surface. The factor of 2 accounts for recovering a volume of water with the recovered oil. In addition, we have revised section 9.2 so that a vessel owner or operator may identify storage capacity for less than the section 9.2 volume, if the owner or operator provides a waste stream analysis to show that the efficiencies of its identified recovery devices, the ability to decant water from the storage devices, or the availability of alternative storage or disposal locations in the area where the vessel operates result in reducing the volume of material requiring temporary storage.

Two comments requested that the vessel owner or operator be responsible for arranging for disposal of recovered product, and not the oil spill removal organization identified in a response plan. Section 9.3 as proposed reflected industry practice that the spill response contractor arrange for the disposal on behalf of the responsible party. However, because OPA 90 makes the vessel owner or operator responsible for

ensuring that its plan addresses disposal, we have revised the interim final rule to make that clear.

Appendix B, Table 1

As proposed, this table provided operating and design criteria to use in evaluating oil recovery devices and booms identified in a response plan. Table 1 is based on information for equipment selection in the 'World Catalog of Oil Spill Response Products—Third Edition." The American Society of Testing and Material (ASTM) used the World Catalog as the starting point for its pending oil recovery equipment standard. We received five comments on this table.

One comment recommended that we delete the Great Lakes data from the table and apply river or inland criteria for the Great Lakes. The Coast Guard disagrees. The Great Lakes criteria derive from unique conditions there. The equipment operating and design criteria are consistent with World Catalog specifications for oil recovery operations in areas like the Great Lakes. Nothing in the comment indicated that this data was incorrect.

Four comments provided various drafts of the ASTM standard for boom performance and standard environmental conditions. The draft standard has categories of information and criteria similar to the VRP rule. Because ASTM has yet to reach consensus on this standard, the Coast Guard has determined it premature to incorporate all or any part of the draft ASTM standard. The Coast Guard is involved in the ASTM committee developing these standards, and we note the similarities between the ASTM drafts and this rule. The Coast Guard will consider the need to change Table 1 once the final ASTM standards are published.

The Coast Guard has made 3 minor changes to Table 1 in the interim final rule. The term "rivers" was changed to "rivers and canals" to be consistent with the use of this term throughout the interim final rule. We changed the symbol used to describe significant wave height from "less than" (<) to "less than or equal to" (≤) to clarify better the intended meaning of significant wave height.

A footnote was added to the table to explain that the oil recovery device and boom must be at least capable of operating in a significant wave height up to and including the value listed in the table for each environment. The lower value for permissible boom height for rivers and canals has been decreased from 10 inches to 6 inches. This change was based on further assessment of available boom types and potential uses within the operating environment.

One comment was concerned that existing stockpiles of boom would be unusable in the open ocean area because the proposed boom heights are greater than boom heights used routinely in open ocean responses. Although the Coast Guard recognizes the comment's concern, the boom height reflects the statutory requirement to plan for responding to a worst case discharge in adverse weather. For ocean areas, "adverse weather" could be seas with significant wave heights of up to 6 feet.

Appendix B, Table 2

Table 2 sets out shoreline protection requirements. The Table has been revised to reflect the changes discussed in the preamble for § 155.1050(n): Eliminating all requirements to identify boom, adding the Great Lakes to the nearshore and inland category for both persistent and non-persistent oils.

Appendix B, Table 3

This table sets out factors needed to calculate the planning volumes for response resource identification. Because of loss to the environment, potential for shoreline impact, and potential for on-water recovery varies by the oil type and location, we have included a factor (percentage) for each.

One comment recommended that Table 3 should have a separate category for edible oils. Another comment recommended that the table should have a separate category for asphalt because it sinks and can't be recovered by conventional methods. The Coast Guard has revised the rule in recognition of the unique characteristics both of nonpetroleum oils and of oils heavier than water. We have addressed issues and comments for these oils in the preamble discussion of §§ 155.1052 and 155.1054. Table 3 is inapplicable.

Eight comments argued that the percentages in the table have no technical basis, that there is no justification for the wide variances in the additive values, and that the percentages for a specific geographic area should not exceed 100% when summed together.

The values in Table 3 were drawn from deliberations among the Negotiated Rulemaking Committee. They are based on the general behavior of oil that has been observed during actual discharges. The variances in values reflect the amount of oil most likely to be available for recovery.

As noted in the preamble to the NPRM, in the inland, nearshore, and offshore portions of the table, the percentages do not add up to 100%. This reflects an adjustment in the on water percentage to increase the quantity of resources that are planned for mobilization in the first 3 days of the response. Because the oil may rapidly impact the shoreline in these areas, quick mobilization is essential.

One comment expressed concern that having the percentages exceed 100% could be construed as setting a performance standard. The Coast Guard disagrees. The preamble to the NPRM clearly stated why the percentages exceeded 100%. Additionally, we have restated in many places in both the IFR and this preamble that these are not performance standards.

One comment noted that the percentages should not exceed 100% because the effect of emulsification has already been taken into consideration. The Coast Guard disagrees. The application of an emulsification factor recognizes the very real fact that the volume of oil that must be recovered may increase due to the effects of emulsification. The intended purpose of having the percentages exceed 100% was to increase the quantity of on water resources that are planned for mobilization in the first 3 days of the response. The two issues are not directly related.

One comment recommended that the percentages in the table for "recovered floating oil" should be increased because oil which comes onshore has the potential of becoming floating oil again through either tidal or human action. The Coast Guard concurs that this is a possibility, but does not agree that it is a phenomenon that can realistically be taken into consideration. It is not practical to estimate the amount of oil that will reenter the water after it has been deposited on the shore line. Additionally, tidal ranges vary widely making the establishment of one national standard difficult.

One comment recommended that if emulsification is taken into consideration, then evaporation should also be taken into consideration as recommended by the Committee. The effect of evaporation is included in Table 3. The percentage attributed to natural dissipation is not explicitly used to determine the planning volume for on water recovery capacity or shoreline cleanup capacity. However, the relative effect of natural dissipation in different environments and for different oil groups was taken into consideration when determining what percentage of the planning volume would be available for on-water or on shore recovery.

Numerous comments noted that the Great Lakes were not included in any of

the spill locations contained in Table 3 of the proposed rule. This oversight has been corrected in the interim final rule. The Great Lakes have been expressly added to the nearshore and inland category.

Table 3 of the proposed rule included percentages for oil on shore for the open ocean. However, § 155.1050(o) exempts vessel response plans for vessels operating in the open ocean areas from having to plan for shoreline cleanup. To avoid any confusion that Table 3 contradicts the intent of § 155.1050(o) the appropriate entries in table 3 have been annotated to indicate that they are included in the table for continuity, and that no planning is required.

Appendix B, Table 4

Twelve comments addressed the emulsification factors listed in table four. Two comments supported the factors used in the table but the others stated that the levels were too high for a variety of reasons. Case histories, distance from shore, type of water body, fresh water, weather and temperature variables, and discharge rates were all cited as factors that should be considered when setting the emulsification factors. Two comments indicated that the scientific data is insufficient or not available to support the high emulsification factors listed.

Numerous comments argued that emulsification is already taken into consideration through the 20% rating factor applied to oil recovery devices in section 6 of appendix B. The Coast Guard disagrees. The emulsification factors listed in Table 4 are to account for emulsification that occurs to the oil prior to the oil being encountered by the skimming equipment. The 20% rating factor includes, among other things, consideration of the efficiency of the actual skimming device to remove oily material from water. The two issues are unrelated.

One comment recommended that the plan holder should have the option of demonstrating that a lower factor is appropriate. The Coast Guard disagrees. This would introduce an unnecessary level of detail and not be consistent with the desired practicality of maintaining one nationwide standard.

The Coast Guard recognizes that emulsification depends on a variety of factors. The proposed Table 4 values were derived from ITOPF data and reflected the maximum amount of emulsification that could occur over a prolonged period of time in environmental conditions that favored the emulsification process. There was no other method suggested to account for the variables although the Coast Guard has been convinced by the comments that the emulsification factors listed in Table 4 of the NPRM were too high. Consequently, the emulsification factors in Table 4 have been revised. All of the factors that were greater than 1 in the original table have been reduced.

Appendix B, Table 5

Seven comments discussed Table 5, Mobilization Factors. One comment supported the factors, one comment stated the factors were too low at the beginning of the operation, and one comment stated the factors were too high for river operations. Three comments stated the table should be deleted because the mobilization factors created a performance standard and not a planning standard. One comment suggested incorporating Table 5 with Table 4 to simplify this portion of the rule.

Table 5 provides mobilization factors to assist in planning for the recovery of a worst case discharge. The Coast Guard recognizes that oil recovery operations are most effective in the initial stages but also acknowledges that it is unrealistic to plan for the majority of the response equipment to be immediately available. In rivers, where spills are spread rapidly, it is most important to plan for a strong initial response to contain and recover a spill and consequently these planning factors are higher than for other areas. The Coast Guard recognizes that the wording of the preamble that explained Table 5 in the NPRM could have been misunderstood to constitute a performance factor. However, the Coast Guard has indicated repeatedly elsewhere in this rule that this rule sets forth planning criteria and does not establish performance standards. The Coast Guard believes that this table is fairly straightforward and although one comment suggested a way to simplify it, no one commented that it is confusing. Consequently, Table 5 has not been changed.

Appendix B, Table 6

Table 6 provides response capability caps by geographic area. The Table has been revised to reflect the changes discussed in the preamble for § 155.1050(p). Specifically, a unique cap has been created for the Great Lakes, and all explicit caps for 2003 have been eliminated and replaced with the comment that they will be determined in the future. The caps for 2003 will be established during the Coast Guard review of the proposed caps for 1998. For consistency and continuity, the effective date of the caps has been changed from March 18th to February 18th for 1993, 1998, and 2003.

Incorporation by Reference

The Director of the Federal Register has approved the material in § 155.140 for incorporation by reference under 5 U.S.C. 552 and 1 CFR part 51. The material is available as indicated in that section.

Regulatory Evaluation

This interim final rule is major under Executive Order 12291 and is significant under the "Department of Transportation Regulatory Policies and Procedures" (44 FR 11040; February 26, 1979).

This rulemaking will cost the oil transportation industry and the general public more than $100 million annually. It may also affect domestic and international shipments of oil to and from the United States and may generate substantial public interest and controversy. These regulations will also impact cleanup contractors, oil spill cooperatives, and other not-for-profit cleanup organizations.

The interim final rule contains requirements for vessel response plans, as well as additional requirements for certain vessels operating in Prince William Sound, Alaska. The impact of these requirements has been analyzed separately and is summarized below.

In the NPRM, the Coast Guard solicited public comment on the draft Regulatory Impact Analysis (RIA) for vessel response plans and the draft Regulatory Evaluation (RE) for Prince William Sound. A summary of the public comments received appear later in this discussion.

The Coast Guard has revised the RIA and RE based on public comments received, revisions made to the IFR, and two recent legislative changes which significantly affected the applicability of the interim final rule. As discussed in the "Regulatory History" section of the preamble, OSVs and certain fish vessels and fish tenders are no longer required to prepare vessel response plans, and the additional requirements for PWS now apply only to tankers loading cargo at a TAPs facility. Both changes will reduce the number of entities affected.

The Interim Final RIA and Interim Final RE are available in the docket for inspection or copying, as indicated under "ADDRESSES." They have also been placed in a separate docket (CGD 91–047) established to facilitate review of the programmatic RIA for titles IV and V of OPA 90.

Vessel Response Plans

In performing the regulatory impact analysis, the following four response plan alternatives were considered:

(1) No requirements,

(2) Comprehensive requirements for all tank vessels,

(3) Reduced requirements for vessels carrying oil as a secondary cargo, and

(4) Reduced requirements for inland barges only.

In response to public comments on the Draft RIA, and to reflect changes and improvements in cost estimates, numerous modifications have been made to the Interim Final RIA. Principal changes made include:

- Estimates of the costs of qualified individuals have been included.
- Estimates of costs for spill response capabilities in the Great Lakes have been developed.
- Impacts on costs of the future increases in contracting caps have been assessed.
- Revised cost data for major cost items have been incorporated.
- Cost/benefit has been calculated in terms of the cost per barrel of oil saved.
- Discount rate has been reduced from 10 percent to 7 percent, reflecting the latest OMB guidelines.
- Off Shore Supply Vessels have been eliminated from the Industry Profile and subsequent analysis.

VRP Industry Profile

The vessels that are subject to these requirements are divided into four distinct groupings: (1) Oil tankships in international trade, (2) coastal trading U.S. tankships and tank barges, (3) inland tank barges, and (4) other vessels not certificated under 46 CFR subchapter D, which carry oil in bulk as a secondary cargo. The distinct industry groups comprise the majority of these other vessels. They are certain fishing vessels and certain towing vessels.

Approximately 363 companies owning 1,050 vessels constitute the international tankship sector. The number of vessels held by any one company varies from 1 to over 50 vessels. The assets of the publicly held tankship operating firms vary from $28 million to $95 billion.

The coastal fleet consists of U.S. owned tankships and coastal trading tank barges. The coastal fleet is comprised of 147 tankships owned by 28 companies and 190 tank barges owned by 52 companies. The number of vessels owned by any one company varies from 1 to over 10 vessels. The assets of the independent, publicly-held companies engaged in operating the coastal fleet vary from $50 million to over $1 billion.

The inland barge fleet is comprised of 409 companies with 3,461 active barges. Of these, 219 companies own only 1 vessel or 6 percent of the fleet. The assets of publicly traded firms in this industry vary from $23 million to $13 billion.

The fishing vessel industry consists of 5,422 vessels owned by 4,587 companies. In addition, 22,371 documented fishing vessels are owned by individuals. The vast majority of these are owners or operators of one vessel. Approximately 80 to 100 of these vessels or 0.4 percent will potentially be impacted by this regulation because they carry oil as a secondary cargo. Virtually all of these vessels are privately owned.

The towing vessel industry consists of 5,703 vessels owned by 2,156 companies. Of these, two companies own over 50 vessels while 1,357 owners have only one vessel. Approximately 2.5 percent of the fleet or 150 vessels are engaged in the transfer of oil to other vessels. This interim final rule would not be applicable to the majority of these vessels because the oil carried would not be considered cargo due to the nature of their operation.

VRP Costs

In the aggregate, the requirement for vessel response plans will result in substantial costs to the industries affected. The present value cost of this regulation for the period 1992 through 2015 is estimated at $2.7 billion. The bulk of this cost entails large capital and operating expenditures to ensure adequate shore-based response capability. This accounts for 53 percent of the total incremental cost, or $1.4 billion. The next most costly items are drills and training with costs of $410 million for the 24-year period examined, or 15 percent of the total cost. The incremental cost of the entire regulation is $318 million for 1992, but declines to $226 million annually for the period 2005 through 2015.

For individual tankship or coastal trading tank barge owners or operators, the cost of compliance will vary slightly. The owners or operators of large fleets can spread the costs of response plan development over many vessels. The annual cost per vessel to major oil companies is estimated to be $6,500 per vessel. However, the small independent operators are not placed at a significant cost disadvantage over larger independent operators, as they have been able to find cost effective means to develop and maintain plans. The cost to small independent vessels owners or operators is estimated to be $6,900 per vessel.

For individual inland tank barge owners or operators, however, the cost per tank barge will vary widely according to the number of barges owned. Large operators are expected to gain economies of scale on a cost-per-barge basis, as they are able to spread the costs of plan development, maintenance, revision, and drills over a larger number of barges. For companies with more than 80 barges, the annual cost is estimated to be less than $2,900 per barge for development and maintenance of the plan, drill costs, and inland response capability. In contrast, the cost for companies with 1 to 9 barges is estimated between $7,500 and $17,300 per barge per year. The wide variance of costs within the inland tank barge industry is a direct result of fleet size.

For fleets of approximately equal size, the annual costs per tank barge is expected to be lower than the annual costs per tank vessel. This is due to a number of factors including reduced drill frequency, no requirement for comprehensive on-board response plans, and the ability to prepare one vessel-specific appendix for a large number of nearly identical barges. Additionally, it is expected that most barge owners or operators will submit one basic plan with separate vessel specific and geographic specific appendices.

The costs for certain fishing vessel and certain towing vessel owners or operators are estimated to be about $1,000 per year. As with other vessels, there would be economies of scale for owners or operators of multiple vessels.

VRP Summary of Benefits

The principal benefit of the vessel response plan requirement is a potential reduction in oil spilled with a corresponding reduction in natural resource damages and cleanup costs. Vessel response plans are expected to influence: Oil outflow volumes when an incident occurs; spill preparedness; and response management. The requirements of the interim final rule should result in: improved notification and communications; quicker mobilization and reduced response times; and clearer procedures and guidelines for onboard transfers, lightering, and towing. The potential benefits of vessel response plans were calculated by conducting detailed analyses of historical cases and by assessing the effectiveness they might have had in reducing outflows, cleanup costs, and damages. This analysis showed that VRPs can be expected to result in environmental improvements ranging from 7 to 22 percent.

Quantifying benefits of avoided natural resource damages associated with the vessel response plan regulations is difficult. The ideal methodology would be to conduct a multiple case study of historical spill data that would include natural resource damage assessments. The results would represent the range of benefits from avoided natural resource damages. This could not be done for two reasons. First, there are a limited number of claims actually settled which established a resource damage and restoration claim. Second, although models and methodologies are being developed which may better quantify natural resource damages, there is a lack of standardized models to do these assessments.

The Coast Guard is undertaking further work to refine and expand its database of oil spill cleanup and damage cost information and is further studying the matter of natural resource damage valuation, which is currently the subject of comprehensive research and evaluation by NOAA. This will facilitate development of more accurate, representative and consistent spill-unit values to serve as the basis for reevaluating benefit estimates in this and other regulatory evaluations undertaken for the implementation of OPA 90.

Public Comments on the Draft VRP RIA

Several comments stated that the VRP requirements cannot be analyzed in isolation of other requirements contained in OPA 90, particularly the double hull requirement. The Coast Guard acknowledges that some of the rules required by sections IV and V of OPA will interact with each other. For example, the beneficial impact of the double hull rule is the reduced amount of oil spilled after certain goundings or collisions. This reduction in the volume of oil spilled may reduce the calculated "cost effectiveness" of vessel response plans for these vessels.

The Coast Guard intends to conduct a comprehensive, programmatic RIA for all title IV and V OPA rules. This comprehensive RIA will evaluate the interaction of the rules relative to each other, and assess their impacts in total. However, since the rules will be developed and issued individually over several years, each rule will undergo an interim evaluation against a baseline that assumes no other OPA 90 requirements are implemented.

Several comments also stated that the RIA did not take into consideration macroeconomic impacts and the fact that current economic market conditions are poor. The RIA considers the costs of this rule on GNP, inflation, employment and balance of payments. It also takes into consideration economic conditions when examining the impact of this rule.

Many comments argued that the RIA underestimated costs. The oil spill response industry is undergoing a significant change as a result of OPA 90. New corporations are emerging in response to these regulations. When new industries develop, costs are initially high as companies gear up and buy new equipment. As demand increases and economies of scale are created, costs tend to drop. For example, the Marine Preservation Association which funds the Marine Spill Response Corporation (MSRC) has reduced its annual dues for vessel owners and operators from $50,000 to $10,000. In addition, the Natural Resource Corporation (NRC) offers vessel owners and operators spill response contracts on a per voyage basis. In the near future, with more companies entering the spill response market, costs of contracting should continue to decline as a result of intensified competition.

Comments noted that the RIA did not capture certain cost elements, including the costs of cap increases in 1998 and 2003, the cost of recruiting, training, and drilling qualified individuals and response teams, the additional costs of NRC, the cost of establishing Great Lakes spill capabilities, and the cost of assessing contractor capability. One comment stated that the cost of company specific table-top drills were underestimated. Another comment stated that the costs to the inland barge industry were underestimated. In response to the comments, additional analysis has been included in the Interim Final RIA to evaluate these costs. Several cost estimates were increased, and incremental costs assumptions were reviewed, in light of additional cost information provided in the comments.

Several comments presented arguments concerning which industry costs should be included in the cost calculations. Several comments argued that costs incurred prior to, but in anticipation of, OPA 90 should be included in the calculations. Others argued that it was incorrect to include costs for response activities that preceded passage of OPA 90. The Coast Guard determined that it was appropriate to include in the RIA those costs that industry spent in anticipation of the rule. The Coast Guard considered that after the Exxon Valdez spill, there was strong sentiment in Congress for developing comprehensive spill prevention regulations, resulting in promulgation of OPA 90. Industry, anticipating this action, took many preliminary actions including the development of MSRC. The Coast Guard could have begun costing this rule using a later date. However, the cost/benefit ratio of this rule is not dependent on where the RIA chose to begin costing. If the cost projections began in a later year, related benefit estimates would be reduced. The ratio of costs to benefits would be relatively unaffected by choice of the year costing begins.

One comment noted that the costs incurred by oil spill cooperatives should be included in the RIA. The interim final RIA has been revised to include the appropriate incremental portion of cooperatives budgets that can be directly accredited to the VRP requirements.

Several comments noted that the RIA did not account for firefighting, salvage and lightering costs. The interim final rule permits the owner or operator of a vessel to meet the firefighting and salvage requirements by obtaining the written consent of the provider before listing the provider in the VRP as an available resource. The interim final rule also permits the owner or operator of a barge which operates on rivers and canals to meet the lightering requirements by obtaining the written consent of the provider. These are changes from the NPRM, which required the more rigorous forms of "contract or other approved means." The interim final RIA concludes that due to competition in the salvage and firefighting industry, salvage and firefighting companies will not charge retainer fees for a listing in a vessel response plan. The interim final rule does not require advance contracting for dedicated lightering vessels. Therefore, the RIA is correct in not including these costs.

Several comments noted that the RIA did not include the costs of dispersants. The interim final rule does not require the owner or operator of a vessel to ensure through contract or other approved means the availability of dispersants. Rather, the identification of dispersants is optional in certain areas where year-round use of dispersants has been approved. Because identification of dispersants is allowed but not required, the cost of dispersants has correctly been omitted from the RIA.

One comment noted that costs are inaccurate because the full impact of the NCP and ACPs on the vessel response plans are unknown. In NVIC No. 8–92, the Coast Guard announced that it will evaluate whether a response plan is consistent with the NCP by using the existing NCP published in 40 CFR part

300. Further, the local oil and hazardous substances contingency plans in effect on August 18, 1992 will be used to evaluate whether or not a response plan submitted to meet the February 18, 1993 deadline is consistent with the ACP. The Coast Guard does not anticipate significant additional costs in making a vessel response plan consistent with the revised NCP and ACPs. However, if there are significant costs, they will be captured in the final RIA.

Several comments stated that the Coast Guard should have considered costs in the determination of "Maximum Extent Possible". As previously discussed in "Section 155.1020 Definitions" the Coast Guard did consider costs in the development of this rule making.

A few comments claimed that the costs of training were underestimated. The Coast Guard has used the best available data on training costs and believes the RIA is accurate.

One comment stated that the costs of revisions of names and phone numbers was not included in the draft RIA. Another comment stated that the costs of making copies were underestimated. It is anticipated that these costs will be small and are adequately captured in the paperwork costs and effort estimates.

Several comments stated that the benefit estimates used in the draft RIA were too low, specifically the natural resource damage assessment (NRDA) estimates. Others stated the NRDA estimates were too high. The interim final RIA does not place a dollar value on the benefits of avoided natural resource damages associated with the vessel response plan regulations. The Coast Guard has determined that there are insufficient data and no standardized models with which to reliably value these benefits. The Coast Guard and NOAA are conducting further research and evaluation to facilitate the development of more accurate, representative and consistent spill-unit values to serve as the basis for reevaluating the benefits estimates.

For purposes of the interim final RIA, benefits have been estimated on the basis of the volume of oil spills prevented. This provides the basis for a "cost effectiveness" analysis rather than a benefit-cost assessment. The Coast Guard and OMB have determined that this is the most appropriate approach until revised NRDA estimates can be developed.

One comment stated that using historical spill data underestimates the benefits of the regulation because the historical costs do not take into consideration the new liability regimes established in FWPCA as amended by OPA 90. As discussed above, there is an ongoing effort to improve the estimation of benefits. Another comment stated that the draft RIA overestimated future spill volumes. The Coast Guard believes using historical spill data is the most accurate method currently available to estimate future spills.

Several comments thought that the effectiveness rates for vessel response plans are too high. The potential benefits of VRPs were quantified by conducting detailed analysis of historical cases and assessing the effectiveness VRPs might have had in reducing outflows, cleanup costs, and damages. This analysis showed that VRPs can be expected to result in environmental improvements ranging from 7 to 22 percent. The interim final RIA used an effectiveness measure of 15 percent. The Coast Guard considers this to be a reasonable measure, based on the best information currently available.

One comment noted that the RIA did not include the benefits of positive job gains in the oil spill recovery industry. The Coast Guard was unable to precisely estimate the number of jobs that will be developed as a result of this rule. To the extent that jobs are in fact being created, this will have a positive effect on employment in some parts of the country.

One comment noted that the time horizons for benefits estimates were too short. The Coast Guard and OMB commonly use a 10 year horizon for the analysis of costs and benefits. The vessel response plan RIA uses a 23 year time horizon. This time horizon was chosen for this rule to coincide with the time horizon used with the double hull rule.

Additional Response Plans Requirements for Certain Vessels Operating in Prince William Sound, Alaska

PWS Industry Profile

Vessel traffic in Prince William Sound is dominated by large crude tankers calling at the Trans-Alaska Pipeline (TAPS) terminal near Valdez, Alaska. The terminal is operated by the Alyeska Pipeline Service Company, a consortium of seven major oil companies. This trade consists of approximately 900 tanker loadings accounting for approximately 700 million barrels of Alaskan North Slope crude annually. However, North Slope oil production is now declining and is expected to continue to drop about 6–7% per year. The vast majority of tankers calling at the TAPs terminal are U.S. flagged, single hulled vessels. The operators are large oil companies, including Alyeska consortium members and independent U.S. vessel operators.

Tankers loading cargo at a TAPS facility are the only vessels subject to the special requirements of section 5005 of OPA 90. The draft RE addressed all tank vessels operating on PWS, including barges and relatively small, single-hull tankships. As previously discussed, the interim final rule now applies only to tankers loading at a TAPS facility. Other vessels have been eliminated from the PWS Industry Profile and subsequent analysis in the interim final RE.

PWS Costs

Over the 10-year period (1993–2002), costs for compliance for TAPS vessels will be $232 million. It is estimated that compliance with section 5005 will cost tankers loading cargo at a TAPs facility an average of $47,000 for each cargo load transferred and transported in the Sound during the 10-year period. This will increase unit cost per barrel by approximately 6 cents (or 0.15 cents per gallon). This small price increase would likely have a negligible impact on this market.

PWS Summary of Benefits

OPA 90 places additional requirements on the spill response capability of tankers loading cargo at a TAPS facility. These added requirements are intended to provide additional response capability to protect the unique, environmentally sensitive area of PWS. Specifically, section 5005 of OPA 90 requires: Prepositioned response equipment; establishment of an oil spill removal organization; training of local citizens and fish hatchery employees in oil spill removal techniques; periodic testing and certification of equipment; and exercises to test the capability of the equipment and trained personnel.

Prepositioned equipment, including escort response vessels, improves the effectiveness of offensive operations (i.e., containment and recovery of oil in the general vicinity of the spill site). Prepositioning serves to put containment and removal capability on scene very rapidly, making the response more effective. It has been estimated that prepositioned equipment alone has the capability of recovering up to 256,000 barrels of crude in the first three days following a spill. Quick recovery of oil from the environment has the effect of reducing the net size of the spill, thereby reducing environmental and other harmful consequences, the amount of the

shoreline threatened, and overall cleanup costs.

Quantified benefits for the TAPs traffic in present value were estimated in total barrels of oil recovered. Oil spillage during the period 1993–2002 is projected to be about 285,000 barrels of crude and is based on spill probabilities for the types of vessels and numbers of movements characteristic of TAPS traffic. Of that spillage, it is estimated that prepositioned equipment can recover nearly 58,000 barrels of oil in the three days following a spill.

There are additional benefits which are not quantifiable. Effectiveness of defense operations is enhanced both by the training of citizens and hatchery employees so they may assist in nearshore and onshore operations, and by prepositioning containment and cleanup equipment near where it would be utilized. Also, area drills are expected to improve the proficiency of both offensive and defensive operations.

For the TAPs traffic, quantified benefits in present value from the regulations are estimated at approximately 42,000 barrels of oil recovered over the 10-year study period. Discounted costs over the same period amount to $164 million. This regulation is therefore expected to cost $3,899 for every barrel of oil recovered.

Public Comments on the Draft PWS RE

Most comments questioned the assumptions underlying the costs and benefits. Many of the comments received on the draft VRP RIA may also be applicable to the PWS RE. Several comments were received on the cost and benefits of extending the requirements of Section 5005 of OPA 90 to Non-Taps vessels. As previously noted, non-TAPs vessels are no longer subject to the additional requirements of Section 5005.

One comment stated that the RE significantly underestimated the cost of compliance by failing to consider the costs of response resources that have been added since 1989 to meet the requirements of Section 5005 of OPA 90 and similar legislation in Alaska. Two comments stated that the cost associated with a proposed regulation should be measured from the time of the rule, not from an earlier point, and that the cost that should be assessed to Section 5005 are those that will be incurred after the rules are finalized. As previously discussed in the public comments regarding the VRP RIA, the Coast Guard has included in the RE those costs that industry spent after the Exxon Valdez spill in anticipation of the rule.

One comment stated that the RE has obscured an accurate cost-benefit analysis by including the cost of existing prepositioned response equipment already required by State law and already procured by PWS vessel operators. This comment stated that the costs of implementing the regulations for Section 5005 should be zero because the Federal regulations would impose no additional major expenses to private business beyond what has already been incurred. Another comment argued that no costs should be attributed to the Federal regulations because of the existence of the State of Alaska's regulations.

There is no guarantee that Alaska's state laws will not be amended or repealed in the future. If the Coast Guard were to regard the OPA 90 requirements as having no costs, because of already implemented State response programs, then it would also have to conclude there are no benefits, either. Therefore, the Coast Guard does not agree that the costs should be decreased.

One comment noted that the draft RE did not consider the human health effects in PWS including the psychological and social effects on the community. There are no specific costs and the Coast Guard was unable to quantify these benefits. To the extent that this rule would improve human health, the identifiable benefits would thus outweigh costs.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard has considered whether this interim final rule would have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). This evaluation was carried out as part of the Interim Final RIA and the Interim Final RE for this interim final rule. Copies are available in the docket for inspection or copying where indicated under "ADDRESSES."

Small Entity Impact of Vessel Response Plans

The impact of vessel response plan requirements will be distributed differently across various sectors of the U.S. waterborne oil transportation industry. There are a number of companies meeting the definition of a small business operating in each sector of the industry.

Some small owners or operators of international flag tankers, which call infrequently in U.S. waters, may choose to discontinue U.S. trade. However, they will be able to use their vessels in other trades. The requirements are not expected to place more burdensome financial strains on these operators than on larger independent operators.

Small operators of coastal tankers and tank barges will incur a minor competitive disadvantage versus larger operators. However, the requirement for a response plan, by itself, should not force these companies to exit the business.

These regulations may impact noticeably on small operators of inland barges. The cost to develop plans for the inland barge fleet is considerably lower than for coastal barges. However, costs spread over one or two barges in an individual firm's fleet may comprise a comparatively higher percentage of the total cost of operating these barges. This regulation may further contribute to the current consolidation taking place within this industry. The Coast Guard anticipates that many of these smaller operators will share the costs of plan development on an industry-wide basis, thus reducing their individual costs.

The annual cost of compliance for certain fishing vessels and towing vessels that carry oil in bulk as a secondary cargo is expected to be approximately $1,000. Although the cost per gallon of oil carried as cargo may be relatively high, the total annual cost is relatively small. A number of these operators (particularly of tug/tow boats) may cease to carry oil in bulk as cargo. This would not necessarily prevent them from continuing to operate in their capacity as tug/tow boats. The interim final rule subjects these vessels to reduced requirements in accordance with the recommendation of the Negotiated Rulemaking Committee. It is estimated that the costs to meet these reduced response plan requirements for secondary carriers is 10 percent of the cost to meet the comprehensive standards if the latter were required.

Although the Initial Regulatory Flexibility Analysis indicates that some small businesses may be impacted, the Coast Guard believes that the existing exemption provisions contained in § 155.130 will minimize the impact on small entities. Section 155.130 allows for exemptions or partial exemptions from compliance with any requirement in 33 CFR 155 if among other things, compliance with a specific requirement is economically impractical. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this interim final rule will not have a significant economic impact on a substantial number of small entities.

Public Comments With Respect to Small Entities

Several vessel owners on the Great Lakes stated that small businesses would be disproportionately impacted because of the small number of vessel owners available on the Great Lakes to share the costs of supporting the needed oil spill response infrastructure. This situation is aggravated by the large size and relative remoteness of the Great Lakes, and the lack of a preexisting oil spill response network prior to the passage of OPA 90. Several comments were also received from the asphalt industry located on the Great Lakes who stated that the cost of the VRP requirements may require them to abandon the use of small barges to transport asphalt. It is believed that some of the affected barge owners would fall within the classification of small entities.

After considering all comments received on the NPRM, we reassessed our proposed requirements for the Great Lakes. As a result, the interim final rule has been revised to lower the planning requirements for vessels carrying groups I through IV petroleum oil as a primary cargo on the Great Lakes. The worst case discharge caps have been reduced by 50 percent and the corresponding response times have been increased by 6 hours.

The interim final rule also establishes unique planning criteria for vessels carrying group V oil as a primary cargo. The planning requirements for group V oils, which includes asphalt, take into consideration the unique characteristics of these oils and also recognizes that existing response capabilities for these oils are not as well developed as for other oil groups. Caps do not apply to Group V oils. Additionally, most of the required response equipment can be identified in the VRP with the written consent of the provider, eliminating the more costly types of "contract or other approved means". Most of the equipment that must be identified must only be capable of being deployed with 24 hours of discovery of the spill to the nearest port, rather than being on-scene within a shorter time frame.

Taken collectively, the Coast Guard believes that these changes to the interim final rule will reduce at least partly the burden on small entities operating within the Great Lakes. For those vessel owners and operators who still find it physically or economically impracticable to comply with the VRP regulations, they will be permitted under 33 CFR 155.130 to request a compliance exemption from portions of the requirements.

A number of comments were concerned that the cost of the VRP requirements for vessels operating in remote areas might be prohibitively high. The identified areas include the Aleutian Islands and other areas of Alaska, Guam, American Samoa, and other remote areas in the Pacific. It is believed that a number of the vessel owners operating in these remote areas are small entities. As noted above, these small entities will be permitted under 33 CFR 155.130 to request a compliance exemption from portions of the requirements.

Small Entity Impact of Additional Response Plan Requirements for Certain Vessels Operating in Prince William Sound, Alaska

Many operators of TAPS vessels are subsidiaries of large, integrated petroleum companies, such as ARCO Marine, Chevron Shipping, and Exxon Shipping. While other operators are independent ocean carriers, none could be identified whose current employment (including that of corporate affiliates) was below the 500-employee threshold used by the Small Business Administration for identification of small enterprises in deep-sea freight transportation.

Because it expects the impact of section 5005 of OPA 90 to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this interim final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains collection of information requirements. The Coast Guard has submitted the requirements to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), and OMB has approved them. The OMB approvals for each subpart of the interim final rule are discussed separately.

Subpart D Vessel Response Plans

The section numbers are §§ 155.1025, 155.1035, 155.1045, 155.1055, 155.1060, 155.1065, and 155.1070, and the corresponding OMB Control Number 2115–0595. This is a provisional approval which expires on September 30, 1993. The Coast Guard has made several changes to the interim final rule that will reduce the information collection burdens. These changes have been discussed in the preamble. The Coast Guard will consider comments received in response to the interim final rule and may further revise the final rule to reduce the paperwork burden. Final approval will be obtained from OMB prior to publication of the final rule.

As indicated elsewhere in the preamble, commenters submitted extensive comments on the paperwork burden in the rule to OMB and to the docket. Many commenters believe that the paperwork cost burdens were underestimated and as a result, the interim final RIA currently estimates approximately $29 million in initial year costs to the industry (approximately 10 percent of the total first year costs).

Given the statutory deadline for February 18, 1993, it has been difficult to assess the validity of all comments received that would serve to balance the cost of reporting and recordkeeping against the practical utility of the information to the Coast Guard for plan review and by affected companies and individuals in responding to discharges. Many commenters, for example, questioned the usefulness of detailed information required in initial response plans—the detailed list in § 154.1035 of equipment by location, make, model, and effectively daily recovery rates, for example. Where such requirements have been retained in this interim final rule, the Coast Guard believes the information is essential in order to evaluate objectively the adequacy of a response plan. However, the Coast Guard is also working to set in place supplementary procedures that could reduce some of these requirements. To this end, on December 4, 1992, it promulgated Navigation and Vessel Inspection Circular (NVIC) 12–92 entitled, "Guidelines for the Classification and Inspection of Oil Spill Removal Organizations (OSROs)."

There may be cases where owners or operators submitting response plans will not have adequate information regarding the oil spill removal organization(s) or the private personnel and equipment or both by February 18, 1993, to meet all the specific requirements in this interim final rule. In the initial submittal, they should acknowledge what information is lacking, explain why, and request a waiver with regard to submittal of such information. Upon good cause shown in the waiver request, the Coast Guard may grant a waiver for a reasonable period, not to extend beyond August 18, 1993, for submittal of information regarding the oil spill removal organization(s) or the private personnel and equipment or both.

Where owners or operators believe the existing information burdens continue to be unduly burdensome, the Coast Guard actively solicits comments and

suggestions for further amendments that will reduce information collection burdens while meeting the requirements of OPA 90 and the need for adequate information for plan review and discharge response.

Persons submitting comments on the requirements should submit their comments both to OMB and to the Coast Guard where indicated under "ADDRESSES".

Subpart E Additional Requirements for Certain Vessels Operating in Prince William Sound, Alaska

The section numbers are §§ 155.1125 and 155.1130, and the corresponding OMB Control Number 2115–0594.

As discussed in the "Regulatory History" section of the preamble the additional requirements for PWS now apply only to tankers loading cargo at a TAPs facility. Non-Taps vessels are no longer subject to these additional requirements. As a result, only one oil spill removal organization will be required to provide the additional requirements of this subpart. The effect on the Collection of Information Requirements is a reduction in the number of respondents from 2 to 1, and a reduction in the overall burden estimate. The Coast Guard has submitted a revised collection of information request to OMB reflecting this reduced burden.

Federalism

The Coast Guard has analyzed this interim final rule according to the principles and criteria contained in Executive Order 12612 (Federalism, October 26, 1987), and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The Coast Guard received four letters addressing the issue of State-Federal jurisdiction in oil spill contingency planning.

Four comments expressed concern that State planning requirements may overlap, be inconsistent with, or be more stringent than Federal requirements; and encouraged the Coast Guard either to evaluate Federal and State regulations periodically for consistency so that there would not be "conflicting" requirements, or prepare a Federalism Assessment to address issues arising from concurrent State and Federal jurisdiction. The Federalism Executive Order and the FWPCA emphasize the President's and Congress's intent to preserve State authority to address matters of pollution prevention and response. Executive Order 12612 directs a Federal Executive branch agency (which includes the Coast Guard) to encourage states to develop their own policies to achieve program objectives. Consequently, a Federalism Assessment would be necessary only if the vessel response plan rules unduly impinged on a State's authority to establish its own regulatory structure, or imposed undue costs on a State.

The FWPCA provides convincing evidence of Congress's intent that, within three miles of shore, the protection of the marine environment should be a collaborative Federal and State effort. *Chevron et al* v. *Hammond, Governor of the State of Alaska et al,* 726 F2d 483, cert. den., 471 U.S. 1140, 105 S.Ct. 2686 (9th Cir. 1984). For example, section 402 of the statute (33 U.S.C. 1342) establishes the National Pollutant Discharge Elimination System, a regulatory program for regulating the discharge of pollutants into U.S. navigable waters. Minimum Federal standards apply to the discharge of certain pollutants, but the States have authority to establish and administer their own permit systems and to set standards stricter than the Federal ones. 33 U.S.C. sections 1342(b), 1370. Further, in the Declaration of Goals and Policy contained in section 101 of the FWPCA (33 U.S.C. 1251), Congress states that it is the policy of the Congress to recognize, preserve, and protect the primary responsibilities and rights of States to prevent, reduce, and eliminate pollution of land and water resources.

United States courts have long recognized the rights of States to make both U.S.-flag and foreign-flag vessels conform to "reasonable, nondiscriminatory conservation and environmental protection measures * * * imposed by a State." *Ray* v. *Atlantic Richfield,* 435 U.S. 151, at 164, 98 S.Ct. 988, at 997 (1973) (citations omitted). Also, section 311(o)(3) of the FWPCA contains express nonpreemption language. Therefore, a State standard setting more stringent planning requirements for tank vessel owners and operators in the regulating State's waters is encouraged under the FWPCA and is valid as long as the State requirement does not preclude compliance with the Federal requirements. Similarly, if a State chose to establish performance requirements for response to an oil spill, the Federal vessel response plan rules would not preclude that option. The Federal vessel response plan rules preempt State rules only to the extent that State rules may make it impossible to comply with Federal requirements. *Florida Lime and Avocado Growers* v. *Paul,* 373 U.S. 132, 83 S.Ct. 1210 (1963).

Two comments asked us to make it clear that the Federal On Scene Coordinator has ultimate authority to direct a Federally-managed spill response. Because we do not address performance criteria in the event of an actual response, this issue is beyond the scope of the vessel response plan rulemaking. The subject is better raised in the context of the Coast Guard and Environmental Protection Agency efforts to revise the National Contingency Plan.

One comment expressed concern that although the Coast Guard intends the vessel response plan rules to set out planning standards, a State may make the standard a performance standard. The comment cites § 88.46.070 Revised Code of Washington (West 1992) as an example of a State statute that allows the State to compel specific performance from an owner or operator under the Federal plan. The Washington State law says that any State-approved prevention or contingency plan is legally binding on the persons submitting it, and may be enforced in the State courts. The interpretation of Washington State laws and regulations is a matter for judicial resolution and is outside the scope of these regulations.

One comment noted that its existing response plans cost approximately $3,400 per vessel, that the State of Virginia charged $3,353 for plan review, and that a State review should be unnecessary once a plan is approved at the Federal level. The Coast Guard has addressed the cost of the vessel response plan rules in its Regulatory Impact Analysis. We note, however, that Congress has encouraged a State-Federal partnership regarding oil pollution prevention and response, and that the Coast Guard has not proposed a user fee for review of Federal response plans.

Environment

The Coast Guard prepared a preliminary Environmental Assessment (EA) for requirements under 311(j) of the FWPCA, and a separate one for Prince William Sound requirements under 5005. These documents were prepared in accordance with the Council on Environmental Quality regulations (40 CFR parts 1500–1508) and Commandant Instruction M16475.1B implementing the provisions of the National Environmental Policy Act (NEPA).

The Prince William Sound EA was revised entirely when section 352 of the Department of Transportation Appropriations Act dated 6 October 1992, in effect, made section 5005 of OPA 90 inapplicable to non-TAPS-trade vessels. The original language of section

5005 created special response plan provisions applicable to all tank vessels operating in Prince William Sound, including non-TAPS vessels. The EA prepared for 311(j) requirements was amended when section 5209(b) of the Coast Guard Authorization Act of 1992 date 4 November 1992, declared offshore supply vessels and certain fishing vessels not to be "tank vessels" for purposes of implementing the vessel response plan rule. We received no comments on the EAs.

The Coast Guard has identified and studied the relevant environmental issues and alternatives, and based on its assessment, does not expect this interim final rule to result in a significant impact on the quality of the human environment. Therefore, Findings of No Significant Impact (FONSIs) have been prepared. The revised and amended EAs and the FONSIs are available in the public docket. They will be revised if necessary based on the final rule.

List of Subjects in 33 CFR Part 155

Hazardous substances, Incorporation by reference, Oil pollution, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the U.S. Coast Guard amends 33 CFR part 155 as follows:

1. The authority citation for part 155 is revised to read as follows:

Authority: 33 U.S.C. 1231, 1321(j); 46 U.S.C. 3715; sec. 2, E.O. 12777, 56 FR 54757; 49 CFR 1.46. §§ 155.100–155.130, 155.350–155.400, 155.430, 155.440, 155.470, and 155.1010–155.1070 also issued under 33 U.S.C. 1903(b); and §§ 155.1110–155.1150 also issued under 33 U.S.C. 2735.

2. Section 155.140 is added to subpart A of part 155 to read as follows:

§ 155.140 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of the change in the **Federal Register** and make the material available to the public. All approved material is on file at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC, and at the U.S. Coast Guard, Marine Environmental Protection Division (G-MEP), room 2100, 2100 Second Street, SW., Washington, DC 20593-0001 and is available from the sources indicated in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this part and the sections affected are as follows:

American Society for Testing and Materials (ASTM) 1916 Race Street, Philadelphia, PA 19103.

ASTM F 631–80 (Reapproved 1985), Standard Method for Testing Full Scale Advancing Spill Removal Devices.	Appendix B.
ASTM F 715–81 (Reapproved 1986), Standard Methods of Testing Spill Control Barrier Membrane Materials.	Appendix B.
ASTM F 808–83 (1988), Standard Guide for Collecting Skimmer Performance Data in Uncontrolled Environments.	Appendix B.
ASTM F 989–86, Standard Test Methods for Spill Control Barrier Tension Members.	Appendix B.

Oil Companies International Marine Forum (OCIMF) 6th Floor, Portland House, Stag Place, London SW1E 5BH England.

Ship to Ship Transfer Guide (Petroleum), Second Edition, 1986	155.1035

3. Part 155 is amended by adding new subparts D and E to read as follows:

PART 155—OIL OR HAZARDOUS MATERIAL POLLUTION PREVENTION REGULATIONS FOR VESSELS

* * * * *

Subpart D—Response Plans

Sec.
155.1010 Purpose.
155.1015 Applicability.
155.1020 Definitions.
155.1025 Operating restrictions and interim operating authorization.
155.1026 Qualified individual and alternate qualified individual.
155.1030 General response plan requirements.
155.1035 Resonse plan requirements for manned vessels carrying oil as a primary cargo.
155.1040 Response plan requirements for unmanned tank barges carrying oil as a primary cargo.
155.1045 Response plan requirements for vessels carrying oil as a secondary cargo.
155.1050 Response plan development and evaluation criteria for vessels carrying groups I through IV petroleum oil as a primary cargo.
155.1052 Response plan development and evaluation criteria for vessels carrying group V petroleum oil as a primary cargo.
155.1054 Response plan development and evaluation criteria for vessels carrying non-petroleum oil as a primary cargo.
155.1055 Training.
155.1060 Drills.
155.1062 Inspection and maintenance of response resources.
155.1065 Plan submission, approval, and appeal procedures.
155.1070 Plan review, revision, amendment, and appeal procedures for vessels carrying oil as a primary cargo.

Subpart E—Additional Response Plan Requirements for Tankers Loading Cargo at a Facility Permitted Under the Trans-Alaska Pipeline Authorization Act

Sec.
155.1110 Purpose and applicability.
155.1115 Definitions.
155.1120 Operating restrictions and interim operating authorization.
155.1125 Additional response plan requirements.
155.1130 Requirements for prepositioned response equipment.
155.1135 Response plan development and evaluation criteria.
155.1140 Tankers contracting with a facility permitted under the Trans-Alaska Pipeline Authorization Act.
155.1145 Submission and approval procedures.
155.1150 Plan revision and amendment procedures.

Subpart D—Response Plans

§ 155.1010 Purpose.

The purpose of this subpart is to establish requirements for oil spill response plans for certain vessels. The planning criteria in this subpart are intended for use in response plan development and the identification of resources necessary to respond to the oil spill scenarios prescribed during the planning process. The development of a response plan prepares the vessel owner or operator and the vessel's crew to respond to an oil spill. The specific criteria for response resources and their arrival times are not performance standards. They are planning criteria based on a set of assumptions that may not exist during an actual oil spill incident.

§ 155.1015 Applicability.

(a) Except as provided in paragraph (c) of this section, this subpart applies to each vessel that is constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue, and that—

(1) Is a vessel of the United States;

(2) Operates on the navigable waters of the United States; or

(3) Transfers oil in a port or place subject to the jurisdiction of the United States.

(b) This subpart also applies to vessels which engage in oil lightering operations in the marine environment beyond the baseline from which the territorial sea is measured, when the cargo lightered is destined for a port or

place subject to the jurisdiction of the United States.

(c) This subpart does not apply to the following types of vessels:

(1) Public vessels and vessels deemed public vessels under 14 U.S.C. 827.

(2) Vessels that, although constructed or adapted to carry oil in bulk as cargo or cargo residue, are not storing or carrying oil in bulk as cargo or cargo residue.

(3) Dedicated response vessels when conducting response operations in a response area.

(4) Vessels of opportunity.

(5) Offshore supply vessels as defined in 46 U.S.C. 2101.

(6) Fishing or fishing tender vessels as defined in 46 U.S.C. 2101 of not more than 750 gross tons that transfer oil in bulk, without charge, to a fishing vessel owned by the same person who owns the transferring vessel.

(7) Foreign flag vessels engaged in innocent passage.

(d) Vessels of the United States covered by this subpart that are not operating within the navigable waters or the exclusive economic zone of the United States must meet all requirements of this subpart except for—

(1) Identifying and ensuring, through contract or other approved means, the availability of response resources including the shore based spill management team;

(2) Providing the geographic-specific appendices required in §§ 155.1035, 155.1040, or 155.1045, as appropriate;

(3) Identifying and designating a qualified individual and alternate qualified individual required in § 155.1026.

(e) A foreign flag vessel transiting internal waters of the United States en route to or from a Canadian port is not required to have a United States approved vessel response plan if the vessel—

(1) Is not conducting lightering or other oil transfer operations;

(2) Is not proceeding to or from a United States port or place;

(3) Submits to the United States Coast Guard a vessel response plan which has been approved by the Canadian Government under criteria which are substantially similar to those contained in this subpart; and

(4) Certifies in writing to the United States Coast Guard that—

(i) The Canadian Government has approved the plan;

(ii) The plan covers all geographic areas in the United States in which the vessel intends to transport oil in bulk as cargo; and

(iii) The identified spill response resources are capable and available to respond to a discharge of oil in United States waters.

§ 155.1020 Definitions.

Except as otherwise defined in this section, the definitions in § 155.110 apply to this subpart. For the purposes of this subpart only, the term:

Adverse weather means the weather conditions that will be considered when identifying response systems and equipment in a response plan for the applicable operating environment. Factors to consider include significant wave height, ice, temperature, weather-related visibility, and currents within the Captain of the Port (COTP) zone in which the systems or equipment are intended to function.

Average most probable discharge means a discharge of 50 barrels of oil from the vessel during oil transfer operations.

Bulk means any volume of oil carried in an integral tank of the vessel and oil transferred to or from a marine portable tank or independent tank while on board a vessel.

Captain of the Port (COTP) Zone means a zone specified in 33 CFR part 3 and, for coastal ports, the seaward extension of that zone to the outer boundary of the exclusive economic zone (EEZ).

Cargo means oil that is transported to and off-loaded at a destination by a vessel. It does not include—

(1) Oil carried in integral tanks, marine portable tanks, or independent tanks for use by machinery, helicopters, and boats carried aboard the vessel, or for use by helicopters that are directly supporting the vessel's primary operations; or

(2) Oil transferred between a towing vessel and a vessel in its tow to operate installed machinery.

Contract or other approved means includes—

(1) A written contractual agreement between a vessel owner or operator and an oil spill removal organization. The agreement must identify and ensure the availability of specified personnel and equipment required under this subpart within stipulated response times in the specified geographic areas;

(2) Certification by the vessel owner or operator that specified personnel and equipment required under this subpart are owned, operated, or under the direct control of the vessel owner or operator, and are available within stipulated response times in the specified geographic areas;

(3) Active membership in a local or regional oil spill removal organization that has identified specified personnel and equipment required under this subpart that are available to respond to a discharge within stipulated response times in the specified geographic areas;

(4) A document which—

(i) Identifies the personnel, equipment, and services capable of being provided by the oil spill removal organization within stipulated response times in the specified geographic areas;

(ii) Sets out the parties' acknowledgment that the oil spill response organization intends to commit the resources in the event of a response;

(iii) Permits the Coast Guard to verify the availability of the identified response resources through tests, inspections, and drills; and

(iv) Is referenced in the response plan; or

(5) With the written consent of the oil spill removal organization, the identification of an oil spill removal organization with specified equipment and personnel which are available within stipulated response times in the specified geographic areas. This paragraph is another approved means only for—

(i) A vessel carrying oil as secondary cargo to meet the requirements under § 155.1045(j)(3);

(ii) A barge operating on rivers and canals to meet the requirements for lightering capability under §§ 155.1050(m), 155.1052(g), and 155.1054(g);

(iii) A vessel to meet the salvage and firefighting requirements in §§ 155.1050(l), 155.1052(f), and 155.1054(f); and

(iv) A vessel to meet the resource requirements in §§ 155.1052(c) and 155.1054(c).

Dedicated response vessel means a vessel whose service is limited exclusively to oil and hazardous substance spill response-related activities, including spill recovery and transport, response-related escorting, deployment of spill response equipment, supplies, and personnel, and spill response-related training, testing, drills, and research.

Exclusive economic zone means the zone contiguous to the territorial sea of United States extending to a distance up to 200 nautical miles from the baseline from which the breadth of the territorial sea is measured.

Great Lakes means Lakes Superior, Michigan, Huron, Erie, and Ontario, their connecting and tributary waters, the Saint Lawrence River as far as Saint Regis, and adjacent port areas.

Higher volume port area means an area specified in § 155.1050(h).

Inland area means the area shoreward of the boundary lines defined in 46 CFR

part 7, except that in the Gulf of Mexico, it means the area shoreward of the lines of demarcation (COLREG lines) as defined in §§ 80.740 through 80.850 of this chapter. The inland area does not include the Great Lakes or rivers and canals.

Maximum extent practicable means the planned capability to respond to a worst case discharge in adverse weather, as contained in a response plan that meets criteria in this subpart or in a specific plan approved by the Coast Guard.

Maximum most probable discharge means a discharge of—

(1) 2,500 barrels of oil for vessels with an oil cargo capacity equal to or greater than 25,000 barrels; or

(2) 10% of the vessel's oil cargo capacity for vessels with a capacity of less than 25,000 barrels.

Nearshore area means the area extending seaward 12 miles from the boundary lines defined in 46 CFR part 7, except that in the Gulf of Mexico, it means the area extending seaward 12 miles from the line of demarcation (COLREG lines) as defined in §§ 80.740 through 80.850 of this chapter.

Non-persistent or Group I oil means a petroleum-based oil that, at the time of shipment, consists of hydrocarbon fractions—

(1) At least 50% of which by volume, distill at a temperature of 340 degrees C (645 degrees F); and

(2) At least 95% of which by volume, distill at a temperature of 370 degrees C (700 degrees F).

Non-petroleum oil means oil of any kind that is not petroleum-based. It includes, but is not limited to, animal and vegetable oils.

Ocean means the open ocean, offshore area, and nearshore area as defined in this subpart.

Offshore area means the area up to 38 nautical miles seaward of the outer boundary of the nearshore area.

Oil spill removal organization means an entity that provides response resources.

On-scene coordinator or OSC means the Federal official predesignated by the Coast Guard or Environmental Protection Agency to coordinate and direct Federal removal efforts at the scene of an oil or hazardous substance discharge as prescribed in the National Oil and Hazardous Substances Pollution Contingency Plan (National Contingency Plan) as published in 40 CFR part 300.

Open ocean means the area from 38 nautical miles seaward of the outer boundary of the nearshore area, to the seaward boundary of the exclusive economic zone.

Operating in compliance with the plan means operating in compliance with the provisions of this subpart including, ensuring the availability of the response resources by contract or other approved means and conducting the necessary training and drills.

Operator or vessel operator means any person, including, but not limited to, an owner or a demise charterer, responsible for operation of a vessel. The operator of a towing vessel is not, per se, considered the operator of a vessel being towed.

Owner or vessel owner means any person holding legal or equitable title to a vessel; provided, however, that a person holding legal or equitable title to a vessel solely as security is not the owner. In a case where a Certificate of Documentation has been issued, the owner is the person or persons whose name or names appear on the vessel's Certificate of Documentation provided, however, that where a Certificate of Documentation has been issued in the name of a president or secretary of an incorporated company under 46 U.S.C. 15, such incorporated company is the owner.

Persistent oil means a petroleum-based oil that does not meet the distillation criteria for a non-persistent oil. For the purposes of this subpart, persistent oils are further classified based on specific gravity as follows:

(1) Group II—specific gravity less than .85.

(2) Group III—specific gravity between .85 and less than .95.

(3) Group IV—specific gravity .95 to and including 1.0.

(4) Group V—specific gravity greater than 1.0.

Qualified individual alternate qualified individual means a shore-based representative of a vessel owner or operator who meets the requirements of 33 CFR 155.1026.

Response area means the area designated by the Federal On-Scene Coordinator in which spill response activities are occurring.

Response resources means the personnel, equipment, supplies, and other capability necessary to perform the response activities identified in a response plan.

Rivers and canals means bodies of water confined within the outer boundaries of the inland area, including the Intracoastal Waterways and other waterways artificially created for navigation, that have a project depth of 12 feet or less.

Spill management team means the personnel identified to staff the organizational structure identified in a response plan to manage response plan implementation.

Substantial threat of such a discharge means any incident involving a vessel that may create a significant risk of discharge of cargo oil. Such incidents include, but are not limited to groundings, standings, collisions, hull damage, fire, explosion, loss of propulsion, flooding, on-deck spills, or other similar occurrences.

Tanker means a self-propelled tank vessel constructed or adapted primarily to carry oil or hazardous material in bulk in the cargo spaces.

Vessels carrying oil as a primary cargo means all vessels except dedicated response vessels carrying oil in bulk as cargo or cargo residue that have a Certificate of Inspection issued under 46 CFR subchapter D, Certification of Compliance, or Tank Vessel Examination Letter.

Vessels carrying oil as a secondary cargo means vessels, other than vessels carrying oil as a primary cargo, carrying oil in bulk as cargo or cargo residue pursuant to a permit issued under 46 CFR subchapter D (30.01–5), 46 CFR subchapter H (70.50–30), or 46 CFR subchapter I (90.05–35), an International Oil Pollution Prevention (IOPP) or Noxious Liquid Substance (NLS) certificate required by 33 CFR 151.33 or 151.35; a dedicated response vessel carrying oil as cargo outside a response area; or any uninspected vessel that carries oil in bulk as cargo or cargo residue.

Vessel of opportunity means a vessel engaged in spill response activities that is normally and substantially involved in activities other than spill response and not a vessel carrying oil as a primary cargo.

Worst case discharge means a discharge in adverse weather conditions of a vessel's entire oil cargo.

§ 155.1025 Operating restrictions and interim operating authorization.

(a) Beginning on February 19, 1993, the owner or operator of each vessel to which this subpart applies shall submit or have submitted a response plan meeting the requirements of § 155.1030 prior to—

(1) Handling, storing, or transporting oil on the navigable waters of the United States;

(2) Transferring oil in any other port or place subject to U.S. jurisdiction; or

(3) Engaging in lightering operations in the marine environment beyond the baseline from which the territorial sea is measured, when the cargo lightered is destined for a port or place subject to the jurisdiction of the United States.

(b) Beginning on August 19, 1993, vessels subject to this subpart may not perform the functions listed in paragraph (a) of this section unless operating in compliance with a plan approved under § 155.1065.

(c) Notwithstanding the requirements of paragraph (b) of this section, a vessel may continue to handle, store, transport, transfer, or lighter oil for 2 years after the date of submission of a response plan, pending approval of that plan, if the vessel owner or operator has received written authorization for continued operations from the U.S. Coast Guard. To receive this authorization, the vessel owner or operator must certify in writing to the U.S. Coast Guard that the owner or operator has identified and ensured the availability of, through contract or other approved means, the necessary private response resources to respond, to the maximum extent practicable, to a worst case discharge or substantial threat of such a discharge from their vessel as described in §§ 155.1050, 155.1052, or 155.1054, as appropriate.

(d) With respect to paragraph (c) of this section, a vessel may not continue to handle, store, transport, transfer, or lighter oil if—

(1) The U.S. Coast Guard determines that the response resources identified in the vessel's certification statement do not meet the requirements of this subpart;

(2) The contracts or agreements cited in the vessel's certification statement are no longer valid;

(3) The vessel is not operating in compliance with the submitted plan; or

(4) The period of this authorization expires.

(e) An owner or operator of a vessel may be authorized by the applicable COTP to have that vessel make one voyage to transport or handle oil in a port not covered by the vessel's response plan. All requirements of this subpart must be met for any subsequent voyages to that port. To be authorized, the vessel owner or operator shall certify to the COTP in writing, prior to the vessel's entry into the COTP zone, that—

(1) A response plan meeting the requirements of this subpart (except for the applicable geographic specific appendix) or a shipboard oil pollution emergency plan approved by the flag state that meets the requirements of Regulation 26 of Annex I to the International Convention for the Prevention of Pollution from Ships, 1973 as modified by the Protocol of 1978 relating thereto, as amended (MARPOL 73/78), is aboard the vessel;

(2) The vessel owner or operator has identified and informed the vessel master and the COTP of the designated qualified individual prior to the vessel's entry into the COTP zone; and

(3) The vessel owner or operator has identified and ensured the availability of, through contract or other approved means, the private response resources necessary to respond, to the maximum extent practicable under the criteria in §§ 155.1050, 155.1052, or 155.1054, as appropriate, to a worst case discharge or substantial threat of discharge from the vessel in the applicable COTP zone.

§ 155.1026 Qualified individual and alternate qualified individual.

(a) The response plan must identify a qualified individual and at least one alternate who meet the requirements of this section.

(b) The qualified individual and alternate—

(1) speak fluent English;

(2) Except as set out in paragraph (c) of this section, be located in the United States;

(3) Be available on a 24-hour basis;

(4) Be familiar with the implementation of the vessel response plan; and

(5) Be trained in the responsibilities of the qualified individual under the response plan.

(c) For Canadian flag vessels while operating on the Great Lakes or the Strait of Juan de Fuca and Puget Sound, WA, the qualified individual may be located in Canada if he or she meets all other requirements in paragraph (b) of this section.

(d) The owner or operator shall provide each qualified individual and alternate qualified individual identified in the plan with a document designating them as a qualified individual and specifying their full authority to—

(1) Activate and engage in contracting with oil spill removal organization(s);

(2) Act as a liaison with the predesignated Federal On-Scene Coordinator (OSC); and

(3) Obligate funds required to carry out response activities.

(e) The owner or operator of a vessel may designate an organization to fulfill the role of the qualified individual and alternate qualified individual. The organization must then identify a qualified individual and at least one alternate qualified individual who meet the requirements of this section. The vessel owner or operator is required to list in the response plan the organization, the person identified as the qualified individual, the person or persons identified as the alternate qualified individual(s).

(f) The qualified individual is not responsible for—

(1) The adequacy of response plans prepared by the owner or operator; or

(2) Contracting or obligating funds for response resources beyond the full authority contained in their designation from the owner or operator of the vessel.

(g) The liability of a qualified individual is considered to be in accordance with the provisions of 33 U.S.C. 1321(c)(4).

§ 155.1030 General response plan requirements.

(a) The plan must cover all geographic areas of the United States in which the vessel intends to handle, store, or transport oil, including port areas and offshore transit areas.

(b) The plan must be written in English and, if applicable, in a language that is understood by the crew members with responsibilities under the plan.

(c) A response plan for a vessel carrying oil as a primary or a secondary cargo under §§ 155.1035 and 155.1045 and a response plan for an unmanned tank barge under § 155.1040 must be divided into the following sections:

(1) General information and introduction.

(2) Notification procedures.

(3) Shipboard spill mitigation procedures.

(4) Shore-based response activities.

(5) List of contacts.

(6) Training procedures.

(7) Drill procedures.

(8) Plan review and update procedures.

(9) Onboard notification checklist and emergency procedures (unmanned tank barges only).

(10) Geographic-specific appendix for each COTP zone in which the vessel operates.

(11) For vessels carrying oil as a primary cargo and unmanned tank barges, an appendix for vessel-specific information for each vessel covered by the plan.

(d) A vessel owner or operator with multiple vessels may submit one plan with a separate vessel-specific appendix for each vessel covered by the plan and a separate geographic-specific appendix for each COTP zone in which the vessel(s) will operate.

(e) The required contents for each section of the plan are contained in §§ 155.1035, 155.1040, and 155.1045 as applicable to the type or service of the vessel.

(f) The response plan for a dedicated response vessel operating outside of the response area must follow the same format as that for a vessel carrying oil as a secondary cargo under § 155.1045.

(g) A response plan must be divided into the sections described in paragraph (c) of this section unless the plan was submitted on or before February 18, 1993. A plan submitted on or before February 18, 1993 that is not divided into the sections described in paragraph (c) of this section must be supplemented with a cross-reference table to identify the location of the information required by this subpart.

(h) The information contained in a response plan must be consistent with the—

(1) National Oil and Hazardous Substances Pollution Contingency Plan (NCP) (40 CFR part 300) and the Area Contingency Plan(s) (ACP) in effect on the date six months prior to the submission date of the response plan; or

(2) More recent NCP and ACP(s).

(i) Copies of the submitted and approved response plan must be available as follows:

(1) The owner or operator of all vessels, except for unmanned tank barges, shall ensure that one English language copy of the plan sections listed in paragraph (c) (1), (2), (3), (5), (10) and (11) of this section and the U.S. Coast Guard approval letter are maintained aboard the vessel. If applicable, additional copies of the required plan sections must be in the language understood by crew members with responsibilities under the plan and maintained aboard the vessel. The owner or operator of all unmanned tank barges shall ensure that one English language copy of the plan section listed in paragraph (c)(9) of this section and the U.S. Coast Guard approval letter are maintained aboard the barge.

(2) The vessel owner or operator shall maintain a current copy of the entire plan, and ensure that each person identified as a qualified individual and alternate qualified individual in the plan has a current copy of the entire plan.

(j) An owner or operator may address the provisions of Regulation 26 of Annex I to the International Convention for the Prevention of Pollution from Ships, 1973 as modified by the Protocol of 1978 (MARPOL) if the owner or operator—

(1) Develops a vessel response plan under § 155.1030 and §§ 155.1035, 155.1040, or 155.1045 of subpart D, as applicable;

(2) Expands the plan to cover discharges of all oils defined under MARPOL, including fuel oil (bunker) carried onboard. The owner or operator is not required to include these additional oils in calculating the planning volumes that are used to determine the quantity of response resources that the owner or operator must ensure through contract or other approved means;

(3) Provides the information on authorities or persons to be contacted in the event of an oil pollution incident as required by Regulation 26. This information must include—

(i) An appendix containing coastal State contacts for those coastal States the exclusive economic zone of which the vessel regularly transits. The appendix should list those agencies or officials of administrations responsible for receiving and processing pollution incident reports; and

(ii) An appendix of port contacts for those ports at which the vessel regularly calls; and

(4) Expands the plan to include the procedures and point of contact on the ship for coordinating shipboard activities with national and local authorities in combating an oil spill incident. The plan should address the need to contact the coastal State for authorization prior to undertaking mitigating actions.

§ 155.1035 Response plan requirements for manned vessels carrying oil as a primary cargo.

(a) *General information and introduction.* This section of the response plan must include—

(1) The vessel's name, country or registry, call sign, and official number. If the plan covers multiple vessels, this information must be provided for each vessel;

(2) The name, address, and procedures for contacting the vessel's owner or operator on a 24-hour basis;

(3) A list of the COTP zones in which the vessel intends to handle, store, or transport oil;

(4) A table of contents or index of sufficient detail to permit personnel with responsibilities under the response plan to locate the specific sections of the plan; and

(5) A record of change(s) page to record information on plan reviews, updates or revisions.

(b) *Notification procedures.* This section of the response plan must include the following notification information:

(1) A checklist with all notifications in order of priority to be made by shipboard or shore-based personnel and the information required for those notifications. Notifications must include those required by—

(i) MARPOL 73/78 and 33 CFR part 153; and

(ii) Any applicable State.

(2) Identification of the person(s) to be notified of a discharge or substantial threat of a discharge of oil. If the notifications vary due to vessel location, the persons to be notified also must be identified in a geographic-specific appendix. This section must separately identify—

(i) The individual(s) or organization(s) to be notified by shipboard personnel; and

(ii) The individual(s) or organization(s) to be notified by shore-based personnel.

(3) The procedures for notifying the qualified individual(s) designated by the vessel's owner or operator.

(4) Descriptions of the primary and, if available, secondary communications methods by which the notifications will be made.

(5) The information that is to be provided in the initial and any followup notifications required by paragraph (b)(1) of this section.

(i) The initial notification may be submitted in accordance with IMO Resolution A648(16) "General Principles for Ship Reporting Systems and Ship Reporting Requirements". It must include at least the following information:

(A) Vessel name, country of registry, call sign, and official number (if any);

(B) Date and time of the incident;

(C) Location of the incident;

(D) Course, speed, and intended track of vessel;

(E) Radio station(s) and frequencies guarded;

(F) Date and time of next report;

(G) Type and quantity of oil onboard;

(H) Nature and detail of defects, deficiencies, and damage (e.g. grounding, collision, hull failure, etc.);

(I) Details of pollution, including estimate of oil discharged or threat of discharge;

(J) Weather and sea conditions on scene;

(K) Ship size and type;

(L) Actions taken or planned by persons on scene;

(M) Current conditions of the vessel; and

(N) Number of crew and details of injuries, if any.

(ii) After the transmission of the initial notification, as much as possible of the information essential for the protection of the marine environment as is appropriate to the incident must be reported in a follow-up report. This information must include—

(A) Additional details on the type of cargo onboard;

(B) Additional details on the condition of the vessel and ability of transfer cargo, ballast, and fuel;

(C) Additional details on the quantity, extent and movement of the pollution

and whether the discharge is continuing;

(D) Any changes in the on-scene weather or sea conditions; and

(E) Actions being taken with regard to the discharge and the movement of the ship.

(6) Identification of the person(s) to be notified of a vessel casualty potentially affecting the seaworthiness of a vessel and the information to be provided by the vessel's crew to shore-based personnel to facilitate the assessment of damage stability and stress.

(c) *Shipboard spill mitigation procedures.* This section of the response plan must include—

(1) Procedures for the crew to mitigate or prevent any discharge or a substantial threat of such discharge of oil resulting from shipboard operational activities associated with internal or external cargo transfers. Responsibilities of vessel personnel should be identified by job title. These procedures must address personnel actions in the event of a—

(i) Transfer system leak;

(ii) Tank overflow; or

(iii) Suspected cargo tank or hull leak;

(2) Procedures in the order of priority for the crew to mitigate or prevent any discharge or a substantial threat of such a discharge in the event of the following casualties or emergencies:

(i) Grounding or stranding.

(ii) Collision.

(iii) Explosion or fire, or both.

(iv) Hull failure.

(v) Excessive list.

(vi) Equipment failure (e.g. main propulsion, steering gear, etc.).

(3) Damage stability and hull stress considerations when performing shipboard mitigation measures. This section must identify and describe—

(i) Activities in which the crew is trained and qualified to execute absent shore-based support or advice; and

(ii) The information to be collected by the vessel's crew to facilitate shore-based assistance;

(4) Location of vessel plans necessary to perform salvage, stability, and hull stress assessments. A copy of these plans must be maintained ashore by either the vessel owner or operator or the vessel's recognized classification society unless the vessel has prearranged for a shore-based damage stability and residual strength calculation program with the vessel's baseline strength and stability characteristics pre-entered. The response plan must indicate the shore location and 24-hour access procedures of the calculation program or the following plans:

(i) General arrangement plan.

(ii) Midship section plan.

(iii) Lines plan or table of offsets.

(iv) Tank tables.

(v) Load line assignment.

(vi) Light ship characteristics;

(5) The procedures for both internal and ship-to-ship transfers of cargo in an emergency:

(i) The format and content of the ship-to-ship transfer procedures must be consistent with the Ship to Ship Transfer Guide (Petroleum) published jointly by the International Chamber of Shipping and the Oil Companies International Marine Forum (OCIMF).

(ii) The procedures must identify the response resources necessary to carry out the transfers, including—

(A) Fendering equipment (ship-to-ship only);

(B) Transfer hoses and connection equipment;

(C) Portable pumps and ancillary equipment;

(D) Lightering and mooring masters (ship-to-ship only); and

(E) Vessel and barge brokers (ship-to-ship only).

(iii) Reference can be made to a separate oil transfer procedure and lightering plan carried aboard the vessel, provided that safety considerations are summarized in the response plan.

(iv) The location of all equipment and fittings, if any, carried aboard the vessel to perform such transfers must be identified;

(6) The procedures and arrangements for emergency towing, including the rigging and operation of any emergency towing equipment aboard the vessel;

(7) The location, crew responsibilities, and procedures for use of shipboard equipment which may be carried to mitigate an oil discharge;

(8) The crew responsibilities, if any, for recordkeeping and sampling of spilled oil. Any requirements for sampling must address safety procedures to be followed by the crew; and

(9) The crew's responsibilities, if any, to initiate a response and to supervise shore-based response resources.

(d) *Shore-based response activities.* This section of the response plan must include the following information:

(1) The qualified individual's responsibilities and authority, including immediate communication with the Federal OSC and notification of the oil spill removal organization(s) identified in the plan.

(2) If applicable, procedures for transferring responsibility for direction of response activities from vessel personnel to the shore-based spill management team.

(3) The procedures for coordinating the actions of the vessel owner or operator or qualified individual with the predesignated Federal On-Scene Coordinator responsible for overseeing or directing those actions.

(4) The organizational structure that will be used to manage the response actions, including—

(i) Command and control;

(ii) Public information;

(iii) Safety;

(iv) Liaison with government agencies;

(v) Spill response operations;

(vi) Planning;

(vii) Logistics support; and

(viii) Finance.

(5) The responsibilities and duties of each oil spill management team member within the organizational structure identified in paragraph (d)(4) of this section.

(e) *List of contacts.* The name, location, and 24-hour contact information for the following key individuals and organizations must be included in this section of the response plane or, if more appropriate, in a geographic-specific appendix and referenced in this section of the plan:

(1) Vessel owner or operator.

(2) Qualified individual and alternate qualified individual for the vessel's area of operation.

(3) Applicable insurance representatives or surveyors for the vessel's area of operation.

(4) The vessel's local agent(s) for the vessel's area of operation.

(5) Person(s) to notify for activation of the oil spill removal organization(s) and the spill management team for the three spill scenarios identified in paragraph (i)(5) of this section for the vessel's area of operation.

(6) Person(s) to obtain the equipment listed in paragraph (c)(5)(ii) of this section.

(f) *Training procedures.* This section of the response plan must address the training procedures and programs of the vessel owner or operator to meet the requirements in § 155.1055.

(g) *Drill procedures.* This section of the response plan must address the drill program to be carried out by the vessel owner or operator to meet the requirements in § 155.1060.

(h) *Plan review and update procedures.* This section of the response plan must address—

(1) The procedures to be followed by the vessel owner or operator to meet the requirements of § 155.1070; and

(2) The procedures to be followed for any post-discharge review of the plan to evaluate and validate its effectiveness.

(i) *Geographic-specific appendices for each COTP zone in which a vessel operates.* A geographic-specific

appendix must be included for each COTP zone identified. The appendices must include the following information:

(1) A list of the geographic areas (port areas, rivers and canals, Great Lakes, inland, nearshore, offshore, and open ocean areas) in which the vessel intends to handle, store, or transport oil within the applicable COTP zone.

(2) The volume and type of oil on which the required level of response resources are calculated if different from that identified in § 155.1035(j)(3).

(3) Required Federal or State notifications applicable to the geographic areas in which a vessel operates.

(4) Identification of the qualified individuals.

(5) Identification of the oil spill removal organization(s) and the spill management team that are identified and ensured available, through contract or other approved means, to respond to the following spill scenarios:

(i) Average most probable discharge.

(ii) Maximum most probable discharge.

(iii) Worst case discharge.

(6) The organization(s) identified to meet the requirements of paragraph (i)(5) of this section must be capable of providing the equipment and supplies necessary to meet the requirements of §§ 155.1050, 155.1052, and 155.1054, as appropriate, and sources of trained personnel to continue operation of the equipment and staff the oil spill removal organization(s) and spill management team identified for the first 7 days of the response.

(7) The appendix must list the response resources and related information required under §§ 155.1050, 155.1052, 155.1054, and 155.1125 and appendix B of this part, as appropriate.

(8) If an oil spill removal organization(s) has been evaluated by the Coast Guard and their capability has been determined to equal or exceed the response capability needed by the vessel, the appendix may identify only the organization and their applicable classification and not the information required in paragraph (i)(7) of this section.

(9) The appendix must also separately list the companies identified to provide the salvage, vessel firefighting, lightering, and, if applicable, dispersant capabilities required in this subpart.

(j) *Appendices for vessel-specific information.*.This section of the response plan must include for each vessel covered by the plan the following information:

(1) List of the vessel's principal characteristics.

(2) Capacities of all cargo, fuel, lube oil, ballast, and fresh water tanks.

(3) The total volume and type(s) of oil cargo that would be involved in the—

(i) Maximum most probable discharge; and

(ii) Worst case discharge.

(4) Diagrams showing location of all tanks.

(5) General arrangement plan (can be maintained separately aboard the vessel providing the response plan identifies the location).

(6) Midships section plan (can be maintained separately aboard the vessel providing the response plan identifies the location).

(7) Cargo and fuel piping diagrams and pumping plan, as applicable (can be maintained separately aboard the vessel providing the response plan identifies the location).

(8) Damage stability data (can be maintained separately providing the response plan identifies the location).

(9) Location of cargo and fuel stowage plan for vessel (normally maintained separately aboard the vessel).

(10) Location of information on the name, description, physical and chemical characteristics, health and safety hazards, and spill and firefighting procedures for the oil cargo aboard the vessel. A material safety data sheet meeting the requirements of 29 CFR 1910.1200, cargo information required by 33 CFR 154.310, or equivalent will meet this requirement and can be maintained separately.

§ 155.1040 Response plan requirements for unmanned tank barges carrying oil as a primary cargo.

(a) *Onboard notification checklist and emergency procedures.* This portion of the response plan must be maintained in the documentation container aboard the unmanned barge. The complete response plan, including the additional sections described in paragraphs (b) through (k) of this section may be maintained elsewhere. The owner or operator of an unmanned tank barge subject to this section shall provide the personnel of the towing vessel, fleeting area, or facility that the barge may be moored at with the information required by this paragraph (a) and the responsibilities that the plan indicates will be carried out by these personnel. The onboard notification checklist and emergency procedures must include—

(1) The name, address, and procedure for contacting the vessel's owner or operator on a 24-hour basis;

(2) The name and procedures for contacting a primary qualified individual and at least one alternate on a 24-hour basis;

(3) The toll-free number of the National Response Center;

(4) The list of information to be provided in the notification by the reporting personnel; and

(5) A statement of responsibilities of and actions to be taken by reporting personnel after an oil discharge or substantial threat of such discharge.

(b) *General information and introduction.* This section of the response plan must include—

(1) A list of tank barges covered by the plan and their official numbers;

(2) The name, address, and procedures for contacting the barge's owner or operator on a 24-hour basis;

(3) A list of the COTP zones in which the tank barges covered by the plan intend to handle, store, or transport oil;

(4) A table of contents or index of sufficient detail to permit personnel with responsibilities under the response plan to locate the specific sections of the plan; and

(5) A record of change(s) page used to record information on plan reviews, updates or revisions.

(c) *Notification procedures.* This section of the response plan must include the following notification information:

(1) A checklist with all notifications in the order of priority and the information required for those notifications to be made by the—

(i) Towing vessel;

(ii) Vessel owner or operator; or

(iii) Qualified individual.

The checklist must include notifications required by 33 CFR part 153 and any applicable State.

(2) Identification of the person(s) to be notified of a discharge or substantial threat of a discharge of oil. If the notifications vary due to the location of the barge, the persons to be notified also must be identified in a geographic-specific appendix. This section must separately identify—

(i) The individual(s) or organization(s) to be notified by the towing vessel; and

(ii) The individual(s) or organization(s) to be notified by the barge owner or operator.

(3) The procedures for notifying the qualified individuals designated by the barge's owner or operator.

(4) Identification of the primary and, if available, secondary communications methods by which the notifications will be made.

(5) The information that is to be provided in the initial and any follow-up notifications required by paragraph (c)(1) of this section.

(i) The initial notification information must include at least the following information:

(A) Towing vessel name (if applicable);
(B) Tank barge name, country of registry, and official number;
(C) Date and time of the incident;
(D) Location of the incident;
(E) Course, speed, and intended track of towing vessel (if applicable);
(F) Radio station(s) frequencies guarded by towing vessel (if applicable);
(G) Date and time of next report;
(H) Type and quantity of oil onboard;
(I) Nature and details of defects, deficiencies, and damage (e.g., grounding, collision, hull failure etc.);
(J) Details of pollution, including estimate of oil discharged or threat of discharge;
(K) Weather and sea conditions on scene;
(L) Barge size and type;
(M) Actions taken or planned by persons on scene;
(N) Current condition of the barge; and
(O) Details of injuries, if any.
(ii) After the transmission of the initial notification, as much as possible of the information essential for the protection of the marine environment as is appropriate to the incident must be reported in a follow-up report. This information must include:
(A) Additional details on the type of cargo onboard;
(B) Additional details on the condition of the barge and ability to transfer cargo, ballast, and fuel;
(C) Additional details on the quantity, extent and movement of the pollution and whether the discharge is continuing;
(D) Any changes in the on-scene weather or sea conditions; and
(E) Actions being taken with regard to the discharge and the movement of the ship.
(d) *Shipboard spill mitigation procedures.* This section of the response plan must include—
(1) Procedures to be followed by the tankerman, as defined in 46 CFR 35.35–1, to mitigate or prevent any discharge or a substantial threat of such a discharge of oil resulting from operational activities and casualties. These procedures must address personnel actions in the event of a—
(i) Transfer system leak;
(ii) Tank overflow; or
(iii) Suspected cargo tank or hull leak;
(2) Procedures in the order of priority for the towing vessel or barge owner or operator to mitigate or prevent any discharge or a substantial threat of such a discharge of oil in the event of the following casualties or emergencies:
(i) Grounding or stranding.
(ii) Collision.
(iii) Explosion or fire, or both.
(iv) Hull failure.
(v) Excessive list.
(3) Damage stability, if applicable, and hull stress considerations when performing onboard mitigation measures. This section must identify and describe—
(i) Activities in which the towing vessel crew or tankerman is trained and qualified to execute absent shore-based support or advice;
(ii) The individuals who shall be notified of a casualty potentially affecting the seaworthiness of the barge; and
(iii) The information that must be provided by the towing vessel to facilitate the assessment of damage stability and stress;
(4) Location of barge plans necessary to perform salvage, stability, and hull stress assessments. A copy of these barge plans must be maintained ashore by either the barge owner or operator or the vessel's recognized classification society. The response plan must indicate the shore location and 24-hour access procedures of the following plans:
(i) General arrangement plan.
(ii) Midship section plan.
(iii) Lines plan or table of offsets, as available.
(iv) Tank tables;
(5) The procedures for both internal and ship-to-ship transfers of cargo in an emergency;
(i) The procedures must identify the response resources necessary to carry out the transfers, including—
(A) Fendering equipment (ship-to-ship only);
(B) Transfer hoses and connection equipment;
(C) Portable pumps and ancillary equipment; and
(D) Lightering vessels (ship-to-ship only).
(ii) Reference can be made to separate oil transfer procedures or a lightering plan provided that safety considerations are summarized in the response plan.
(iii) The location of all equipment and fittings, if any, to perform such transfers must be identified;
(6) The procedures and arrangements for emergency towing, including the rigging and operation of any emergency towing equipment aboard the barge;
(7) The location and procedures for use of equipment stowed aboard either the barge or towing vessel to mitigate an oil discharge; and
(8) The responsibilities of the towing vessel crew and facility or fleeting area personnel, if any, to initiate a response and supervise shore-based response resources.
(e) *Shore-based response activities.* This section of the response plan must include the following information:
(1) The qualified individual's responsibilities and authority, including immediate communication with the Federal On-Scene Coordinator (OSC) and notification of the oil spill removal organization(s) identified in the plan.
(2) The procedures for coordinating the actions of the barge owner or operator or qualified individual with the action of the predesignated Federal OSC responsible for overseeing or directing those actions.
(3) The organizational structure that will manage the barge owner or operator's response actions including—
(i) Command and control;
(ii) Public information;
(iii) Safety;
(iv) Liaison with government agencies;
(v) Spill response operations;
(vi) Planning;
(vii) Logistics support; and
(viii) Finance.
(4) The responsibilities and duties of each oil spill management team member within the organizational structure identified in paragraph (e)(3) of this section.
(f) *List of contacts.* The name, location, and 24-hour contact information for the following key individuals and organizations must be included in this section of the response plan or, if more appropriate, in a geographic-specific appendix and referenced in this section of the plan:
(1) Barge owner or operator.
(2) Qualified individual and alternate qualified individual for the tank barge's area of operation.
(3) Applicable insurance representatives or surveyors for the barge's area(s) of operation.
(4) Person(s) to notify for activation of the response resources identified in paragraph (j)(5) of this section for the barge's area(s) of operation.
(5) Person(s) to obtain the equipment listed in paragraph (d)(5)(ii) of this section.
(g) *Training procedures.* This section of the response plan must address the training procedures and programs of the barge owner or operator to meet the requirements in § 155.1055.
(h) *Drill procedures.* This section of the response plan must address the drill program carried out by the barge owner or operator to meet the requirements in § 155.1060.
(i) *Plan review and update procedures.* This section of the response plan must address—
(1) The procedures to be followed by the barge owner or operator to meet the requirements of § 155.1070; and

(2) The procedures to be followed for any post-discharge review of the plan to evaluate and validate its effectiveness.

(j) *Geographic-specific appendices for each COTP zone in which a tank barge operates.* A geographic-specific appendix must be included for each COTP zone identified. The appendices must include the following information:

(1) A list of the geographic areas (port areas, rivers and canals, Great Lakes, inland, nearshore, offshore, and open ocean areas) in which the barge intends to handle, store, or transport oil within the applicable COTP zone.

(2) The volume and type of oil on which the required level of response resources are calculated if different from that identified in § 155.1040(k)(2).

(3) Required Federal or State notifications applicable to the geographic areas in which the barge operates.

(4) Identification of the qualified individuals.

(5) Identification of the oil spill removal organization(s) and spill management team that are identified and ensured available, through contract or other approved means, to provide the response resources necessary to respond to the following spill scenarios;

(i) An average most probable discharge.

(ii) A maximum most probable discharge.

(iii) A worst case discharge to the maximum extent practicable.

(6) The organization(s) identified to meet the provisions of paragraph (j)(5) of this section must be capable of providing the equipment and supplies necessary to meet the provisions of §§ 155.1050, 155.1052, and 155.1054 of this subpart, as appropriate, and sources of trained personnel to continue operation of the equipment and staff the oil spill removal organization(s) and spill management team identified for the first seven days of the response.

(7) The appendix must list the response resources and related information required under §§ 155.1050, 155.1052, 155.1054 and appendix B of this part, as appropriate.

(8) If the oil spill removal organization(s) providing the necessary response resources has been evaluated by the Coast Guard and their capability has been determined to equal or exceed the response capability needed by the vessel, the appendix may identify only the organization and their applicable classification and not the information required in paragraph (j)(7) of this section.

(9) The appendix must also separately list the companies identified to provide the salvage, barge firefighting, lightering, and, if applicable, dispersant capabilities required in this subpart.

(k) *Appendices for barge-specific information.* Because many of the tank barges covered by a response plan may be of the same design, this information does not need to be repeated provided the plan identifies the tank barges to which the same information would apply. The information must be part of the response plan unless specifically noted. This section of the plan must include for each barge covered by the plan the following information:

(1) Capacities of all cargo, fuel, lube oil, and ballast tanks.

(2) The total volumes and types(s) of oil cargo that would be involved in the—

(i) Maximum most probable discharge; and

(ii) Worst case discharge.

(3) Diagrams showing location of all tanks aboard the barge.

(4) General arrangement plan (can be maintained separately providing that the location is identified).

(5) Midships section plan (can be maintained separately providing that the location is identified).

(6) The organization(s) identified to meet the provisions of paragraph (j)(5) of this section must be capable of providing the equipment and supplies necessary to meet the provisions of §§ 155.1050, 155.1052, and 155.1054 of this subpart, as appropriate, and sources of trained personnel to continue operation of the equipment and staff the oil spill removal organization(s) and spill management team identified for the first seven days of the response.

(7) Damage stability data, if applicable.

(8) Location of cargo and fuel stowage plan for barge(s) (normally maintained separately).

(9) Location of information on the name, description, physical and chemical characteristics, health and safety hazards, and spill and firefighting procedures for the oil cargo aboard the barge. A material safety data sheet meeting the requirements of 29 CFR 1910.1200, cargo information required by 33 CFR 154.310, or equivalent will meet this requirement and can be maintained separately.

§ 155.1045 Response plan requirements for vessels carrying oil as a secondary cargo.

(a) The vessel owner or operator must develop their plan based on the total volume of oil carried in bulk as cargo. For vessels that transfer a portion of their fuel as cargo, 25% of the fuel capacity of the vessel plus the capacity of any oil cargo tank(s) will be assumed to be the cargo volume for determining applicable response plan requirements unless the vessel owner or operator indicates otherwise. A vessel owner or operator can use a volume less than 25% if he or she submits historical data with the plan that substantiates the transfer of a lower percentage of its fuel capacity between refuelings.

(b) *General information and introduction.* This section of the response plan must include—

(1) The vessel's name, country of registry, call sign, and official number. If the plan covers multiple vessels, this information must be provided for each vessel;

(2) The name, address, and procedures for contacting the vessel's owner or operator on a 24-hour basis;

(3) Identification of the geographic areas covered by the plan. The plan must identify the COTP zones that it covers. The plan must cover all COTP zones in which the vessel intends to handle, store, or transport oil, including port areas and offshore transit areas within the exclusive economic zone. A geographic-specific appendix must be included for each COTP zone identified;

(4) A table of contents or index of sufficient detail to permit personnel with responsibilities under the response plan to locate the specific sections of the plan; and

(5) A record of change(s) page used to record information on plan updates or revisions.

(c) *Notification procedures.* This section of the response plan must include the following notification information:

(1) A checklist with all notifications in the order of priority to be made by shipboard or shore-based personnel and the information required for those notifications. Notifications must include those required by—

(i) MARPOL 73/78 and 33 CFR part 153; and

(ii) Any applicable State.

(2) Identification of the person(s) to be notified of a discharge or substantial threat of discharge of oil. If notifications vary due to vessel location, the person(s) to be notified also must be identified in a geographic-specific appendix. This section must separately identify—

(i) The individual(s) or organization(s) to be notified by shipboard personnel; and

(ii) The individual(s) or organization(s) to be notified by shore-based personnel.

(3) The procedures for notifying the qualified individual and alternate qualified individual.

(4) Descriptions of the primary and, if available, secondary communication methods by which the notifications will be made.

(5) The information that is to be provided in the initial and any follow-up notifications required by paragraph (c)(1) of this section.

(i) The initial notification may be submitted in accordance with IMO Resolution A648(16) "General Principles for Ship Reporting Systems and Ship Reporting Requirements". It must include at least the following information:

(A) Vessel name, country of registry, call sign, and official number (if any);

(B) Date and time of the incident;

(C) Location of the incident;

(D) Course, speed, and intended track of vessel;

(E) Radio station(s) and frequencies guarded;

(F) Date and time of next report;

(G) Type and quantity of oil onboard;

(H) Nature and detail of defects, deficiencies, and damage (e.g. grounding, collision, hull failure etc.);

(I) Details of pollution, including estimate of oil discharged or threat of discharge;

(J) Weather and sea conditions on scene;

(K) Ship size and type;

(L) Actions taken or planned by persons on scene;

(M) Current conditions of the vessel; and

(N) Number of crew and details of injuries, if any.

(ii) After the transmission of the initial notification, as much as possible of the information essential for the protection of the marine environment as is appropriate to the incident must be reported in a follow-up report. This information must include:

(A) Additional details on the type of cargo onboard;

(B) Additional details on the condition of the vessel and ability to transfer cargo, ballast, and fuel;

(C) Additional details on the quantity, extent and movement of the pollution and whether the discharge is continuing;

(D) Any changes in the on-scene weather or sea conditions; and

(E) Actions being taken with regard to the discharge and the movement of the ship.

(d) *Shipboard spill mitigation procedures.* This section of the response plan must identify the vessel's total volumes of oil carried in bulk as cargo and meet the applicable requirements of this paragraph (d).

(1) For vessels carrying 100 barrels or less of oil in bulk as cargo, the plan must include a basic emergency action checklist for vessel personnel including notification and actions to be taken to prevent or mitigate any discharge or substantial threat of such a discharge of oil from the vessel.

(2) For vessels carrying over 100, but less than 1,000 barrels of oil in bulk as cargo, the plan must include—

(i) General information on actions to be taken by vessel personnel to prevent or mitigate any discharge or substantial threat of such a discharge of oil from the vessel due to operational activities or casualties;

(ii) General information on damage control procedures to be followed by vessel personnel;

(iii) General information on procedures for internal or external transfer of oil in bulk as cargo in an emergency; and

(iv) Procedures for use of any equipment carried aboard the vessel for spill mitigation.

(3) For vessels carrying from 1,000 to 5,000 barrels of oil in bulk as cargo, the plan must include—

(i) Detailed information on actions to be taken by vessel personnel to prevent or mitigate any discharge or substantial threat of such a discharge of oil from the vessel due to operational activities or casualties;

(ii) Detailed information on damage control procedures to be followed by vessel personnel;

(iii) Detailed procedures for internal or external transfer of oil in bulk as cargo in an emergency; and

(iv) Procedures for use of any equipment carried aboard the vessel for spill mitigation.

(4) For vessels carrying over 5,000 barrels of oil as a secondary cargo, the plan must provide the information required by § 155.1035(c) for shipboard spill mitigation procedures.

(5) For all vessels, the plan must include responsibilities and actions to be taken by vessel personnel, if any, to initiate a response and supervise shore-based response resources.

(e) *Shore-based response activities.* This section of the response plan must include the following information:

(1) The qualified individual's responsibilities and authority, including immediate communication with the Federal OSC and notification of the oil spill removal organization(s) identified in the plan.

(2) The procedures for coordinating the actions of the vessel owner or operator with the actions of the predesignated Federal OSC responsible for overseeing or directing those actions.

(3) The spill management team to be used by the vessel owner or operator to manage response plan implementation.

(f) *List of contacts.* The name, location, and 24-hour contact information for the following key individuals or organizations must be included in this section of the response plan or, if more appropriate, in a geographic-specific appendix and referenced in this section of the plan:

(1) Vessel owner or operator, and, if applicable, charterer.

(2) Qualified individual and alternate qualified individual for the vessel's area of operation.

(3) Vessel's local agent(s), if applicable, for the vessel's area of operation.

(4) Applicable insurance representatives or surveyors for the vessel's area of operation.

(5) Person(s) to notify for activation of the oil spill removal organization(s) identified in paragraph (j)(3) of this section for the vessel's area of operation.

(g) *Training procedures.* This section of the response plan must address the training procedures and programs of the vessel owner or operator. The vessel owner or operator shall ensure that—

(1) All personnel with responsibilities under the plan receive training in their assignments and refresher training as necessary, and participate in drills required under paragraph (h) of this section. Documented work experience can be used instead of training; and

(2) Records of this training are maintained aboard the vessel, at the U.S. location of the spill management team, or with the qualified individual. The plan must specify where the records are located.

(h) *Drill procedures.* This section of the response plan must address the drill program carried out by the vessel owner or operator to evaluate the ability of vessel and shore-based personnel to perform their identified functions in the plan. The required drill frequency for each category of vessel is as follows:

(1) For vessels carrying 100 barrels or less of oil as cargo—

(i) Onboard spill mitigation procedures and qualified individual notification drills must be conducted annually; and

(ii) Shore-based oil spill removal organization drills must be conducted biennially.

(2) For vessels carrying over 100 barrels and up to 5,000 barrels of oil in bulk as cargo—

(i) Onboard emergency procedures and qualified individual notification drills must be conducted quarterly; and

(ii) Shore-based oil spill removal organization drills must be conducted annually.

(3) Vessels carrying over 5,000 barrels of oil in bulk as cargo mut meet the drill requirements of § 155.1060.

(i) *Plan review, update, and appeal procedures.*

(1) The owner or operator of a vessel covered by this section shall resubmit the plan to the U.S. Coast Guard for approval—

(i) Whenever there is a significant change in the vessel's configuration affecting the cargo capacity or layout of the vessel;

(ii) Six months before the end of the Coast Guard approval period identified in § 155.1065(b); and

(iii) Whenever there is a change in the owner or operator of the vessel, if that owner or operator provided the certifying statement required by § 155.1065(a). If this occurs, a new statement certifying that the plan continues to meet the applicable requirements of subparts D and E of this part must be submitted.

(2) The owner or operator of a vessel covered by this section shall notify the U.S. Coast Guard and other plan holders, and provide updated information as appropriate when significant changes occur in any of the following:

(i) Cargo systems.

(ii) Operating area.

(iii) Qualified individuals.

(iv) Identified response resources.

(v) Emergency response procedure.

(vi) Nature of vessel's operations.

(3) The U.S. Coast Guard may require a vessel owner or operator to revise a response plan at any time if it is determined that the response plan does not meet the requirements of this subpart. The U.S. Coast Guard will notify the vessel owner or operator in writing of any deficiencies.

(i) Deficiencies must be corrected within the time period specified in the written notice provided by the Coast Guard. If deficiencies are not corrected within the specified time period, the plan will be declared invalid and any further storage, transfer, handling, transporting or lightering of oil in areas subject to the jurisdiction of the United States will be in violation of section 311(j)(5)(E) of the FWPCA.

(ii) A vessel owner or operator must advise the U.S. Coast Guard office that provided the initial notice when a deficiency has been corrected.

(4) A vessel owner or operator who disagrees with a deficiency determination may submit a request for reconsideration within the time period required for compliance or within 7 days from the date of receipt of the U.S. Coast Guard notice, whichever is less. After considering all relevant material presented, the U.S. Coast Guard will notify the vessel owner or operator of the final decision.

(i) Unless the vessel owner or operator petitions for a review of the U.S. Coast Guard decision, the vessel's owner or operator must correct the response plan deficiencies within the period specified in the Coast Guard's final determination.

(ii) If the vessel owner or operator petitions the District Commander, the effective date of the U.S. Coast Guard notice may be delayed pending a decision by the District Commander. Petitions to the District Commander must be submitted in writing, via the U.S. Coast Guard official who issued the requirement to amend the response plan, within five days of receipt of the notice.

(j) *Geographic-specific appendices for each COTP zone in which a vessel operates.* A geographic-specific appendix must be included for each COTP zone identified. The appendix must include the following information:

(1) Required Federal or State notifications applicable to the geographic areas in which a vessel operates.

(2) Identification of the qualified individuals.

(3) A list of the oil spill removal organization(s) available to respond to the vessel's worst case oil discharge in each COTP zone in which a vessel operates. The oil spill removal organization(s) identified must be capable of commencing oil spill containment and on-water recovery within the response times listed for tier 1 in § 155.1050(g) of this subpart; providing temporary storage of recovered oil; and conducting shoreline protection and cleanup operations. An oil spill removal organization may not be identified in the plan unless the organization has provided written consent to being identified in the plan as an available resource.

§ 155.1050 Response plan development and evaluation criteria for vessels carrying groups I through IV petroleum oil as a primary cargo.

(a) The following criteria must be used to evaluate the operability of response resources identified in the response plan for the specified operating environment:

(1) Table 1 of appendix B of this part.

(i) The criteria in table 1 of appendix B of this part are to be used solely for identification of appropriate equipment in a response plan.

(ii) These criteria reflect conditions used for planning purposes to select mechanical response equipment and are not conditions that would limit response actions or affect normal vessel operations.

(2) Limitations that are identified in the Area Contingency Plans for the COTP zones in which the vessel operates, including—

(i) Ice conditions;

(ii) Debris;

(iii) Temperature ranges; and

(iv) Weather-related visibility.

(b) The COTP may reclassify a specific body of water or location within the COTP zone. Any reclassifications will be identified in the applicable Area Contingency Plan. Reclassifications may be to—

(1) A more stringent operating environment if the prevailing wave conditions exceed the significant wave height criteria during more than 35% of the year; or

(2) A less stringent operating environment if the prevailing wave conditions do not exceed the significant wave height criteria for the less stringent operating environment during more than 35% of the year.

(c) Response equipment must—

(1) Meet or exceed the criteria listed in table 1 of appendix B of this part;

(2) Be capable of functioning in the applicable operating environment; and

(3) Be appropriate for the petroleum oil carried.

(d) The owner or operator of a vessel that carries groups I through IV petroleum oil as a primary cargo shall identify in the response plan and ensure the availability of, through contract or other approved means, the response resources that will respond to the vessel's average most probable discharge.

(1) For a vessel that carries groups I through IV petroleum oil as its primary cargo, the response resources must include—

(i) Containment boom in a quantity equal to twice the length of the largest vessel involved in the transfer and capable of being deployed at the site of oil transfer operations within one hour of detection of a spill; and

(ii) Oil recovery devices and recovered oil storage capacity capable of being at the transfer area within two hours of the detection of a spill during transfer operations.

(2) For locations of multiple vessel transfer operations, a vessel may identify the same equipment as identified by other vessels, provided that each vessel has ensured access to the equipment through contract or other approved means.

(3) The owner or operator of a vessel conducting transfer operations at a facility required to submit a response plan under 33 CFR 154.1017 is not required to identify and ensure the availability of the response resources

required in paragraph (d)(1) of this section.

(e) The owner or operator of a vessel carrying groups I through IV petroleum oil as a primary cargo must identify in the response plan and ensure the availability of, through contract or other approved means, the response resources necessary to respond to a discharge up to the vessel's maximum most probable discharge volume.

(1) These resources must be positioned such that they can arrive at the scene of a discharge within—

(i) 12 hours of the discovery of a discharge in higher volume port areas and the Great Lakes;

(ii) 24 hours of the discovery of a discharge in all rivers and canals, inland, nearshore and offshore areas; and

(iii) 24 hours of the discovery of a discharge plus travel time from shore for open ocean areas.

(2) The necessary response resources include sufficient containment boom, oil recovery devices, and storage capacity for any recovery of up to the maximum most probable discharge planning volume.

(3) The response plan must identify the storage location, make, model, and effective daily recovery capacity of each oil recovery device that is identified for plan credit.

(4) The response resources identified for responding to a maximum most probable discharge must be positioned to be capable of meeting the planned arrival times in this paragraph (e). The COTP with jurisdiction over the area in which the vessel is operating must be notified whenever the identified response resources are not capable of meeting the planned arrival times.

(f) The owner or operator of a vessel carrying groups I through IV petroleum oil as a primary cargo must identify in the response plan and ensure the availability of, through contract or other approved means, the response resources necessary to respond to the worst case discharge volume of the oil cargo to the maximum extent practicable.

(1) The location of these resources must be suitable to meet the response times identified for the applicable geographic area(s) of operation and response tier.

(2) The response resources must be appropriate for—

(i) The capacity of the vessel;

(ii) Group(s) of petroleum oil carried as cargo; and

(iii) The geographic area(s) of vessel operation.

(3) The resources must include sufficient boom, oil recovery devices, and storage capacity to recover the planning volumes.

(4) The response plan must identify the storage location, make, model, and effective daily recovery capacity of each oil recovery device that is identified for plan credit.

(5) The guidelines in appendix B to part 155 of this chapter must be used for calculating the quantity of response resources required to respond at each tier to the worst case discharge to the maximum extent practicable.

(6) When determining response resources necessary to meet the requirements of paragraph (f), a portion of those resources must be capable of use in close-to-shore response activities in shallow water. The following percentages of the response equipment identified for the applicable geographic area must be capable of operating in waters of 6 feet or less depth:

(i) Open ocean—none.

(ii) Offshore—10 percent.

(iii) Nearshore, inland, Great Lakes, and rivers and canals—20 percent.

(g) Response equipment identified to respond to a worst case discharge must be capable of arriving on scene within the times specified in paragraph (g) for the applicable response tier in a higher volume port area, Great Lakes, and in other areas. Response times for these tiers from the time of discovery of a discharge are:

	Tier 1	Tier 2	Tier 3
Higher volume port area (except tankers in Prince William Sound covered by § 155.1135).	12 hrs	36 hrs	60 hrs.
Great lakes	18 hrs	42 hrs	66 hrs.
All other rivers & canals, inland, nearshore, and offshore areas.	24 hrs	48 hrs	72 hrs.
Open Ocean (plus travel time from shore).	24 hrs+ ...	48 hrs+ ...	72 hrs+

(h) The following areas are designated as higher volume port areas. These areas include any water area within 50 nautical miles seaward of the entrance(s) to the specified port:

(1) Boston, MA.

(2) New York, NY.

(3) Delaware Bay and River to Philadelphia, PA.

(4) St. Croix, VI.

(5) Pascagoula, MS.

(6) Mississippi River from Southwest Pass, LA to Baton Rouge, LA. Note: Vessels destined for, departing from, or offloading at the Louisiana Offshore Oil Port are not considered to be operating in this higher volume port area.

(7) Lake Charles, LA.

(8) Sabine-Neches River, TX.

(9) Galveston Bay and Houston Ship Channel, TX.

(10) Corpus Christi, TX.

(11) Los Angeles/Long Beach Harbor, CA.

(12) San Francisco Bay, San Pablo Bay, Carquinez Strait, and Suisun Bay to Antioch, CA.

(13) Strait of Juan De Fuca at Port Angeles, WA, to and including Puget Sound, WA.

(14) Prince William Sound, AK.

(i) For the purposes of arranging for response resources through contract or other approved means, response equipment identified for tier 1 plan credit must be capable of being mobilized and en route to the scene of a discharge within two hours of notification. The notification procedures identified in the plan must provide for notification and authorization for mobilization of identified tier 1 response resources—

(1) Either directly or through the qualified individual; and

(2) Within 30 minutes of a discovery of a discharge or substantial threat of discharge.

(j) Response resources identified for tier 2 and tier 3 plan credit must be capable of arriving on scene within the time listed for the applicable tier.

(k) The response plan for a vessel carrying group II or III persistent petroleum oils as a primary cargo that operates in areas with year-round pre-approval for dispersant use may request a credit against up to 25 percent of the on-water oil recovery capability for each worst case discharge tier necessary to meet the requirements of this subpart in 1993. To receive this credit, the vessel owner or operator shall identify in the response plan and ensure, through contract or other approved means, the availability of necessary resources to apply dispersants appropriate for the type of oil carried and to monitor the effectiveness of the dispersants. The extent of the credit will be based on the volumes of dispersant available to sustain operations at manufacturers' recommended dosage rates. Resources identified for plan credit must be capable of being on scene within 12 hours of discovery of a discharge.

Note: Identification of these resources does not imply that they will be authorized for use. Actual authorization for use during a spill response will be governed by the provisions of the National Contingency Plan and the applicable Area Contingency Plan.

(l)(1) The owner or operator of a vessel carrying groups I through IV petroleum oil as a primary cargo must identify in the response plan and ensure the availability of, through contract or other approved means, the following resources:

(i) A salvage company with expertise and equipment.

(ii) A company with vessel firefighting capability that will respond to casualties in the area(s) in which the vessel will operate.

(2) Vessel owners or operators must identify intended sources of the resources required under paragraph (l)(1) of this section capable of being deployed to the areas that the vessel will operate in. Provider(s) of these services may not be listed in the plan unless they have provided written consent to be listed in the plan as an available resource.

(3) To meet this requirement in a response plan submitted for reapproval on or after February 18, 1998, the identified resources must be capable of being deployed to the port nearest to the area that the vessel operates within 24 hours of notification.

(m) The owner or operator of a vessel carrying groups I through IV petroleum oil as a primary cargo must identify in the response plan and ensure the availability of, through contract or other approved means, certain response resources required by § 155.1035(c)(5)(ii) or § 155.1040(d)(5)(i), as appropriate.

(1) These resources must include—

(i) Fendering equipment;

(ii) Transfer hoses and connection equipment; and

(iii) Portable pumps and ancillary equipment necessary to offload the vessel's largest cargo tank in 24 hours of continuous operation.

(2) These resources must be capable of reaching the locations in which the vessel operates within the stated times following notification:

(i) Inland (except tankers in Prince William Sound covered by (§ 155.1130), nearshore, and Great Lakes waters—12 hours.

(ii) Offshore waters and rivers and canals—18 hours.

(iii) Open ocean waters—36 hours.

(3) For barges operating on rivers and canals as defined in this subpart, the requirements of this paragraph (m) may be met by listing resources capable of meeting the response times in paragraph (m)(2) of this section. Such resources may not be identified in a plan unless the response organization has provided written consent to be listed in a plan as an available resource.

(n) The owner or operator of a vessel carrying groups I through IV petroleum oil as a primary cargo must identify in the response plan and ensure the availability of, through contract or other approved means, response resources necessary to perform shoreline protection operations.

(1) The response resources must include the quantities of boom listed in table 2 of appendix B of this part, based on the areas in which the vessel operates.

(2) Vessels that intend to offload their cargo at the Louisiana Offshore Oil Port (LOOP) marine terminal are not required to comply with the requirements of this paragraph (m) when they are within the offshore area and under one of the following conditions:

(i) Approaching or departing the LOOP marine terminal within the LOOP Shipping Safety Fairway, as defined in 33 CFR 166.200.

(ii) Moored at the LOOP marine terminal for the purposes of cargo transfer operations or anchored in the designated anchorage area awaiting discharge.

(o) The owner or operator of a vessel carrying groups I through IV petroleum oil as a primary cargo that operates in offshore, nearshore, inland, or rivers and canal areas, the response plan must identify and ensure the availability of, through contract or other approved means, an oil spill removal organization capable of effecting a shoreline cleanup operation commensurate with the quantity of emulsified petroleum oil to be planned for in shoreline cleanup operations.

(1) The shoreline cleanup resources required must be determined as described in appendix B of this part.

(2) Vessels that intend to offload their cargo at the Louisiana Offshore Oil Port (LOOP) marine terminal are not required to comply with the requirements of this paragraph (o) when they are within the offshore area and under one of the following conditions:

(i) Approaching or departing the LOOP marine terminal within the LOOP Shipping Safety Fairway as defined in 33 CFR 166.200.

(ii) Moored at the LOOP marine terminal for the purposes of cargo transfer operations or anchored in the designated anchorage area awaiting discharge.

(p) Appendix B of this part sets out caps that recognize the practical and technical limits of response capabilities that an individual vessel owner or operator can contract for in advance. Table 6 in appendix B lists the contracting caps that will apply on February 18, 1993 and February 18, 1998. Caps for 2003 will be developed during a subsequent review process. The owner or operator of a vessel carrying groups I through IV petroleum oil as a primary cargo, whose required daily recovery capacity exceeds the applicable contracting caps in Table 6, shall identify sources of additional equipment equal to twice the cap listed in tier 3 or the amount necessary to reach the calculated planning volume, whichever is lower. The equipment so identified, must be capable of arriving on scene no later than the tier 3 response times contained in § 155.1050(g). A response plan must identify the specific sources, locations, and quantities of this additional equipment. No contract is required.

(q) The Coast Guard will initiate a review of cap increases and other requirements contained within this subpart that are scheduled to be phased in over time. Any changes in the requirements of this section will occur through a public notice and comment process.

(1) During this review, the Coast Guard will determine if the scheduled increase remains practicable, and will also establish a specific cap for 2003. The review shall include but is not limited to:

(i) Increases in skimming efficiencies and design technology.

(ii) Oil tracking technology.

(iii) High rate response techniques.

(iv) Other applicable response technologies.

(v) Increases in the availability of private response resources.

(2) All scheduled future requirements will take effect unless the Coast Guard determines that they are not practicable. Scheduled changes will be effective on February 18, 1998 and 2003 unless the review of the additional requirements have not been completed by the Coast Guard. If this occurs, the changes will not be effective until 90 days after publication of a **Federal Register** Notice with the results of the review.

§ 155.1052 Response plan development and evaluation criteria for vessels carrying group V petroleum oil as a primary cargo.

(a) Owners and operators of vessels that carry group V petroleum oil as a primary cargo must provide information in their plan that identifies—

(1) Procedures and strategies for responding to a worst case discharge of group V petroleum oils to the maximum extent practicable; and

(2) Sources of the equipment and supplies necessary to locate, recover, and mitigate such a discharge.

(b) An owner or operator of a vessel carrying group V petroleum oil as a

primary cargo must ensure that any equipment identified in a response plan is capable of operating in the conditions expected in the geographic area(s) in which the vessel operates using the criteria in table 1 of appendix B of this part. When evaluating the operability of equipment, the vessel owner or operator must consider limitations that are identified in the Area Contingency Plans for the COTP zones in which the vessel operates, including—

(1) Ice conditions;

(2) Debris;

(3) Temperature ranges; and

(4) Weather-related visibility.

(c) The owner or operator of a vessel carrying group V petroleum oil as a primary cargo must identify in the response plan and ensure, through contract or other approved means, the availability of required equipment, including—

(1) Sonar, sampling equipment, or other methods for locating the oil on the bottom or suspended in the water column;

(2) Containment boom, sorbent boom, silt curtains, or other methods for containing oil that may remain floating on the surface or to reduce spreading on the bottom;

(3) Dredges, pumps, or other equipment necessary to recover oil from the bottom and shoreline;

(4) Equipment necessary to assess the impact of such discharges; and

(5) Other appropriate equipment necessary to respond to a discharge involving the type of oil carried.

(d) Response resources identified in a response plan under paragraph (c) of this section must be capable of being deployed within 24 hours of discovery of a discharge to the port nearest the area where the vessel is operating. An oil spill removal organization may not be listed in the plan unless the oil spill removal organization has provided written consent to be listed in the plan as an available resource.

(e) The owner or operator of a vessel carrying group V petroleum oil as a primary cargo shall identify in the response plan and ensure the availability of the following resources through contract or other approved means—

(1) A salvage company with appropriate expertise and equipment; and

(2) A company with vessel firefighting capability that will respond to casualties in the area(s) in which the vessel is operating.

(f) Vessel owners or operators must identify intended sources of the resources required under paragraph (e) of this section capable of being deployed to the areas that the vessel will operate in. A company may not be listed in the plan unless the company has provided written consent to be listed in the plan as an available resource. To meet this requirement in a response plan submitted for approval or reapproval on or after February 18, 1998, the vessel owner or operator must identify both the intended sources of this capability and demonstrate that the resources are capable of being deployed to the port nearest to the area where the vessel operates within 24 hours of discovery of a discharge.

(g) The owner or operator of a vessel carrying group V petroleum oil as a primary cargo shall identify in the response plan and ensure the availability of certain resources required by §§ 155.1035(c)(5)(ii) and 155.1040(d)(5)(i) as applicable, through contract or other approved means.

(1) Resources must include—

(i) Fendering equipment;

(ii) Transfer hoses and connection equipment; and

(iii) Portable pumps and ancillary equipment necessary to offload the vessel's largest cargo tank in 24 hours of continuous operation.

(2) Resources must be capable of reaching the locations in which the vessel operates within the stated times following notification:

(i) Inland, nearshore, and Great Lakes waters—12 hours.

(ii) Offshore waters and rivers and canals—18 hours.

(iii) Open ocean waters—36 hours.

(3) For barges operating in rivers and canals as defined in this subpart, the requirements of this paragraph (g) may be met by listing resources capable of being deployed in an area within the response times in subparagraph (2) of this paragraph. A vessel owner or operator may not identify such resources in a plan unless the response organization has provided written consent to be identified in a plan as an available resource.

§ 155.1054 Response plan development and evaluation criteria for vessels carrying non-petroleum oil as a primary cargo.

(a) Owners and operators of vessels that carry non-petroleum oil as a primary cargo must provide information in their plan that identifies—

(1) Procedures and strategies for responding to a worst case discharge of non-petroleum oils to the maximum extent practicable; and

(2) Sources of the equipment and supplies necessary to contain, recover, and mitigate such a discharge.

(b) An owner or operator of a vessel carrying non-petroleum oil as a primary cargo must ensure that any equipment identified in a response plan is capable of operating in the conditions expected in the geographic area(s) in which the vessel operates using the criteria in table 1 of appendix B of this part. When evaluating the operability of equipment, the vessel owner or operator must consider limitations that are identified in the Area Contingency Plans for the COTP zones in which the vessel operates, including—

(1) Ice conditions;

(2) Debris;

(3) Temperature ranges; and

(4) Weather-related visibility.

(c) The owner or operator of a vessel carrying non-petroleum oil as a primary cargo must identify in the response plan and ensure, through contract or other approved means, the availability of required equipment including—

(1) Containment boom, sorbent boom, or other methods for containing oil floating on the surface or to protect shorelines from impact;

(2) Oil recovery devices appropriate for the type of non-petroleum oil carried; and

(3) Other appropriate equipment necessary to respond to a discharge involving the type of non-petroleum oil carried.

(d) Response resources identified in a response plan under paragraph (c) of this section must be capable of commencing an effective on-scene response within the applicable tier 1 response times in § 155.1050(g) of this subpart. An oil spill removal organization may not be listed in the plan unless the oil spill removal organization has provided written consent to be listed in the plan as an available resource.

(e) The owner or operator of a vessel carrying non-petroleum oil as a primary cargo must identify in the response plan and ensure the availability of the following resources through contract or other approved means:

(1) A salvage company with appropriate expertise and equipment.

(2) A company with vessel firefighting capability that will respond to casualties in the area(s) in which the vessel is operating.

(f) Vessel owners or operators must identify intended sources of the resources required under paragraph (e) of this section capable of being deployed to the areas that the vessel will operate in. A company may not be listed in the plan unless the company has provided written consent to be listed in the plan as an available resource. To meet this requirement in a response plan submitted for approval or reapproval on or after February 18,

1998, the vessel owner or operator must identify both the intended sources of this capability and demonstrate that the resources are capable of being deployed to the port nearest to the area where the vessel operates within 24 hours of discovery of a discharge.

(g) The owner or operator of a vessel carrying non-petroleum oil as a primary cargo must identify in the response plan and ensure the availability of certain resources required by § 155.1035(c)(5)(ii) and § 155.1040(d)(5)(i) as applicable, through contract or other approved means.

(1) Resources must include—

(i) Fendering equipment;

(ii) Transfer hoses and connection equipment; and

(iii) Portable pumps and ancillary equipment necessary to offload the vessel's largest cargo tank in 24 hours of continuous operation.

(2) Resources must be capable of reaching the locations in which the vessel operates within the stated times following notification:

(i) Inland, nearshore, and Great Lakes waters—12 hours.

(ii) Offshore waters and rivers and canals—18 hours.

(iii) Open ocean waters—36 hours.

(3) For barges operating in rivers and canals as defined in this subpart, the requirements of this paragraph (g) may be met by listing resources capable of being deployed in an area within the response times in paragraph (g)(2) of this section. A vessel owner or operator may not identify such resources in a plan unless the response organization has provided written consent to be identified in a plan as an available resource.

§ 155.1055 Training.

(a) A response plan submitted to meet the requirements of § 155.1035 must identify the training to be provided to members of the vessel crew having responsibilities under the plan, the qualified individual, and the spill management team. A response plan submitted to meet the requirements of § 155.1040 must identify the training to be provided to the spill management team, the qualified individual, and other personnel in § 155.1040 with specific responsibilities under the plan. The training program must differentiate between that training provided to vessel personnel and that training provided to shore-based personnel.

(b) A vessel owner or operator shall ensure the maintenance of records sufficient to document this training and make them available for inspection upon request by the U.S. Coast Guard. Records must be maintained for 3 years following completion of training. The response plan must identify the location of training records, which must be—

(1) Aboard the vessel;

(2) With the qualified individual; or

(3) At a U.S. location of the spill management team.

(c) A vessel owner or operator may identify equivalent work experience which fulfills specific training requirements.

(d) The vessel owner or operator shall ensure that any oil spill removal organization identified in a response plan to meet the requirements of this part maintain records sufficient to document training for the organization's personnel. These records must be available for inspection upon request by the U.S. Coast Guard. Records must be maintained for 3 years following completion of training.

(e) Nothing in this section relieves the vessel owner or operator from the responsibility to ensure that all private shore-based response personnel are trained to meet the Occupational Safety and Health Administration (OSHA) standards for emergency response operations in 29 CFR 1910.120.

§ 155.1060 Drills.

(a) A vessel owner or operator required by §§ 155.1035 and 155.1040 to have a response plan shall conduct drills as necessary to ensure that the plan will function in an emergency. Both announced and unannounced drills must be included. The response plan submitted to meet the requirements of this subpart must identify the planned drill program. The following are the required drill frequencies for vessels covered by this section:

(1) Manned vessel onboard emergency procedures and qualified individual notification drills must be conducted monthly.

(2) Unmanned barge emergency procedures and notification of the qualified individual drills must be conducted quarterly.

(3) Shore-based spill management team tabletop drills must be conducted yearly.

(4) Oil spill removal organization field equipment deployment drills must be conducted yearly.

(b) Drills may be designed by the vessel owner or operator to exercise either components of or the entire response plan. The vessel owner or operator shall conduct a drill that exercises the entire plan at least once every three years.

(c) The vessel owner or operator shall ensure the maintenance of adequate records of drills. The following records are required:

(1) All drills conducted aboard the vessel must be documented in the ship's log.

(2) Records of any off-vessel drills of the response organization and resources identified in the response plan must be maintained at the United States location of either the qualified individual, spill management team, the vessel owner or operator, or the response organization. Response plans must indicate the location of these records.

(3) Records must be maintained and available to the Coast Guard for three years following completion of the drills.

(d) A vessel owner or operator shall participate in unannounced drills as directed by the applicable COTP. During these drills, the oil spill removal organization and spill management team identified in the vessel's response plan shall be activated to the extent required by the COTP. A vessel owner or operator need not participate if he or she has participated in an unannounced Federal or State oil spill response drill within the last 24 months, and the vessel owner or operator shall immediately provide records of this drill to the Coast Guard COTP.

(e) The requirements in paragraphs (a)(3) and (a)(4) of this section are met if the oil spill removal organization identified in the response plan participates in an equipment deployment exercise and is drilled during the period required to conduct such drills.

§ 155.1062 Inspection and maintenance of response resources.

(a) The owner or operator of a vessel required to submit a response plan under this part must ensure that—

(1) Containment booms, skimmers, vessels, and other major equipment listed or referenced in the plan are periodically inspected and maintained in good operating condition, in accordance with manufacturer's recommendations and best commercial practices; and

(2) All inspections and maintenance are documented and that these records are maintained for three years.

(b) For equipment which must be inspected and maintained under this section the Coast Guard may—

(1) Verify that the equipment inventories exist as represented;

(2) Verify the existence of records required under this section;

(3) Verify that the records of inspection and maintenance reflect the actual condition of any equipment listed or referenced; and

(4) Inspect and require operational tests of equipment.

(c) This section does not apply to containment booms, skimmers, vessels,

and other major equipment listed or referenced in the plan and ensured available through the written consent of an Oil Spill Removal Organization, as provided for in the definition of "contract or other approved means."

§ 155.1065 Plan submission, approval, and appeal procedures.

(a) An owner or operator of a vessel to which this subpart applies shall submit two complete English language copies of a vessel response plan to Commandant (G–MEP–6), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001. All plans submitted on or after August 19, 1993 must be submitted at least 60 days before the vessel intends to handle, store, transport, transfer, or lighter oil in areas subject to the jurisdiction of the United States. The owner or operator shall include a statement certifying that the plan meets the applicable requirements of subparts D and E of this part.

(b) If the U.S. Coast Guard determines that the plan meets all requirements of this subpart, the U.S. Coast Guard will notify the vessel owner or operator and return one copy of the approved plan along with an approval letter. The plan will be valid for a period of up to five years from the date of approval.

(c) If the U.S. Coast Guard reviews the plan and determines that it does not meet all of the requirements, the U.S. Coast Guard will notify the vessel owner or operator of the response plan's deficiencies. The vessel owner or operator must then resubmit two copies of the revised plan, or corrected portions of the plan, within 45 days.

(d) For those vessels temporarily authorized under § 155.1025 to operate without an approved plan pending formal Coast Guard approval, the deficiency provisions of § 155.1070 (c) and (d) will also apply.

(e) Within 21 days of notification that a plan is not approved, the vessel owner or operator may appeal that determination to the Chief, Office of Marine Safety, Security and Environmental Protection. This appeal must be submitted in writing to Commandant (G–M), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001.

§ 155.1070 Plan review, revision, amendment, and appeal procedures for vessels carrying oil as a primary cargo.

(a) A vessel response plan must be reviewed annually by the owner or operator.

(1) This review must occur within one month of the anniversary date of U.S. Coast Guard approval of the plan.

(2) The owner or operator shall submit any plan amendments to the U.S. Coast Guard for information or approval.

(3) Any required changes must be entered in the plan and noted on the record of changes page. The completion of the annual review must also be noted on the record of changes page.

(b) The entire plan must be resubmitted to the Coast Guard for re-approval 6 months before the end of the Coast Guard approval period identified in § 155.1065(b).

(c) Revisions or amendments to an approved response plan must be submitted for approval by the vessel's owner or operator whenever there is—

(1) A change in the owner or operator of the vessel, if that owner or operator provided the certifying statement required by § 155.1065(a). If this occurs, a new statement certifying that the plan continues to meet the applicable requirements of subparts D and E of this part must be submitted;

(2) A change in the vessel's operating area that includes ports or geographic area(s) not covered by the previously approved plan. A vessel may operate in an area not covered in a previously approved plan if a new geographic-specific appendix is submitted for approval and the vessel's owner or operator provides the certification required in § 155.1025(c);

(3) A significant change in the vessel's configuration that affects the information included in the response plan;

(4) A change in the type of oil cargo carried aboard (oil group) that affects the required response resources;

(5) A change in the identification of the oil spill removal organization(s) required by § 155.1050, 155.1052 or 155.1054, as appropriate;

(6) A significant change in the vessels's emergency response procedures; or

(7) Any other significant changes that affect the implementation of the plan.

(d) The U.S. Coast Guard may require a vessel owner or operator to revise a response plan at any time if it is determined that the response plan does not meet the requirements of this subpart. The U.S. Coast Guard will notify the vessel owner or operator in writing of any deficiencies.

(1) Deficiencies must be corrected within the time period specified in the written notice provided by the Coast Guard or the plan will be declared invalid and any further storage, transfer, handling, transporting or lightering of oil in areas subject to the jurisdiction of the United States will be in violation of section 311(j)(5)(E) of the FWPCA.

(2) Vessel owners or operators must advise the U.S. Coast Guard office that provided the initial notice when a deficiency has been corrected.

(e) A vessel owner or operator who disagrees with a deficiency determination may submit a request for reconsideration within the time period required for compliance or within 7 days from the date of receipt of the U.S. Coast Guard notice, whichever is less. After considering all relevant material presented, the U.S. Coast Guard will notify the vessel owner or operator of the final decision.

(1) Unless the vessel owner or operator petitions for a review of the U.S. Coast Guard decision, the vessel's owner or operator must correct the response plan deficiencies within the period specified in the Coast Guard's final determination.

(2) If the vessel owner or operator petitions the District Commander, the effective date of the U.S. Coast Guard notice may be delayed pending a decision by the District Commander. Petitions to the District Commander must be submitted in writing, via the U.S. Coast Guard official who issued the requirement to amend the response plan, within five days of receipt of the notice.

(f) Except as required in paragraph (c) of this section, amendments to personnel and telephone number lists included in the response plan do not require prior U.S. Coast Guard approval. The U.S. Coast Guard and all other holders of the response plan shall be advised of the revisions and provided a copy of the revisions as they occur.

Subpart E—Additional Response Plan Requirements for Tankers Loading Cargo at a Facility Permitted Under the Trans-Alaska Pipeline Authorization Act

§ 155.1110 Purpose and applicability.

(a) This subpart establishes oil spill response planning requirements for an owner or operator of a tanker loading cargo at a facility permitted under the Trans-Alaska Pipeline Authorization Act (TAPAA) (43 U.S.C. 165 *et seq.*) in Prince William Sound, Alaska, in addition to the requirements of subpart D of this part. The requirements of this subpart are intended for use in developing response plans and identifying response resources during the planning process; they are not performance standards.

(b) The information required in this subpart must be included in a Prince William Sound geographic-specific appendix to the vessel response plan required by subpart D of this part.

§ 155.1115 Definitions.

Except as provided in this section, the definitions in § 155.1015 apply to this subpart.

Prince William Sound means all State and Federal waters within Prince William Sound, Alaska, including the approach to Hinchinbrook Entrance out to and encompassing Seal Rock.

§ 155.1120 Operating restrictions and interim operating authorization.

The owner or operator of a tanker to which this subpart applies may not load cargo at a facility permitted under the Trans-Alaska Pipeline Authorization Act unless the requirements of this subpart and § 155.1025 have been met. The owner or operator of such a tanker shall certify to the U.S. Coast Guard that they have provided, through an oil spill removal organization required by § 155.1125, the necessary response resources to remove, to the maximum extent practicable, a worst case discharge or a discharge of 200,000 barrels of oil, whichever is greater, in Prince William Sound, AK.

§ 155.1125 Additional response plan requirements.

(a) The owner or operator of a tanker subject to this subpart shall include the requirements of this section in the Prince William Sound geographic-specific appendix required by subpart D of this part.

(1) The response plan must include identification of an oil spill removal organization that shall—

(i) Perform response activities;

(ii) Provide oil spill removal and containment training, including training in the operation of prepositioned equipment, for personnel, including local residents and fishermen, from the following locations in Prince William Sound—

(A) Valdez;

(B) Tatitlek;

(C) Cordova;

(D) Whittier;

(E) Chenega;

(F) Fish hatcheries located at Port San Juan, Main Bay, Esther Island, Cannery Creek, and Solomon Gulch; and

(G) Other locations in Prince William Sound, to be determined by the COTP;

(iii) Consist of sufficient numbers of trained personnel with the necessary technical skills to remove, to the maximum extent practicable, a worst case discharge or a discharge of 200,000 barrels of oil, whichever is greater;

(iv) Provide a plan for training sufficient numbers of additional personnel to remove, to the maximum extent practicable, a worst case discharge or a discharge of 200,000 barrels of oil, whichever is greater; and

(v) Address the responsibilities required in § 155.1035(d)(4).

(2) The response plan must include drill procedures that must—

(i) Provide two drills of the oil spill removal organization each year to ensure prepositioned equipment and trained personnel required under this subpart perform effectively;

(ii) Provide for both announced and unannounced drills; and

(iii) Provide for drills that test either the entire appendix or individual components.

(3) The response plan must identify a testing, inspection, and certification program for the prepositioned response equipment required in § 155.1130 that must provide for—

(i) Annual testing and equipment inspection in accordance with the manufacturer's recommended procedures, to include—

(A) Start-up and running under load of all electrical motors, pumps, power packs, air compressors, internal combustion engines, and oil recovery devices; and

(B) Removal of no less than one-third of required boom from storage annually, such that all boom will have been removed and examined within a period of three years;

(ii) Records of equipment tests and inspection; and

(iii) Use of an independent entity to certify that the equipment is on-site and in good operating condition and that required tests and inspections have been performed. The independent entity must have appropriate training and expertise to provide this certification.

(4) The response plan must identify and give the location of the prepositioned response equipment required in § 155.1130 including the make, model, and effective daily recovery rate of each oil recovery resource.

(b) The owner or operator shall submit to the COTP for approval, no later than September 30th of each calendar year, a schedule for the training and drills required by the geographic-specific appendix for Prince William Sound for the following calendar year.

(c) All records required by this section must be available for inspection by the U.S. Coast Guard and must be maintained for a period of 3 years.

§ 155.1130 Requirements for prepositioned response equipment.

Except as permitted under § 155.1140, the owner or operator of a tanker subject to this subpart shall provide the following prepositioned response equipment, located within Prince William Sound, in addition to that required by § 155.1035:

(a) On-water recovery equipment with a minimum effective daily recovery capacity of 30,000 barrels, capable of being on scene within 6 hours of notification of a discharge.

(b) On-water storage capacity of 100,000 barrels, capable of being on scene within 6 hours of notification of a discharge.

(c) Additional on-water recovery equipment with a minimum effective daily recovery capacity of 40,000 barrels capable of being on scene within 18 hours of notification of a discharge.

(d) On-water storage capacity of 300,000 barrels for recovered oily material, capable of being on scene within 24 hours of notification of a discharge.

(e) On-water oil recovery devices and storage equipment located in communities and at strategic locations.

(f) Equipment as identified below, for the locations identified in § 155.1125(a)(1)(ii), sufficient for the protection of the environment in these locations—

(1) Boom appropriate for the specific locations;

(2) Sufficient boats to deploy boom and sorbents;

(3) Sorbents including booms, sweeps, pads, blankets, drums and plastic bags;

(4) Personnel protective clothing and equipment;

(5) Survival equipment;

(6) First aid supplies;

(7) Buckets, shovels, and various other tools;

(8) Decontamination equipment;

(9) Shoreline cleanup equipment;

(10) Mooring equipment;

(11) Anchored buoys at appropriate locations to facilitate the positioning of defensive boom; and

(12) Other appropriate removal equipment for the protection of the environment as identified by the COTP.

(g) For each oil-laden tanker, two escort vessels, one of which is fitted with skimming an onboard storage capabilities practicable for the oil recovery planned for a cleanup operation, as identified by the oil spill removal organization.

(h) Ligthering resources required in § 155.1050(m) capable of arriving on scene within 6 hours of notification of a discharge.

§ 155.1135 Response plan development and evaluation criteria.

For tankers subject to this subpart, the following response times must be used in determining the on-scene arrival time in Prince William Sound, for the

response resources required by § 155.1050:

	Tier 1	Tier 2	Tier 3
Prince William Sound.	12 hrs ...	24 hrs ...	36 hrs.

§ 155.1140 Tankers contracting with a facility permitted under the Trans-Alaska Pipeline Authorization Act.

A tanker owner or operator may meet some or all of the requirements of this subpart by contracting with a facility permitted under the Trans-Alaska Pipeline Authorization Act. The extent to which these requirements are met by the contractual arrangement will be determined by the COTP.

§ 155.1145 Submission and approval procedures.

An appendix prepared under this subpart must be submitted and approved in accordance with § 155.1065.

§ 155.1150 Plan revision and amendment procedures.

An appendix prepared and submitted under this subpart must be revised and amended, as necessary, in accordance with § 155.1070.

4. Part 155 is amended by adding an appendix B to read as follows:

Appendix B to Part 155—Guidelines for Determining and Evaluating Required Response Resources for Vessel Response Plans

1. Purpose

1.1 The purpose of this appendix is to describe the procedures for identifying response resources to meet the requirements of subparts D and E of this part. These guidelines will be used by the vessel owner or operator in preparing the response plan and by the Coast Guard to review vessel response plans.

2. Equipment Operability and Readiness

2.1 All equipment identified in a response plan must be capable of operating in the conditions expected in the geographic area in which a vessel operates. These conditions vary widely based on the location and season. Therefore, it is difficult to identify a single stockpile of response equipment that will function effectively in every geographic location.

2.2 Vessels storing, handling, or transporting oil in more than one operating environment as indicated in table 1 must identify equipment capable of successfully functioning in each operating environment. For example, vessels moving from the ocean to a river port must identify appropriate equipment designed to meet the criteria for ocean, inland, and rivers and canals. This may be equipment that is designed to operate in all of these environments or, more likely, different equipment designed for use in each area.

2.3 When identifying equipment for response plan credit, a vessel owner or operator must consider the inherent limitations in the operability of equipment components and response systems. The criteria in table 1 must be used for evaluating the operability in a given environment. These criteria reflect the general conditions in certain operating areas.

2.4 Table 1 lists criteria for oil recovery devices and boom. All other equipment necessary to sustain or support response operations in a geographic area must be designed to function in the same conditions. For example, boats which deploy or support skimmers or boom must be capable of being safely operated in the significant wave heights listed for the applicable operating environment. The Coast Guard may require documentation that the boom identified in a response plan meets the criteria in table 1. Absent acceptable documentation, the Coast Guard may require that the boom be tested to demonstrate that it meets the criteria in table 1. Testing must be in accordance with ASTM F 715, ASTM F 989, or other tests approved by the Coast Guard.

2.5 A vessel owner or operator must refer to the applicable Area Contingency Plan to determine if ice, debris, and weather-related visibility are significant factors in evaluating the operability of equipment. The Area Contingency Plan will also identify the average temperature ranges expected in a geographic area in which a vessel operates. All equipment identified in a response plan must be designed to operate within those conditions or ranges.

2.6 The requirements of subparts D and E of this part establish response resource mobilization and response times. The location that the vessel operates farthest from the storage location of the response resources must be used to determine whether the resources are capable of arriving on scene within the time required. A vessel owner or operator shall include the time for notification, mobilization, and travel time of resources identified to meet the maximum most probable discharge and tier 1 worst case discharge requirements. Tier 2 and 3 resources must be notified and mobilized as necessary to meet the requirements for arrival on scene. An on-water speed of 5 knots and a land speed of 35 miles per hour is assumed unless the vessel owner or operator can demonstrate otherwise.

2.7 In identifying equipment, the vessel owner or operator shall list the storage location, quantity, and manufacturer's make and model, unless the oil spill removal organization(s) providing the necessary response resources has been evaluated by the Coast Guard and their capability has been determined to equal or exceed the response capability needed by the vessel. For oil recovery devices, the effective daily recovery capacity, as determined using section 6 of this appendix, must be included. For boom, the overall boom height (draft plus freeboard) must be included. A vessel owner or operator is responsible for ensuring that identified boom has compatible connectors.

3. Determining Response Resources Required for the Average Most Probable Discharge

3.1 A vessel owner or operator shall identify and ensure, by contract or other approved means, that sufficient response resources are available to respond to the 50 barrel average most probable discharge at the point of an oil transfer involving a vessel that carries oil as a primary cargo. The equipment must be designed to function in the operating environment at the point of oil transfer. These resources must include:

3.1.1 Containment boom in a quantity equal to twice the length of the largest vessel involved in the transfer capable of being deployed within 1 hour of the detection of a spill at the site of oil transfer operations.

3.1.2 Oil recovery devices with an effective recovery capacity of 50 barrels per day or greater available at the transfer site within two hours of the detection of an oil discharge.

3.1.3 Oil storage capacity for recovered oily material indicated in section 9.2 of this appendix.

4. Determining Response Resources Required for the Maximum Most Probable Discharge

4.1 A vessel owner or operator shall identify and ensure, by contract or other approved means, that sufficient response resources are available to respond to discharges up to the maximum most probable discharge volume for that vessel. This will require resources capable of containing and collecting up to 2,500 barrels of oil. All equipment identified must be designed to operate in the applicable operating environment specified in table 1.

4.2 To determine the maximum most probable discharge volume to be used for planning, use the lesser of—

4.2.1 2500 barrels; or

4.2.2 10% of the total oil cargo capacity.

4.3 Oil recovery devices necessary to meet the applicable maximum most probable discharge volume planning criteria must be located such that they arrive on scene within 12 hours of the discovery of a discharge in higher volume port areas and the Great Lakes, 24 hours in all other rivers and canals, inland, nearshore, and offshore areas, and 24 hours plus travel time from shore in all open ocean areas.

4.3.1 Because rapid control, containment, and removal of oil is critical to reduce spill impact, the effective daily recovery capacity for oil recovery devices must equal 50% of the planning volume applicable for the vessel as determined in section 4.2 of this appendix. The effective daily recovery capacity for oil recovery devices identified in the plan must be determined using the criteria in section 6 of this appendix.

4.4 In addition to oil recovery capacity, the vessel owner or operator must identify in the response plan and ensure the availability of, through contract or other approved means, sufficient boom available within the required response times for oil collection and containment, and for protection of shoreline areas. While the regulation does not set required quantities of boom for oil collection and containment, the owner or operator of a vessel must still identify in a response plan and ensure, through contract or other

approved means, the availability of the boom identified in the plan for this purpose.

4.5 The plan must indicate the availability of temporary storage capacity to meet the requirements of section 9.2 of this appendix. If available storage capacity is insufficient to meet this requirement, the effective daily recovery capacity must be derated to the limits of the available storage capacity.

4.6 The following is an example of a maximum most probable discharge volume planning calculation for equipment identification in a higher volume port area:

The vessel's cargo capacity is 10,000 barrels, thus the planning volume is 10 percent or 1,000 barrels. The effective daily recovery capacity must be 50% of this, or 500 barrels per day. The ability of oil recovery devices to meet this capacity will be calculated using the procedures in section 6 of this appendix. Temporary storage capacity available on scene must equal twice the daily recovery capacity as indicated in section 9 of this appendix, or 1000 barrels per day. This is the information the vessel owner or operator would use to identify and ensure the availability of, through contract or other approved means, the required response resources. The vessel owner would also need to identify how much boom was available for use.

5. Determining Response Resources Required for the Worst Case Discharge to the Maximum Extent Practicable

5.1 A vessel owner or operator shall identify and ensure, by contract or other approved means, that sufficient response resources are available to respond to the worst case discharge of oil cargo to the maximum extent practicable. Section 7 of this appendix describes the method to determine the required response resources.

5.2 Oil spill recovery devices identified to meet the applicable worst case discharge planning volume must be located such that they can arrive at the scene of a discharge within the time specified for the applicable response tier listed in § 155.1050(g).

5.3 The effective daily recovery capacity for oil recovery devices identified in a response plan must be determined using the criteria in section 6 of this appendix. A vessel owner or operator shall identify the storage locations of all equipment that must be used to fulfill the requirements for each tier.

5.4 A vessel owner or operator shall identify the availability of temporary storage capacity to meet the requirements of section 9.2 of this appendix. If available storage capacity is insufficient to meet this requirement, then the effective daily recovery capacity must be derated to the limits of the available storage capacity.

5.5 When selecting response resources necessary to meet the response plan requirements, the vessel owner or operator must ensure that a portion of those resources are capable of being used in close-to-shore response activities in shallow water. The following percentages of the on-water response equipment identified for the applicable geographic area must be capable of operating in waters of 6 feet or less depth:

(i) Open ocean—none.

(ii) Offshore—10 percent.

(iii) Nearshore, inland, Great Lakes, and rivers and canals—20 percent.

5.6 In addition to oil spill recovery devices and temporary storage capacity, a vessel owner or operator shall identify in the response plan and ensure the availability of, through contract or other approved means, sufficient boom that can arrive on scene within the required response times for oil containment and collection. The specific quantity of boom required for collection and containment will depend on the specific recovery equipment and strategies employed. Table 2 lists the minimum quantities of additional boom required for shoreline protection that a vessel owner or operator shall identify in the response plan and ensure the availability of through contract or other approved means.

5.7 A vessel or operator shall also identify in the response plan and ensure, by contract or other approved means, the availability of an oil spill removal organization capable of responding to a shoreline cleanup operation involving the calculated volume of emulsified oil that might impact the affected shoreline. The volume of oil that should be planned for is calculated through the application of factors contained in tables 3 and 4. The volume calculated from these tables is intended to assist the vessel owner or operator in identifying a contractor with sufficient resources. This planning volume is not used explicitly to determine a required amount of equipment and personnel.

6. Determining Effective Daily Recovery Capacity for Oil Recovery Devices

6.1 Oil recovery devices identified by a vessel owner or operator must be identified by manufacturer, model, and effective daily recovery capacity. These capacities must be used to determine whether there is sufficient total capacity to meet the applicable planning criteria for the average most probable discharge; maximum most probable discharge; and worst case discharge to the maximum extent practicable.

6.2 For the purposes of determining the effective daily recovery capacity of oil recovery devices, the following method will be used. This method considers potential limitations due to available daylight, weather, sea state, and percentage of emulsified oil in the recovered material. The Coast Guard may assign a lower efficiency factor to equipment listed in a response plan if it determines that such a reduction is warranted.

6.2.1 The following formula must be used to calculate the effective daily recovery capacity:

$R=T\times24\times E$

R—Effective daily recovery capacity

T—Throughput rate in barrels per hour (nameplate capacity)

E—20% efficiency factor (or lower factor as determined by the Coast Guard)

6.2.2 For those devices in which the pump limits the throughout of liquid, throughput rate will be calculated using the pump capacity.

6.2.3 For belt or mop type devices, the throughput rate will be calculated using data provided by the manufacturer on the nameplate rated capacity for the device.

6.2.4 Vessel owners or operators including in the response plan oil recovery devices whose throughput is not measurable using a pump capacity or belt/mop capacity may provide information to support an alternative method of calculation. This information must be submitted following the procedures in paragraph 6.5 of this appendix.

6.3 As an alternative to section 6.2 of this appendix, a vessel owner or operator may submit adequate evidence that a different effective daily recovery capacity should be applied for a specific oil recovery device. Adequate evidence is actual verified performance data in spill conditions or tests using ASTM F 631, ASTM F808, or an equivalent test approved by the Coast Guard.

6.3.1 The following formula must be used to calculate the effective daily recovery capacity under this alternative:

$R=D\times U$

R—Effective daily recovery capacity

D—Average Oil Recovery Rate in barrels per hour (Item 26 in ASTM F 808; Item 13.1.15 in ASTM F 631; or actual performance data)

U—Hours per day that a vessel owner or operator can document capability to operate equipment under spill conditions. Ten hours per day must be used unless a vessel owner or operator can demonstrate that the recovery operation can be sustained for longer periods.

6.4 A vessel owner or operator submitting a response plan shall provide data that supports the effective daily recovery capacities for the oil recovery devices listed. The following is an example of these calculations:

A weir skimmer identified in a response plan has a manufacturer's rated throughput at the pump of 267 gallons per minute (gpm).

267 gpm=381 barrels per hour

$R=381\times24\times.2=1,829$ barrels per day

After testing using ASTM procedures, the skimmer's oil recovery rate is determined to be 220 gpm. The vessel owner or operator identifies sufficient resources available to support operations 12 hours per day.

220 gpm=314 barrels per hour

$R=314\times12=3,768$ barrels per day

A vessel owner or operator will be able to use the higher capacity if sufficient temporary oil storage capacity is available.

6.5 Determinations of alternative efficiency factors under paragraph 6.2 or alternative effective daily recovery capacities under paragraph 6.3 of this appendix will be made by Commandant (G–MEP–6), Coast Guard Headquarters, 2100 Second Street SW, Washington, DC 20593. Oil spill removal organizations or equipment manufacturers may submit required information on behalf of multiple vessels owners or operators.

7. Calculating the Worst Case Discharge Planning Volumes

7.1 A vessel owner or operator shall plan for a response to a vessel's worst case discharge volume of oil cargo. The planning for on-water recovery must take into account

a loss of some oil to the environment due to evaporations and natural dissipation, potential increases in volume due to emulsification, and the potential for deposit of some oil on the shoreline.

7.2 The following procedures must be used to calculate the planning volume used by a vessel owner or operator for determining required on-water recovery capacity:

7.2.1 The following must be determined: The total volume of oil cargo carried, the appropriate cargo group for the type of petroleum oil carried [persistent (groups II, III, IV) or non-persistent (group I)], and the geographic area(s) in which the vessel operates. For vessels carrying mixed cargoes from different petroleum oil groups, each group must be calculated separately. This information is to be used with table 3 to determine the percentages of the total cargo volume to be used for removal capacity planning. This table divides the cargo volume into three categories: oil lost to the environment; oil deposited on the shoreline; and oil available for on-water recovery.

7.2.2 The on-water oil recovery volume must be adjusted using the appropriate emulsification factor found in table 4.

7.2.3 The adjusted volume is multiplied by the on-water oil recovery resource mobilization factor found in table 5 from the appropriate operating area and response tier to determine the total on-water oil recovery capacity in barrels per day that must be identified or contracted for to arrive on scene within the applicable time for each response tier. Three tiers are specified. For higher volume port areas, the contracted tiers of resources must be located such that they can arrive on scene within 12, 36, and 60 hours of the discovery of an oil discharge. For the Great Lakes, these tiers are 18, 42, and 66 hours. For all other rivers and canals, inland, nearshore, offshore areas these tiers are 24, 48, and 72 hours. For the open ocean area, these tiers are 24, 48, and 72 hours with an additional travel time allowance of one hour for every additional 5 nautical miles from shore.

7.2.4 The resulting on-water recovery capacity in barrels per day for each tier is used to identify response resources necessary to sustain operations in the applicable geographic area. The equipment must be capable of sustaining operations for the time period specified in table 3. A vessel owner or operator shall identify and ensure the availability of, through contract or other approved means, sufficient oil spill recovery devices to provide the effective daily oil recovery capacity required. If the required capacity exceeds the applicable cap described in table 6, then a vessel owner or operator must contract only for the quantity of resources required to meet the cap, but shall identify sources of additional resources as indicated in § 155.1050(p). The owner or operator of a vessel whose planning volume exceeds the cap in 1993 should plan for additional capacity to be under contract by 1998 or 2003, as appropriate. For a vessel that carries multiple groups of oil, the required effective daily recovery capacity for each group is calculated and summed before applying the cap.

7.3 The following procedures must be used to calculate the planning volume for identifying shoreline cleanup capacity:

7.3.1 The following must be determined: the total volume of oil cargo carried; the appropriate cargo group for the type of petroleum oil carried [persistent (groups II, III, IV) or non-persistent (group I)]; and the geographic area(s) in which the vessel operates. For a vessel carrying cargoes from different oil groups, each group must be calculated separately. Using this information, table 3 must be used to determine the percentages of the total cargo volume to be used for shoreline cleanup resource planning.

7.3.2 The shoreline cleanup planning volume must be adjusted to reflect an emulsification factor using the same procedure as described in section 7.2.2 of this appendix.

7.3.3 The resulting volume will be used to identify an oil spill removal organization with the appropriate shoreline cleanup capability.

7.4 The following is an example of the procedure described above:

A vessel with a 100,000 barrel capacity for #6 oil (specific gravity .96) will move from a higher volume port area to another area. The vessel's route will be 70 miles from shore.

Cargo carried: 100,000 bbls. Group IV oil
Emulsification factor (from Table 4): 1.4
Areas transited: Inland, Nearshore, Offshore, Open ocean
Planned % on-water recovery (from Table 3): Inland 50%; Nearshore 50%; Offshore 40%; Open ocean 20%
Planned % oil onshore recovery (from Table 3): Inland 70%; Nearshore 70%; Offshore 30%; Open ocean 30%

General formula to determine planning volume:

(planning volume) = (capacity) × (% from table 3) × (emulsification factor from table 4)

Planning volumes for on water recovery:
Inland 100,000×.5×1.4=70,000 bbls
Nearshore 100,000×.5×1.4=70,000 bbls
Offshore 100,000×.4× 1.4=56,000 bbls
Open ocean 100,000×.2× 1.4=28,000 bbls

Planning volumes for on shore recovery:
Inland 100,000×.7×1.4=98,000 bbls
Nearshore 100,000×.77× 1.4=98,000 bbls
Offshore 100,000×.3×1.4=42,000 bbls

The vessel owner or operator must contract with a response resource capable of managing a 98,000 barrel shoreline cleanup in those areas where the vessel comes closer than 50 miles to shore.

Determine required resources for on water recovery for each tier using mobilization factors: (Barrel per day on water recovery requirements) = (on water planning volume as calculated above) × (mobilization factor from table 5).

			Tier 1	Tier 2	Tier 3
Inland/Nearshore	70,000	×	.15	.25	.40
Offshore	56,000	×	.10	.165	.21
Open ocean	28,000	×	.06	.10	.12
			equals (barrels per day)		
Inland/Nearshore			10,500	17,500	28,000
Offshore			5,600	9,240	11,760
Open ocean			1,680	2,800	3,360

Since the requirements for tier 1 for inland and nearshore exceed the caps, the vessel owner would only need to contract for 10,000 bpd for tier 1. No additional equipment would be required to be identified because the required tier 3 resources are below the tier 3 caps.

10% of the on-water recovery capability for off shore, and 20% of the capability for inland/nearshore, for all tiers, must be capable of operating in water with a depth of 6 feet or less.

The vessel owner or operator would also be required to identify or contract for quantities of boom identified in table 2 for the areas in which the vessel operates.

8. Determining the Availability of High-Rate Response Methods

8.1 Response plans for a vessel carrying group II or III persistent oil as a primary cargo that operates in an area with year-round pre-approval for dispersant use may receive credit for up to 25 percent of their required on-water recovery capacity in that area in 1993 if the availability of these resources are ensured by contract or other approved means. For response plan credit, these resources must be capable of being on scene within 12 hours of the discovery of a discharge.

8.2 To receive credit against any required on-water recovery capacity, a response plan must identify the locations of dispersant stockpiles, methods of transporting to a shoreside staging area, and appropriate aircraft or vessels to apply the dispersant and monitor its effectiveness at the scene of an oil discharge.

8.2.1 Sufficient volumes of dispersants must be available to treat the oil at the dosage rate recommended by the dispersant

manufacturer. Dispersants identified in a response plan must be on the NCP Product Schedule maintained by the U.S. Environmental Protection Agency. (Some States have a list of approved dispersants and within State waters only they can be used.)

8.2.2 Dispersant application equipment identified in a response plan for credit must be located such that it can be mobilized to shoreside staging areas to meet the time requirements in 8.1 of this appendix. Sufficient equipment capacity and sources of appropriate dispersants must be identified to sustain dispersant operations for at least 3 days.

8.2.3 Credit against on-water recovery capacity in pre-approved areas will be based on the ability to treat oil at a rate equivalent to this credit. For example, a 2,500 bbls/day credit against the tier one 10,000 bbls/day on-water cap would require the vessel owner or operator to demonstrate the ability to treat 2,500 bbls/day of oil at the manufacturers' recommended dosage rate. Assuming a dosage rate of 10:1, the plan would need to show stockpiles and sources of 750 bbls of dispersants that would be available on scene at a rate of 250 bbls per day and the ability to apply the dispersant at that daily rate for 3 days in the area in which the vessel operates. Similar data would need to be provided for any additional credit against tier 2 and 3 resources.

8.3 In addition to the equipment and supplies required, a vessel owner or operator shall identify a source of support to conduct the monitoring and post-use effectiveness evaluation required by applicable Local and Area Contingency Plans.

8.4 Identification of the resources for dispersant application does not imply that the use of this technique will be authorized. Actual authorization for use during a spill response will be governed by the provisions of the NCP and the applicable Local or Area Contingency Plan.

8.5 In addition to the credit identified above, a vessel owner or operator that operates in an area pre-approved for dispersant use may reduce their required on water recovery cap increase for 1998 and 2003 by up to 50% by identifying non-mechanical methods.

8.6 The use of in-situ burning as a non-mechanical response method is still being studied. Because limitations and uncertainties remain for the use of this method, it may not be used to reduce required oil recovery capacity in 1993. Use of this or other alternative high-rate methods for a portion of the required cap increase in 1998 will be determined during the cap increase review 1996.

9. Additional Equipment Necessary To Sustain Response Operations

9.1 A vessel owner or operator is responsible for ensuring that sufficient numbers of trained personnel and boats, aerial spotting aircraft, sorbent materials, boom anchoring materials, and other supplies are available to sustain response operations to completion. All such equipment must be suitable for use with the primary equipment identified in the response plan. A vessel owner or operator is not required to list these resources in the response plan, but shall certify their availability.

9.2 A vessel owner or operator shall evaluate the availability of adequate temporary storage capacity to sustain the effective daily recovery capacities from equipment identified in the plan. Because of the inefficiencies of oil spill recovery devices, response plans must identify daily storage capacity equivalent to twice the effective daily recovery capacity required on scene. This temporary storage capacity may be reduced if a vessel owner or operator can demonstrate by waste stream analysis that the efficiencies of the oil recovery devices, ability to decant water, or the availability of alternative temporary storage or disposal locations in the area(s) the vessel will operate will reduce the overall volume of oily material storage requirements.

9.3 A vessel owner or operator shall ensure that their planning includes the capability to arrange for disposal of recovered oil products. Specific disposal procedures will be addressed in the applicable Area Contingency Plan.

BILLING CODE 4910-14-M

TABLE 1

RESPONSE RESOURCE OPERATING CRITERIA

OIL RECOVERY DEVICES

Operating Environment	Significant Wave Height[1]	Sea State
Rivers & Canals	≤ 1 foot	1
Inland	≤ 3 feet	2
Great Lakes	≤ 4 feet	2-3
Ocean	≤ 6 feet	3-4

BOOM

Boom Property	Use			
	Rivers & Canals	Inland	Great Lakes	Ocean
Significant Wave[1] Height (feet)	≤1	≤3	≤4	≤6
Sea State	1	2	2-3	3-4
Boom height - in. (draft plus freeboard)	6-18	18-42	18-42	>42
Reserve Buoyancy to Weight Ratio	2:1	2:1	2:1	3:1 to 4:1
Total Tensile Strength - lbs.	4,500	15-20,000	15-20,000	>20,000
Skirt Fabric Tensile Strength - lbs.	200	300	300	500
Skirt Fabric Tear Strength - lbs.	100	100	100	125

[1] Oil recovery devices and boom must be at least capable of operating in wave heights up to and including the values listed in Table 1 for each operating environment.

TABLE 2

Shoreline Protection Requirements

PERSISTENT OILS

Location	Boom ensured by contract or other approved means (ft.)	Availability hours Higher Volume Port Area	Other Areas
Open Ocean	/	/	/
Offshore	15,000	24	48
Nearshore/ Inland/ Great Lakes	30,000	12	24
Rivers & Canals	25,000	12	24

NON-PERSISTENT OILS

Open Ocean	/	/	/
Offshore	/	/	/
Nearshore/ Inland/ Great Lakes	10,000	12	24
Rivers & canals	15,000	12	24

Spill Location	Nearshore/Inland/ Great Lakes			River		
Sustainability of on-water oil recovery	4 days			3 days		
Oil Group	% Natural Dissipation	% Recovered Floating oil	% Oil on shore	% Natural Dissipation	% Recovered Floating oil	% Oil on shore
I Non-persistent oils	80	20	10	80	10	10
II Light crudes and fuels	50	50	30	40	15	45
III Medium crudes and fuels	30	50	50	20	15	65
IV Heavy crudes /residual fuels	10	50	70	5	20	75

Note: Percentage may not sum to 100; reflects enhanced on-water recovery capacity

Table 3 Removal Capacity Planning Table

Spill Location	Open ocean			Offshore		
Sustainability of on-water oil recovery	10 days			6 days		
Oil Group	% Natural Dissipation	% Recovered Floating oil	% Oil on shore	% Natural Dissipation	% Recovered Floating oil	% Oil on shore
I Non-persistent oils	100	/	/	95	5	/
II Light crudes	90	10	/	75	25	5
III Medium crudes and fuels	75	20	[5]*	60	40	20
IV Heavy crudes /residual fuels	50	20	[30]*	50	40	30

* Included in table for continuity; no planning required.

Table 3 Removal Capacity Planning Table

TABLE 4

EMULSIFICATION FACTORS FOR PETROLEUM OIL CARGO GROUPS

NON-PERSISTENT OIL	
GROUP I	1.0
PERSISTENT OIL	
GROUP II	1.8
GROUP III	2.0
GROUP IV	1.4

TABLE 5

ON-WATER OIL RECOVERY RESOURCE MOBILIZATION FACTORS

Area	Tier 1	Tier 2	Tier 3
Rivers & Canals	.30	.40	.60
Inland/Nearshore/Great Lakes	.15	.25	.40
Offshore	.10	.165	.21
Ocean	.06	.10	.12

Note: These mobilization factors are for total resources mobilized, not incremental resources.

TABLE 6

RESPONSE CAPABILITY CAPS BY GEOGRAPHIC AREA

	Tier 1	Tier 2	Tier 3
February 18 1993			
All except rivers & canals & Great Lakes	10K bbls/day	20K bbls/day	40K bbls/day
Great Lakes	5K bbls/day	10K bbls/day	20K bbls/day
Rivers & canals	1,500 bbls/day	3,000 bbls/day	6,000 bbls/day
February 18 1998			
All except rivers & canals, & Great Lakes	12.5K bbls/day	25K bbls/day	50K bbls/day
Great Lakes	6.35K bbls/day	12.3K bbls/d	25K bbls/day
Rivers & canals	1,875 bbls/day	3,750 bbls/day	7,500 bbls/day
February 18 2003			
All except rivers & canals, & Great Lakes	TBD	TBD	TBD
Great Lakes	TBD	TBD	TBD
Rivers & canals	TBD	TBD	TBD

Note: The caps show cumulative overall effective daily recovery capacity, not incremental increases.

TBD = To Be Determined

BILLING CODE 4910-14-C

Dated: January 19, 1993.

J.W. Kime,

Admiral, U.S. Coast Guard, Commandant.

[FR Doc. 93–1709 Filed 2–1–93; 12:33 pm]

BILLING CODE 4910–14–M

federal register

Friday
February 5, 1993

Part IV

The President

Memorandums of January 22, 1993—The Title X "Gag Rule", Federal Funding of Fetal Tissue Transplantation Research, and Importation of RU–486

Federal Register
Vol. 58, No. 23
Friday, February 5, 1993

Presidential Documents

Title 3—

The President

Memorandum of January 22, 1993

The Title X "Gag Rule"

Memorandum for the Secretary of Health and Human Services

Title X of the Public Health Services Act provides Federal funding for family planning clinics to provide services for low-income patients. The Act specifies that Title X funds may not be used for the performance of abortions, but places no restrictions on the ability of clinics that receive Title X funds to provide abortion counseling and referrals or to perform abortions using non-Title X funds. During the first 18 years of the program, medical professionals at Title X clinics provided complete, uncensored information, including nondirective abortion counseling. In February 1988, the Department of Health and Human Services adopted regulations, which have become known as the "Gag Rule," prohibiting Title X recipients from providing their patients with information, counseling, or referrals concerning abortion. Subsequent attempts by the Bush Administration to modify the Gag Rule and ensuing litigation have created confusion and uncertainty about the current legal status of the regulations.

The Gag Rule endangers women's lives and health by preventing them from receiving complete and accurate medical information and interferes with the doctor-patient relationship by prohibiting information that medical professionals are otherwise ethically and legally required to provide to their patients. Furthermore, the Gag Rule contravenes the clear intent of a majority of the members of both the United States Senate and House of Representatives, which twice passed legislation to block the Gag Rule's enforcement but failed to override Presidential vetoes.

For these reasons, you have informed me that you will suspend the Gag Rule pending the promulgation of new regulations in accordance with the "notice and comment" procedures of the Administrative Procedure Act. I hereby direct you to take that action as soon as possible. I further direct that, within 30 days, you publish in the **Federal Register** new proposed regulations for public comment.

You are hereby authorized and directed to publish this memorandum in the **Federal Register**.

William J. Clinton

THE WHITE HOUSE,
Washington, January 22, 1993.

[FR Doc. 93-2973
Filed 2-3-93; 1:16 pm]
Billing code 3195-01-M

Editorial note: The Secretary of Health and Human Services is publishing documents relating to this memorandum in Part V of this issue. For the President's remarks on signing this memorandum, see p. 85 of the *Weekly Compilation of Presidential Documents*.

Presidential Documents

Memorandum of January 22, 1993

Federal Funding of Fetal Tissue Transplantation Research

Memorandum for the Secretary of Health and Human Services

On March 22, 1988, the Assistant Secretary for Health of Health and Human Services ("HHS") imposed a temporary moratorium on Federal funding of research involving transplantation of fetal tissue from induced abortions. Contrary to the recommendations of a National Institutes of Health advisory panel, on November 2, 1989, the Secretary of Health and Human Services extended the moratorium indefinitely. This moratorium has significantly hampered the development of possible treatments for individuals afflicted with serious diseases and disorders, such as Parkinson's disease, Alzheimer's disease, diabetes, and leukemia. Accordingly, I hereby direct that you immediately lift the moratorium.

You are hereby authorized and directed to publish this memorandum in the **Federal Register.**

William J. Clinton

THE WHITE HOUSE,
Washington, January 22, 1993.

[FR Doc. 93–2974
Filed 2–3–93; 1:17 pm]
Billing code 3195–01–M

Editorial note: The Secretary of Health and Human Services is publishing a document relating to this memorandum in Part V of this issue. For the President's remarks on signing this memorandum, see p. 85 of the *Weekly Compilation of Presidential Documents.*

Presidential Documents

Memorandum of January 22, 1993

Importation of RU–486

Memorandum for the Secretary of Health and Human Services

In Import Alert 66–47, the Food and Drug Administration ("FDA") excluded the drug Mifepristine—commonly known as RU–486—from the list of drugs that individuals can import into the United States for their "personal use," although the drugs have not yet been approved for distribution by the FDA. (*See* FDA Regulatory Procedures Manual, Chapter 9–71.) Import Alert 66–47 effectively bans the importation into this Nation of a drug that is used in other nations as a nonsurgical means of abortion.

I am informed that in excluding RU–486 from the personal use importation exemption, the FDA appears to have based its decision on factors other than an assessment of the possible health and safety risks of the drug. Accordingly, I hereby direct that you promptly instruct the FDA to determine whether there is sufficient evidence to warrant exclusion of RU–486 from the list of drugs that qualify for the personal use importation exemption. Furthermore, if the FDA concludes that RU–486 meets the criteria for the personal use importation exemption, I direct that you immediately take steps to rescind Import Alert 66–47.

In addition, I direct that you promptly assess initiatives by which the Department of Health and Human Services can promote the testing, licensing, and manufacturing in the United States of RU–486 or other antiprogestins.

You are hereby authorized and directed to publish this memorandum in the **Federal Register**.

William J. Clinton

THE WHITE HOUSE,
Washington, January 22, 1993.

[FR Doc. 93–2975
Filed 2–3–93; 1:20 pm]
Billing code 3195–01–M

Editorial note: The Secretary of Health and Human Services is publishing a document relating to this memorandum in Part V of this issue. For the President's remarks on signing this memorandum, see p. 85 of the *Weekly Compilation of Presidential Documents.*

federal register

Friday
February 5, 1993

Part V

Department of Health and Human Services

Public Health Service

42 CFR Part 59

Standards of Compliance for Abortion-Related Services in Family Planning Service Projects; "Gag Rule" Suspension; Rule and Proposed Rule

Office of the Secretary

Family Planning Service Projects; Transplantation of Human Fetal Tissue and Importation of the Drug Mifepristine; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 59

Standards of Compliance for Abortion-Related Services in Family Planning Service Projects

AGENCY: Public Health Service, DHHS.

ACTION: Interim rule: suspension of effectiveness.

SUMMARY: This Interim rule suspends the rules issued in 1988 establishing standards for compliance by family planning services projects assisted under Title X of the Public Health Service Act with the statutory provision prohibiting abortion as a method of family planning in programs funded under that title. The rules, popularly known as the "Gag Rule", have been the focus of much litigation and controversy, and because the Secretary believes that the Rule inappropriately restricts grantees, she accordingly suspends them and, elsewhere in this issue of the **Federal Register**, proposes to return the program to the regulatory provisions and compliance standards operative prior to their issuance. This action is also consistent with a Memorandum issued by the President on January 22, 1993. During the pendency of the proposed rulemaking, the compliance standards that were in effect prior to the issuance of the Gag Rule will be used to administer the program.

EFFECTIVE DATE: February 5, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald Bennett, 202–690–8335.

SUPPLEMENTARY INFORMATION: The Secretary of Health and Human Services below suspends the rules issued on February 2, 1988. 53 FR 2922. Those rules, popularly known as the "Gag Rule," established standards for compliance by family planning services projects funded under Title X of the Public Health Service Act, 42 U.S.C. 300, *et seq.*, with the statutory prohibition on the use of funds under that title "in programs where abortion is a method of family planning." 42 U.S.C. 300a–6. The prior history of the controversy surrounding sec. 300a–6 is fully described in the preamble to the 1988 rules.

Since their issuance, the February 2, 1988 rules have been the focus of much litigation and controversy. Although they were upheld by the Supreme Court in *Rust* v. *Sullivan*, 111 S.Ct. 1759 (1991), a subsequent interpretation of the rules by the Bush Administration, under which physicians would have been permitted to counsel and refer Title X patients for abortion counseling and referral but other project employees would not have been permitted to do so, was recently held to be impermissible by the United States Court of Appeals for the District of Columbia Circuit. *National Family Planning and Reproductive Health Ass'n.* v. *Sullivan*, 979 F.2d 227 (D.C. Cir. 1992). This recent decision, together with the change of Administrations, has left the current status of the 1988 Title X rules unclear.

On January 22, 1993, President Clinton sent to the Secretary a memorandum on this matter, which is published elsewhere in this issue.

The Secretary's action herein is based, in part, upon her conclusion that the "Gag Rule" is an inappropriate implementation of the Title X statute because it unduly restricts the information and other services provided to individuals under this program. Therefore, the Secretary suspends the 1988 rules and announces that, on an interim basis, the agency's nonregulatory compliance standards that existed prior to February 2, 1988, including those set out in the 1981 Family Planning Guidelines, will be used to administer the Family Planning Program.

Under these compliance standards, Title X projects would be required, in the event of an unplanned pregnancy and where the patient requests such action, to provide nondirective counseling to the patient on options relating to her pregnancy, including abortion, and to refer her for abortion, if that is the option she selects. However, consistent with the prior long-standing Departmental interpretation of the statute, Title X projects would not be permitted to promote or encourage abortion as a method of family planning, such as engaging in pro-choice litigation or lobbying activities. Title X projects would also be required to maintain a separation (that is more than a mere exercise in bookkeeping) of their project activities from any activities in which they engage that promote or encourage abortion as a method of family planning.

As noted in the President's memorandum, these compliance standards were in effect for a considerable period of time prior to 1988, and the Department believes that they are generally well-understood within the Title X provider community.

Notice and comment and delay in effective date are waived for good cause and because delay would be impracticable and unnecessary and contrary to the public interest. The issues involved in this matter are well known and have been extensively debated. Based on that record, it is the conclusion of the Secretary that: (1) Repeated attempts by the Bush and Reagan Administrations to enforce and modify the "Gag Rule" have created considerable confusion about the status of the regulations and the policy underlying them and, therefore, a substantial health risk to potential recipients of Title X program services; (2) suspension of the regulation, though tantamount to a statement of enforcement policy, is preferable because it provides clearer guidance and more certainty to the grantees and to women making family planning decisions; (3) the 1988 regulation would require many grantees to make extensive and expensive alterations in their physical facilities and organizational structures. To require those changes in the face of the proposed reversal of those rules is impracticable and contrary to the public interest; (4) evidence exists that the continued failure to provide women with complete and accurate medical information will result in significant health risks. The Notice of Proposed Rulemaking being contemporaneously published will give those with differing views on the matter an opportunity to rebut this conclusion. In the interim, the Secretary believes that it is important not to continue the embargo of important health information; (5) the original interpretation of section 1008, which prohibited the use of Title X funds in programs where abortion is a method of family planning, did not include a prohibition on non-directive counseling on abortion; moreover, Congress's repeated attempts—vetoed by President Bush—to amend Title X to eliminate the restrictions justify suspension of the Rule while the regulations are being revised to further the purposes of Title X, as required by statute. For all of these reasons, as well as the reasons set out in the President's Memorandum, this Interim Rule is effective upon publication. Regional officials are being informed of this action, and will notify all present Title X grantees of the suspension of the 1988 rules.

List of Subjects in 42 CFR Part 59

Family planning—birth control, Grant programs—health, Health facilities, Low-income families.

Dated: January 29, 1993.

Audrey F. Manley,

Acting Assistant Secretary for Health.

Approved: February 1, 1993.

Donna E. Shalala,

Secretary.

For the reasons set out in the preamble, the Secretary amends subpart A of 42 CFR part 59 as follows:

PART 59—[AMENDED]

1. The authority for subpart A of part 59 continues to read as follows:

Authority: 42 U.S.C. 300a–4.

§ 59.2 [Suspended]

2. The following definitions in § 59.2 are suspended: The definitions of "Family planning", "Grantee", "Prenatal care", "Program", "Project", "Title X", "Title X program", and "Title X project."

§§ 59.7–59.10 [Suspended]

3. Sections 59.7 through 59.10 are suspended.

4. Additionally, the miscellaneous amendments to § 59.5 on 53 FR 2944, paragraphs 3 and 4, and the miscellaneous amendments appearing on 53 FR 2946, paragraph 6, are suspended.

[FR Doc. 93–2732 Filed 2–3–93; 1:18 pm]

BILLING CODE 4160–17–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 59

Standards of Compliance for Abortion-Related Services in Family Planning Service Projects

AGENCY: Public Health Service, DHHS.

ACTION: Proposed rule.

SUMMARY: This document proposes revocation of the rules issued in 1988 establishing standards for compliance by family planning services projects assisted under Title X of the Public Health Service Act with the statutory provision prohibiting abortion as a method of family planning in programs funded under that title. The rules, popularly known as the "Gag Rule", have been the focus of much litigation and controversy, and because the Secretary believes that the Rule inappropriately restricts grantees, she accordingly proposes below to revoke them and return the program to the compliance standards operative prior to their issuance. This action is also consistent with a memorandum issued by the President on January 22, 1993.

DATES: Comments must be received on or before April 6, 1993.

ADDRESSES: Comments must be in writing, and must be sent to: Mr. Gerald Bennett, Acting Deputy Assistant Secretary for Population Affairs, Department of Health and Human Services, P.O. Box 23783, Washington, DC 20026-3783.

Comments will be available for public inspection during normal business hours at this address. PHS will take appropriate steps, where necessary, to afford individuals with disabilities and equal opportunity to comment.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald Bennett, 202-690-8335.

SUPPLEMENTARY INFORMATION: The Secretary of Health and Human Services proposes below rules revoking the rules issued on February 2, 1988. 53 FR 2922. Those rules, popularly known as the "Gag Rule," established standards for compliance by family planning services projects funded under Title X of the Public Health Service, 42 U.S.C. 300, *et seq.*, with the statutory prohibition on the use of funds under that title "in programs where abortion is a method of family planning." 42 U.S.C. 300a-6. The prior history of the controversy surrounding sec. 300a-6 is fully described in the preamble to the 1988 rules.

Since their issuance, the February 2, 1988 rules have been the focus of much litigation and controversy. Although they were upheld by the Supreme Court in *Rust* v. *Sullivan*, 111 S.Ct. 1759 (1991), a subsequent interpretation of the rules by the Bush Administration, under which physicians would have been permitted to counsel and refer Title X patients for abortion counseling and referral but other project employees would not have been permitted to do so, was recently held to be impermissible by the United States Court of Appeals for the District of Columbia Circuit. *National Family Planning and Reproductive Health Ass'n.* v. *Sullivan*, 979 F.2d 227 (D.C. Cir. 1992). This recent decision, together with the change of Administrations, has left the current status of the Title X rules unclear.

On January 22, 1993, President Clinton sent to the Secretary a memorandum on this matter, which is published elsewhere in this issue.

The Secretary's action herein is based, in part, upon her conclusion that the "Gag Rule" is an inappropriate implementation of the Title X statute because it unduly restricts the information and other services provided to individuals under this program. Therefore, the Secretary proposes below to revoke the 1988 rules and to readopt the Title X rules as they existed prior to February 2, 1988. The Secretary believes that the prior rules provide an appropriate approach to implementing Title X. In addition, the Secretary intends to reinstate the compliance standards that existed prior to that date, including those set out in the 1981 Family Planning Guidelines and in individual policy interpretations. (These compliance standards are being used on an interim basis because of the suspension of the "Gag Rule" discussed below.) Under these compliance standards. Title X projects would be required, in the event of an unplanned pregnancy and where the patient requests such action, to provide nondirective counseling to the patient on all options relating to her pregnancy, including abortion, and to refer her for abortion, if that is the option she selects. However, consistent with the long-standing Departmental interpretation of the statute, Title X projects would not be permitted to promote or encourage abortion as a method of family planning, such as by engaging in pro-choice litigation or lobbying activities. Title X projects would also be required to maintain a separation (that is more than a mere exercise in bookkeeping) of their project activities from any activities that promote or encourage abortion as a method of family planning.

As noted in the President's memorandum, these regulations and compliance standards were in effect for a considerable period of time prior to 1988, and the Department believes that they are generally well-understood within the Title X provider community. The rules proposed below are thus the Title X rules as in effect on February 1, 1988. It is recognized that some of the other regulations cross-referenced in the rules below may no longer be operative or citations may need to be updated. However, such housekeeping details will be addressed in the final rules.

The Secretary solicits comment on the proposals described above and suggestions for alternatives that will be consistent with the statute while promoting the interests of public health. Due to the considerations outlined in the President's memorandum, the Secretary's determination that the 1988 rules do not represent good public health policy, and due to the confusion and hardship caused by the 1988 rules, the Secretary has also, for the duration of the rulemaking period, suspended the 1988 rules. This action is being implemented pursuant to an Interim Rule which has been published separately in the **Federal Register**. Regional officials are being informed of this action, and will notify all present Title X grantees of the suspension of the 1988 rules.

Regulatory Flexibility Act and Executive Order 12291

The proposed rules would generally lessen the existing procedural and reporting requirements for covered entities. The Department has determined that the impact would not approach the annual $100 million threshold for major economic consequences as defined in E.O. 12291. Therefore, a regulatory impact analysis is not required.

Consistent with the provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Secretary certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12612

E.O. 12612 requires that a Federalism Assessment be prepared in any cases in which proposed policies have significant federalism implications as defined in the Executive Order. Among the types of actions which can have such implications are federal regulatory actions which preempt State law. The Department does not intend or interpret the rules proposed below as imposing

additional costs or burdens on the States or preempting State laws, nor are the rules inconsistent with any of the principles, criteria or requirements established by this Executive Order. In fact, it is anticipated that the rules will lessen present reporting and other burdens and costs. Therefore, these proposed rules would comply with E.O. 12612.

Paperwork Reduction Act of 1980

This proposed rule contains no information collections which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980.

Family Impact

The proposed rules have been reviewed in conformance with E. O. 12606. The proposed rules below would get Title X clinics out of the middle of the abortion decision, returning it to the decision-making processes of the title X clients and their families and enable them to act in what they have determined to be their own best interests. It would thus promote the stability of the family, support parental influence, reduce governmental intrusion on family activities, enhance the role and autonomy of the family in decision-making, and require less Federal involvement in monitoring activities than would the present rules. The rules below also support the message to young people that they should engage in responsible decision-making about their reproductive health and choices.

List of Subjects in 42 CFR Part 59

Family planning—birth control, Grant programs—health, Health facilities, Low-income families.

Dated: January 29, 1993.

Audrey F. Manley,

Acting Assistant Secretary for Health.

Approved: February 1, 1993.

Donna E. Shalala,

Secretary.

PART 59—[AMENDED]

For the reasons set out in the preamble, it is proposed to revise subpart A of 42 CFR part 49 to read as follows:

Subpart A—Project Grants for Family Planning Services

Sec.
59.1 To what programs do these regulations apply?
59.2 Definitions.
59.3 Who is eligible to apply for a family planning services grant?
59.4 How does one apply for a family planning services grant?
59.5 What requirements must be met by a family planning project?
59.6 What procedures apply to assure the suitability of informational and educational material?
59.7 What criteria will the Department of Health and Human Services (HHS) use to decide which family planning services projects to fund and in what amount?
59.8 How is a grant awarded?
59.9 For what purposes may grant funds be used?
59.10 What other HHS regulations apply to grants under this subpart?
59.11 Confidentiality.
59.12 Inventions or discoveries.
59.13 Additional conditions.

Subpart A—Project Grants for Family Planning Services

Authority: 42 U.S.C. 300a–4.

§ 59.1 To what programs do these regulations apply?

The regulations of this subpart are applicable to the award of grants under section 1001 of the Public Health Service Act (42 U.S.C. 300) to assist in the establishment and operation of voluntary family planning projects. These projects shall consist of the educational, comprehensive medical, and social services necessary to aid individuals to determine freely the number and spacing of their children.

§ 59.2 Definitions.

As used in this supbart:

Act means the Public Health Service Act, as amended.

Family means a social unit composed of one person, or two or more persons living together, as a household.

Low income family means a family whose total annual income does not exceed 100 percent of the most recent Community Services Administration Income Poverty Guidelines (45 CFR 1060.2). *Low income family* also includes members of families whose annual family income exceeds this amount, but who, as determined by the project director, are unable, for good reasons, to pay for family planning services. For example, unemancipated minors who wish to receive services on a confidential basis must be considered on the basis of their own resources.

Nonprofit, as applied to any private agency, institution, or organization, means that no part of the entity's net earnings benefit, or may lawfully benefit, any private shareholder or individual.

Secretary means the Secretary of Health and Human Services and any other officer or employee of the Department of Health and Human Services to whom the authority involved has been delegated.

State means one of the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, Northern Marianas, or the Trust Territory of the Pacific Islands.

§ 59.3 Who is eligible to apply for a family planning services grant?

Any public or nonprofit private entity in a State may apply for a grant under this subpart.

§ 59.4 How does one apply for a family planning services grant?

(a) Application for a grant under this subpart shall be made on an authorized form.

(b) An individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of the grant, including the regulations of this subpart, must sign the application.

(c) The application shall contain—

(1) A description, satisfactory to the Secretary, of the project and how it will meet the requirements of this subpart;

(2) A budget and justification of the amount of grant funds requested;

(3) A description of the standards and qualifications which will be required for all personnel and for all facilities to be used by the project; and

(4) Such other pertinent information as the Secretary may require.

§ 59.5 What requirements must be met by a family planning project?

(a) Each project supported under this part must:

(1) Provide a broad range of acceptable and effective medically approved family planning methods (including natural family planning methods) and services (including infertility services and services for adolescents). If an organization offers only a single method of family planning, such as natural family planning, it may participate as part of a project as long as the entire project offers a broad range of family planning services.

(2) Provide services without subjecting individuals to any coercion to accept services or to employ or not to employ any particular methods of family planning. Acceptance of services must be solely on a voluntary basis and may not be made a prerequisite to eligibility for, or receipt of, any other service, assistance from or participation in any other program of the applicant.[1]

[1] Section 205 of Pub. L. 94–63 states that any (1) officer or employee of the United States, (2) officer or employee of any State, political subdivision of a State, or any other entity, which administers or

Continued

(3) Provide services in a manner which protects the dignity of the individual.

(4) Provide services without regard to religion, race, color, national origin, handicapping condition, age, sex, number of pregnancies, or marital status.

(5) Not provide abortions as a method of family planning.

(6) Provide that priority in the provision of services will be given to persons from low-income families.

(7) Provide that no charge will be made for services provided to any person from a low-income family except to the extent that payment will be made by a third party (including a Government agency) which is authorized to or is under legal obligation to pay this charge.

(8) Provide that charges will be made for services to persons other than those from low-income families in accordance with a schedule of discounts based on ability to pay, except that charges to persons from families whose annual income exceeds 250 percent of the levels set forth in the most recent CSA Income Poverty Guidelines (45 CFR 1060.2) will be made in accordance with a schedule of fees designed to recover the reasonable cost of providing services.

(9) If a third party (including a Government agency) is authorized or legally obligated to pay for services, all reasonable efforts must be made to obtain the third-party payment without application of any discounts. Where the cost of services is to be reimbursed under title XIX or title XX of the Social Security Act, a written agreement with the title XIX or title XX agency is required.

(10) (i) Provide that if an application relates to consolidation of service areas or health resources or would otherwise affect the operations of local or regional entities, the applicant must document that these entities have been given, to the maximum feasible extent, an opportunity to participate in the development of the application. Local and regional entities include existing or potential subgrantees which have previously provided or proposed to provide family planning services to the area proposed to be served by the applicant.

(ii) Provide an opportunity for maximum participation by existing or potential subgrantees in the ongoing policy decisionmaking of the project.

(11) Provide for an Advisory Committee as required by § 59.6.

(b) In addition to the requirements of paragraph (a) of this section, each project must meet each of the following requirements unless the Secretary determines that the project has established good cause for its omission. Each project must:

(1) Provide for medical services related to family planning (including physician's consultation, examination prescription, and continuing supervision, laboratory examination, contraceptive supplies) and necessary referral to other medical facilities when medically indicated, and provide for the effective usage of contraceptive devices and practices.

(2) Provide for social services related to family planning, including counseling, referral to and from other social and medical services agencies, and any ancillary services which may be necessary to facilitate clinic attendance.

(3) Provide for informational and educational programs designed to (i) achieve community understanding of the objectives of the program, (ii) inform the community of the availability of services, and (iii) promote continued participation in the project by persons to whom family planning services may be beneficial.

(4) Provide for orientation and in-service training for all project personnel.

(5) Provide services without the imposition of any durational residency requirement or requirement that the patient be referred by a physician.

(6) Provide that family planning medical services will be performed under the direction of a physician with special training or experience in family planning.

(7) Provide that all services purchased for project participants will be authorized by the project director or his designee on the project staff.

(8) Provide for coordination and use of referral arrangements with other providers of health care services, local health and welfare departments, hospitals, voluntary agencies, and health services projects supported by other Federal programs.

(9) Provide that if family planning services are provided by contract or other similar arrangements with actual providers of services, services will be provided in accordance with a plan which establishes rates and method of payment for medical care. These payments must be made under agreements with a schedule of rates and payment procedures maintained by the grantee. The grantee must be prepared to substantiate that these rates are reasonable and necessary.

(10) Provide, to the maximum feasible extent, an opportunity for participation in the development, implementation, and evaluation of the project by persons broadly representative of all significant elements of the population to be served, and by others in the community knowledgeable about the community's needs for family planning services.

§ 59.6 What procedures apply to assure the suitability of informational and educational material?

(a) A grant under this section may be made only upon assurances satisfactory to the Secretary that the project shall provide for the review and approval of informational and educational materials developed or made available under the project by an Advisory Committee prior to their distribution, to assure that the materials are suitable for the population or community to which they are to be made available and the purposes of title X of the Act. The project shall not disseminate any such materials which are not approved by the Advisory Committee.

(b) The Advisory Committee referred to in paragraph (a) of this section shall be established as follows:

(1) *Size.* The Committee shall consist of no fewer than five but not more than nine members, except that this provision may be waived by the Secretary for good cause shown.

(2) *Composition.* The Committee shall include individuals broadly representative (in terms of demographic factors such as race, color, national origin, handicapped condition, sex, and age) of population or community for which the materials are intended.

(3) *Function.* In reviewing materials, the Advisory Committee shall:

(i) Consider the educational and cultural backgrounds of individuals to whom the materials are addressed;

(ii) Consider the standards of the population or community to be served with respect to such materials;

(iii) Review the content of the material to assure that the information is factually correct;

(iv) Determine whether the material is suitable for the population or community to which it is to be made available; and

(v) Establish a written record of its determinations.

---

supervises the administration of any program receiving Federal financial assistance, or (3) person who receives, under any program receiving Federal assistance, compensation for services, who coerces or endeavors to coerce any person to undergo an abortion or sterilization procedure by threatening such person with the loss of, or disqualification for the receipt of, any benefit or service under a program receiving Federal financial assistance shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

§ 59.7 What criteria will the Department of Health and Human Services use to decide which family planning services projects to fund and in what amount?

(a) Within the limits of funds available for these purposes, the Secretary may award grants for the establishment and operation of those projects which will in the Department's judgment best promote the purposes of section 1001 of the Act, taking into account:

(1) The number of patients and, in particular, the number of low-income patients to be served;

(2) The extent to which family planning services are needed locally;

(3) The relative need of the applicant;

(4) The capacity of the applicant to make rapid and effective use of the Federal assistance;

(5) The adequacy of the applicant's facilities and staff;

(6) The relative availability of non-Federal resources within the community to be served and the degree to which those resources are committed to the project; and

(7) The degree to which the project plan adequately provides for the requirements set forth in these regulations.

(b) The Secretary shall determine the amount of any award on the basis of his estimate of the sum necessary for the performance of the project. No grant may be made for less than 90 percent of the project's costs, as so estimated, unless the grant is to be made for a project which was supported, under section 1001, for less than 90 percent of its costs in fiscal year 1975. In that case, the grant shall not be for less than the percentage of costs covered by the grant in fiscal year 1975.

(c) No grant may be made for an amount equal to 100 percent of the project's estimated costs.

§ 59.8 How is a grant awarded?

(a) The notice of grant award specifies how long HHS intends to support the project without requiring the project to recompete for funds. This period, called the project period, will usually be for 3 to 5 years.

(b) Generally the grant will initially be for 1 year and subsequent continuation awards will also be for 1 year at a time. A grantee must submit a separate application to have the support continued for each subsequent year. Decisions regarding continuation awards and the funding level of such awards will be made after consideration of such factors as the grantee's progress and management practices, and the availability of funds. In all cases, continuation awards require a determination by HHS that continued funding is in the best interest of the Government.

(c) Neither the approval of any application nor the award of any grant commits or obligates the United States in any way to make any additional, supplemental, continuation, or other award with respect to any approved application or portion of an approved application.

§ 59.9 For what purpose may grant funds be used?

Any funds granted under this subpart shall be expended solely for the purpose for which the funds were granted in accordance with the approved application and budget, the regulations of this subpart, the terms and conditions of the award, and the applicable cost principles prescribed in subpart Q of 45 CFR part 74.

§ 59.10 What other HHS regulations apply to grants under this subpart?

Attention is drawn to the following HHS Department-wide regulations which apply to grants under this subpart. These include:

42 CFR Part 50, Subpart D—Public Health Service grant appeals procedure

42 CFR Part 122, Subpart E—Health Systems Agency review of certain proposed uses of Federal health funds

45 CFR Part 16—Procedures of the Departmental Grant Appeals Board

45 CFR Part 19—Limitations on payment or reimbursement for drugs

45 CFR Part 74—Administration of grants

45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of Title VI of the Civil Rights Act of 1964

45 CFR Part 81—Practice and procedure for hearings under Part 80 of this Title

45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance

45 CFR Part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance

§ 59.11 Confidentiality.

All information as to personal facts and circumstances obtained by the project staff about individuals receiving services must be held confidential and must not be disclosed without the individual's consent, except as may be necessary to provide services to the patient or as required by law, with appropriate safeguards for confidentiality. Otherwise, information may be disclosed only in summary, statistical, or other form which does not identify particular individuals.

§ 59.12 Inventions or discoveries.

(a) A project grant award is subject to the regulations of HHS as set forth in 45 CFR parts 6 and 8, as amended. These regulations shall apply to any activity of the project for which grant funds are used, whether the activity is part of an approved project or is an unexpected byproduct of that project.

(b) The grantee and the Secretary shall take appropriate measures to assure that no contracts, assignments, or other arrangements inconsistent with the grant obligation are continued or entered into and that all personnel involved in the grant activity are aware of and comply with such obligations.

§ 59.13 Additional conditions.

The Secretary may, with respect to any grant, impose additional conditions prior to or at the time of any award, when in the Department's judgment these conditions are necessary to assure or protect advancement of the approved program, the interests of public health, or the proper use of grant funds.

[FR Doc. 93–2733 Filed 2–3–93; 1:18 pm]

BILLING CODE 4160–17–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Actions Regarding Family Planning Service Projects, Transplantation of Human Fetal Tissue, and Importation of the Drug Mifepristine

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In accordance with directives of President Clinton dated January 22, 1993, I have today ordered that the following actions be taken:

(1) The Standard of Compliance for Abortion-Related Services in Family Planning Service Projects (the "Gag Rule") is to be suspended, pending the publication of regulations to formally rescind the rule.

(2) The temporary moratorium imposed March 22, 1988, by the Assistant Secretary for Health and continued by the previous Secretary on November 2, 1989, prohibiting Federal funding of research involving transplantation of human fetal tissue from induced abortions, is to be rescinded.

(3) Food and Drug Administration Import Alert 66–47, importation of the drug Mifepristine ("RU–486") is to be immediately and thoroughly reviewed regarding the health and safety implications of potential import of the drug for personal use.

FOR FURTHER INFORMATION CONTACT: Audrey Manley, M.D., M.P.H., Acting Assistant Secretary for Health, Public Health, Public Health Service (202) 690–7694.

SUPPLEMENTARY INFORMATION: *The Standard of Compliance for Abortion-Related Services in Family Planning Service Projects (the "Gag Rule")*—In documents printed elsewhere in this issue of the **Federal Register**, the amendments to 42 CFR part 59, subpart A, published on February 2, 1988 (53 FR 2922)—commonly referred to as the "Gag Rule"—are suspended and new regulations are proposed to govern the Family Planning program established under Title X of the Public Health Service Act.

Federal Funding of Fetal Tissue Transplantation Research—This notice advises the public that the PHS is directed to rescind the moratorium imposed on March 22, 1988 which prohibits Federal funding of research involving transplantation of human fetal tissue from induced abortions. Such funding may be provided, subject to the procedures and protections which govern Federal support of biomedical research, and subject to guidelines as recommended by a National Institutes Health advisory committee. Interim guidelines are to be prepared immediately by the Director of the National Institutes of Health, as recommended by the committee, to assure that Federal support of such research does not encourage the choice of induced abortion.

FDA Alert 66–47 Excluding Importation of the Drug Mifeprestine ("RU–486")—The FDA has been directed to initiate immediate and thorough review, directed at the health and safety implications of potential import of the drug for personal use. Findings of the review are to be reported promptly to the Secretary. If sufficient evidence does not exist to warrant exclusion of the RU–486 from the list of drugs that qualify for the personal use importation exemption, this import alert shall be rescinded. At the same time, FDA is directed to promptly assess initiatives to promote testing of RU–486 or other antiprogestins in the United States, and, as appropriate, licensing and manufacturing in this country, and report on options to the Assistant Secretary for Health and the Secretary.

The President's memoranda are published in Part IV of this **Federal Register** issue.

Donna E. Shalala,

Secretary.

[FR Doc. 93–2738 Filed 2–3–93; 1:18 pm]

BILLING CODE 4120–01–M

federal register

Friday
February 5, 1993

Part VI

Environmental Protection Agency

Request for Comment on Petition to Modify Policy on Pesticide Tolerances; Notice

ENVIRONMENTAL PROTECTION AGENCY

[OPP-260053; FRL-4185-1]

Pesticides; Request for Comment on Petition to Modify EPA Policy on Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of receipt and availability of petition.

SUMMARY: This document announces the receipt of and solicits comments on a petition which asks that EPA change its policies related to establishing tolerances for raw and processed foods under the Federal Food, Drug and Cosmetic Act (FFDCA). This petition is of interest in light of a recent court decision involving the Delaney clause of the FFDCA which requires EPA to revoke tolerances for certain cancer-causing pesticides in processed foods. EPA's current policy is that it will generally not allow a pesticide to be used on any raw commodity where a food additive regulation for a food processed from that commodity is barred by the FFDCA. The petition challenges this policy as illegal and unsound and also challenges how EPA determines whether a food additive regulation is needed. This notice seeks comment on this issue and also describes and seeks comments on other issues and policies EPA must consider in determining which pesticide uses are affected by the court ruling in *Les* v. *Reilly*, 968 F.2d 985 (9th Cir.).

DATES: Written comments, identified by the document control number [OPP-260053] must be received on or before April 6, 1993.

ADDRESSES: By mail, requests for copies of the petition and comments should be forwarded to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. Copies of the petition will be available for public inspection from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays, at the Public Docket and Freedom of Information Section, Field Operations Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, Telephone: 703-305-5805.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. Otherwise, all written comments will be available for public inspection.

FOR FURTHER INFORMATION CONTACT: Lisa Engstrom, Office of Pesticide Programs (H7508W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: 703-308-8031.

SUPPLEMENTARY INFORMATION:

Electronic Availability: This document is available as an electronic file on *The Federal Bulletin Board* at 9:00 a.m. on the date of publication in the **Federal Register**. By modem dial (202) 512-1387 or call (202) 512-1530 for disks or paper copies. This file is also available in Postscript, Wordperfect and ASCII.

I. Introduction

A. Statutory and Regulatory Framework

Under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), pesticides must be registered with the EPA before they may be sold, distributed, or used in the United States. To qualify for registration, a pesticide must, among other things, perform its intended function without causing "unreasonable adverse effects to the environment." (7 U.S.C. 136a(c)(5)). The term "unreasonable adverse effects" is defined as "any unreasonable risk to man or the environment taking into account the economic, social and environmental costs and benefits of the use of any pesticide." (7 U.S.C. 136(bb)). Thus, FIFRA requires EPA to balance the risks and benefits of a pesticide in determining whether or not to grant, or retain, a pesticide registration.

The Federal Food, Drug and Cosmetic Act (FFDCA) [21 U.S.C. 301 et seq], authorizes the establishment of tolerances and exemptions from tolerances for the residues of pesticides in or on raw agricultural commodities (RAC) in section 408, and the promulgation of food additive regulations for pesticide residues in processed foods under section 409 of that Act [21 U.S.C. 346(a), 348].

Under section 408, EPA establishes tolerances, or exemptions from tolerances when appropriate, for pesticide residues in raw agricultural commodities. Food additive regulations setting maximum permissible levels of pesticide residues in processed foods are established under section 409. Section 409 tolerances are required, however, only for certain pesticide residues in processed food. Under section 402(a)(2) of the FFDCA, no section 409 tolerance is required if any pesticide residue in a processed food resulting from use on a raw agricultural commodity is below the tolerance for that pesticide in or on the RAC. This exemption in section 402(a)(2) is commonly referred to as the "flow-through" provision because it allows the section 408 raw food tolerance to flow through to the processed food form. Thus, a section 409 tolerance is only necessary to prevent foods from being deemed adulterated when the concentration of the pesticide residue in a processed food is greater than the tolerance prescribed for the raw agricultural commodity, or if the processed food itself is treated or comes in contact with a pesticide. Monitoring and enforcement are carried out by the Federal Food and Drug Administration (FDA) and the U.S. Department of Agriculture (USDA).

To establish a tolerance or an exemption for pesticide residues on raw agricultural commodities under section 408 of the FFDCA, EPA must make a finding that the promulgation of the rule would "protect the public health" [21 U.S.C. 346a(b)]. In reaching this determination, the Agency is directed to consider, among other relevant factors: (1) the necessity for the production of an adequate, wholesome and economical food supply; (2) other ways in which the consumer may be affected by the pesticide; and (3) the usefulness of the pesticide for which a tolerance is sought. Thus, section 408 of the FFDCA requires the Agency to balance risks against benefits in determining whether to establish tolerances.

The establishment of a food additive regulation under section 409 requires a finding that use of the pesticide will be "safe" [21 U.S.C. 348(c)(3)]. Section 409 also contains the Delaney clause, which specifically provides that, with limited exceptions, no additive may be approved if it has been found to induce cancer in man or animals. [21 U.S.C. 348(c)(5)]. Unlike FIFRA registrations and section 408 tolerances, a literal interpretation of the Delaney clause creates a "zero risk" standard that does not consider a risk/benefit balance in setting tolerances.

To coordinate the administration of each of these statutory provisions, EPA has specified that FIFRA registrations for food-use pesticides will not be approved until all tolerance and food additive regulations associated with the use have been obtained. 40 CFR 152.112(g). In addition, it is EPA's current policy that a section 408 raw food tolerance generally will not be

established or maintained if a section 409 food additive tolerance for the same pesticide residue in the resulting processed food is needed but cannot be approved (53 FR 41104, 41108, October 19, 1988). This policy, which is also referred to in this document as the "EPA's coordination policy," is discussed further in Units II and III of this notice.

B. EPA's Tolerance Setting Process

In setting both 408 and 409 tolerances, EPA reviews residue chemistry and toxicology data. To be acceptable, tolerances must be both high enough to cover residues likely to be left when the pesticide is used in accordance with its labeling, and low enough to protect the public health. With respect to section 408 tolerances, EPA determines the highest levels of residues that might be present in a raw agricultural commodity based on controlled field trials conducted under the conditions allowed by the product's labeling that are expected to yield maximum residues.

EPA's policy concerning when a section 409 tolerance is needed turns on whether there is a possibility that the processing of a raw agricultural commodity containing pesticide residues would result in residues in the processed food at a level greater than the raw food tolerance. As discussed in Part III of this notice, EPA considers several factors in evaluating processing studies to determine when a 409 tolerance is needed. When a 409 tolerance is needed, the level of the food additive regulation is determined by multiplying the raw food tolerance level by the greatest degree of concentration measured in the processing study. Thus, theoretically, residues in processed food should not exceed the level of the food additive regulation even when the residue in the raw food which was processed is at or near the tolerance level.

C. Background of Proceedings

In February 1985, EPA commissioned the Board on Agriculture of the National Research Council/National Academy of Sciences (NAS) to examine the impact of the conflicting standards for regulating pesticides discussed above. In the report, "Regulating Pesticides in Food: The Delaney Paradox" (NAS, May 29, 1987), NAS recommended that the "zero-risk" Delaney clause be replaced by a "negligible risk" standard for both raw and processed foods. The NAS thought a negligible risk standard could dramatically reduce total dietary exposure to carcinogenic pesticides with a modest reduction of benefits.

Following recommendations from the NAS report, EPA published in the **Federal Register** (53 FR 41104, October 19, 1988) a policy statement announcing that it would treat the Delaney clause as subject to a de minimis exception where the human dietary risk from residues of the pesticide is, at most, negligible. The de minimis exception to the Delaney clause is premised on case law holding that an administrative agency ordinarily has the inherent authority to avoid applying the terms of a statute literally when to do so would yield pointless results. The 1988 policy statement further asserted that a legislative change would be the only way to reconcile the statutory standards fully.

In 1989, President Bush announced a comprehensive legislative proposal addressing pesticides and food safety including, among other things, a provision which would eliminate the long-standing inconsistency in the laws governing pesticide residues in food and establish instead a negligible risk standard for all food. This proposal was consistent with the NAS recommendation and would have eliminated the conflict which is subject of the petition discussed in this notice. Although Congress has considered a number of food safety bills, no legislation has passed.

On May 25, 1989, the State of California, the Natural Resources Defense Council, Public Citizen, the AFL-CIO, and several individuals filed a petition ("California petition") requesting that EPA revoke several food additive regulations and challenging EPA's *de minimis* interpretation of the Delaney clause. The petition, which sought a "zero risk" interpretation of the Delaney clause, requested that EPA revoke the following food additive regulations: trifluralin (spearmint and peppermint oils), benomyl (raisins and tomato products), phosmet (cottonseed oil), mancozeb (raisins, and brans of barley, oats, rye and wheat), dicofol (dried tea), DDVP (packaged and bagged nonperishable processed foods and dried figs), and chlordimeform (dried prunes) (54 FR 27700, June 30, 1989). The petitioners argued that these food additive regulations should be revoked because the seven pesticides to which the regulations apply are animal carcinogens, and thus may not continue in effect due to the Delaney clause.

EPA responded to the California petition on April 18, 1990 (55 FR 17560, April 25, 1990). EPA agreed to revoke several food additive regulations for which there were no longer any registered pesticide uses. EPA declined, however, to revoke the remaining food additive regulations based on determinations that either:

1. The food additive posed *de minimis* risk and that the Delaney clause contained an exception for pesticides posing a *de minimis* risk.

2. There was insufficient information to determine whether the food additive regulation posed a *de minimis* risk and EPA believed that data to be submitted in the future would show the risk from the food additive to be *de minimis*.

3. Action under FFDCA was appropriately withheld pending completion of an ongoing FIFRA proceeding, such as a Special Review, which is a detailed assessment of the costs and benefits associated with the registered uses of a pesticide.

On May 22, 1990, the petitioners filed objections to EPA's response. Again, the petitioners' central objection was that EPA had incorrectly interpreted section 409 by reading a *de minimis* exception into the Delaney clause. The petitioners also contended that an ongoing review of a pesticide under FIFRA did not provide grounds for refusing to rule on their petition. Although under the FFDCA the petitioners could have requested an administrative hearing on the petition denial, they specifically asserted that no hearing was necessary since their objections involved strictly legal issues. EPA requested public comments on the petitioners' objections (55 FR 26498, June 28, 1990).

On February 25, 1991, EPA (1) rejected the petitioners' request to revoke the food additive regulation for trifluralin on spearmint and peppermint oils and for benomyl on raisins and tomato products, finding that these regulations posed a trivial risk, thereby falling within the *de minimis* exception to the Delaney clause; (2) denied the petitioners' request to revoke the food additive regulations for mancozeb on raisins and bran of barley, oats, rye and wheat pending the ongoing FIFRA Special Review; (3) rejected the request to revoke the phosmet food additive regulation on cottonseed oil noting that it was expecting further data on the carcinogenicity of phosmet; (4) noted that the food additive regulation for chlordimeform on dried prunes had been revoked on October 25, 1989 (54 FR 43424); and (5) stated it would propose to revoke the food additive regulations for dicofol on dried tea and DDVP on packaged and bagged nonperishable processed foods. On October 3, 1991, EPA proposed to revoke the DDVP and dicofol food additive regulations (56 FR 50190). On May 13, 1992, EPA issued an additional order on the California petition addressing the mancozeb food additive

regulations because the Special Review of mancozeb had been completed. This order denied the petition as to the mancozeb food additive regulations, finding that each of them posed a *de minimis* risk (57 FR 20481, May 18, 1992).

D. The Ninth Circuit Decision

The petitioners challenged EPA's February 25, 1991 Final Order in the U.S. Court of Appeals, Ninth Circuit. On July 8, 1992 , in *Les v. Reilly*, 968 F.2d 985 (9th Cir.), the court overturned EPA's interpretation that the Delaney clause contains an exception for pesticide uses that present no more than a *de minimis* cancer risk. The court ruled that food additive regulations are barred for any pesticides that are animal or human carcinogens. Although the court's ruling immediately affects only the pesticides involved in the petition, under the court's interpretation of the Delaney clause, food additive regulations will have to be revoked or denied for dozens of pesticide uses that either have or need such regulations.

EPA disagrees with the Ninth Circuit's decision and continues to believe that a *de minimis* exception is appropriate both as a legal matter and as a matter of public policy. EPA asked the Department of Justice (DOJ) to petition the Supreme Court for a writ of certiorari on behalf of EPA. The Solicitor General in DOJ makes decisions concerning whether cases involving Federal agencies will be appealed to the Supreme Court. The Solicitor General ultimately decided against petitioning the Supreme Court to review this case. The Solicitor General concluded that this case was not one of the small number of Federal cases, from among many presented each year for possible Supreme Court action, that merited a petition for certiorari.

The National Agricultural Chemicals Association (NACA), which intervened in the case supporting EPA's position, has filed a petition with the Supreme Court for a writ of certiorari asking the Supreme Court to overturn the Circuit Court's decision. For the moment, the effect of the Ninth Circuit's decision has been stayed by the filing of NACA's petition with the Supreme Court. EPA does not know when the Supreme Court will rule on NACA's petition. If the Supreme Court does not agree to hear NACA's petition, or uphold's the Ninth Circuit's decision, EPA will be required to revoke the tolerances that were the subject of the California petition. EPA is prepared to act promptly after any adverse Supreme Court action.

E. Other Judicial Action Involving the Delaney Clause

The same parties which petitioned EPA to revoke several existing 409 tolerances as violative of the Delaney clause have also filed suit seeking to compel EPA action on data showing that various pesticides concentrate during processing on certain foods. The plaintiffs contend that the FFDCA, and specifically the Delaney clause, requires EPA to revoke section 408 tolerances for all pesticide uses for which processing studies show concentration in a processed food form. The plaintiffs are seeking an injunction from the court ordering EPA to take prompt action to revoke all affected 408 tolerances. At present, the Court is considering motions by both the plaintiffs and EPA that the case should be decided without a trial, based on each side's legal arguments.

II. NFPA Petition

On September 11, 1992, several groups representing pesticide users and food processors (National Food Processors Association (NFPA), the United Fresh Fruit and Vegetable Association, the Florida Fruit and Vegetable Association, the Northwest Horticultural Council and the Western Growers Association) filed a petition (hereafter referred to as the "NFPA petition") with EPA requesting that section 408 tolerances remain effective for pesticides when, under the *Les* decision, the associated section 409 tolerances could not be established or would be revoked because the pesticides to which the tolerances relate induce cancer in animals or man. The NFPA petition characterizes EPA's coordination policy as the "EPA concentration policy." The "Summary and Conclusions" section of the petition, which summarizes its contents, is quoted below. (A full copy of the petition and its attachments are available as described in the ADDRESSES section of this document.)

A. *The EPA Concentration Policy is Unlawful*

1. The EPA policy is in direct conflict with the contemporaneous and consistent construction of the 1958 food additive amendments by the Federal Food and Drug Administration (FDA), which was closely involved in the drafting and Congressional consideration of the amendments and which was responsible for administering sections 408 and 409 from 1958 until 1970. Moreover, because the EPA consistently relies on its extra statutory concentration policy as a basis for denying or revoking section 408 tolerances, the policy is in effect an unlawful substantive regulation that has never been proposed for public comment or published as a rule in the Code of Federal Regulations.

2. The EPA policy unlawfully incorporates the Delaney Clause of section 409 into section 408 for commodities that may concentrate during processing. EPA's risk assessment procedures under the general safety provision of section 408 should govern the determination of whether a pesticide can be approved for use on an agricultural crop, regardless of whether processing of the commodity may result in some concentration.

3. The EPA policy unlawfully disregards the requirement in section 408 that it "give appropriate consideration * * * to the necessity for the production of an adequate, wholesome and economical food supply," since the policy automatically results in the denial or revocation of section 408 tolerances for some pesticides that are important in the production of food and that satisfy the safety standards of section 408.

4. The EPA concentration policy unlawfully ignores the language and intent of the flow-through provision of section 402(a)(2)(C). The Agency policy totally disregards the explicit Congressional directive that a pesticide residue in a processed food is lawful under the flow through provision if the level of the "residue in the processed food when ready to eat is not greater than the tolerance prescribed for the raw agricultural commodity" (emphasis added).

B. *The EPA Concentration Policy is Not Necessary to Protect the Public Health or to Avoid Uncertainty in the Marketplace*

1. Because raw product pesticide tolerances that are subject to revocation on the basis of the EPA concentration policy have previously been found to satisfy the safety standard of section 408, the policy cannot be justified on public health or safety grounds.

2. FDA and industry pesticide residue data demonstrate that actual residue levels in agricultural commodities and in processed foods are well below section 408 tolerances. As recognized in the language of the flow-through provision itself, pesticide residues are typically reduced during shipment, handling, cleaning and processing of agricultural commodities.

3. EPA's sole publicly stated justification for its concentration policy is that growers and processors would be unsure which pesticides to use and which crops to purchase, since some raw products containing lawful residues might concentrate on processing and the residue in the processed product might exceed the raw product tolerance. Actual experience demonstrates, however, that growers and processors take great care to maintain pesticide residues at the lowest feasible levels, and that processors can and will produce finished products that are in full compliance with section 402(a)(2)(C).

C. *The EPA Concentration Policy is Contrary to the Public Interest*

1. The EPA policy will force the Agency to prohibit the use on food of beneficial

pesticides that pose trivial risks, encouraging the use of alternatives that may be more harmful.

2. The EPA policy will compel the Agency to prohibit the use on food of numerous valuable and safe pesticides, thereby reducing the availability and increasing the cost to consumers of nutritious fruit, vegetable, and grain products. Continued adherence to the EPA policy is likely to have a particularly adverse impact on minor crops for which relatively few effective pesticides are registered.

III. Issues Raised in the NFPA Petition

If the *Les* decision stands, EPA will begin taking action to comply with the Ninth Circuit's decision. The NFPA petition raises several issues EPA should consider when determining which pesticide uses are subject to the Delaney clause. EPA believes that public comment on these issues, which are summarized below, will be beneficial. Therefore, EPA is soliciting comments on the issues raised in or by the NFPA petition.

A. EPA's Coordination Policy

Several issues under consideration arise from or are related to EPA's policy for coordinating FFDCA sections 408 and 409 ("coordination policy"). Under current policy, where data show that a section 409 food additive regulation is required but cannot be established, or that an existing section 409 tolerance must be revoked, EPA has generally not granted the section 408 tolerance for the associated raw agricultural commodity. Permitting the use of a pesticide where subsequent processing may yield a food with residues above the 408 tolerance, but where no food additive regulation has been established, could produce food that is adulterated. Continuing this policy in light of the *Les* decision may lead to the revocation of the section 408 tolerances associated with the affected food additive regulations. EPA is seeking comment on what relationship, if any, should be maintained between section 408 and 409 approvals and what goals EPA should pursue with such a policy. In particular, EPA is interested in receiving comments on whether EPA's current policy (if maintained) should be modified to allow 408 tolerances when for example, (1) treated raw agricultural commodities could be segregated and sent to the fresh market; (2) significant economic impacts on pesticide users and consumers would result if the 408 tolerances were revoked; or (3) the risks from residues on the raw commodities would be very small.

B. Concentration of Residues

EPA's current policy is that a section 409 food additive regulation is needed when there is a possibility that the processing of a raw food containing pesticide residues would result in residues in the processed food at a level greater than the raw food tolerance. If residues in the raw commodity are at or near the tolerance level, there is a possibility of over-tolerance residues in processed food where a processing study shows that concentration of residues occurs through the processing of raw agricultural commodities. Each decision on whether concentration occurs is based on a careful review of scientific data from a processing study. In evaluating whether a processing study shows concentration of residues in the processed food, EPA considers such factors as: (1) the variability in the residue data; and (2) the variability in the analytical method. In the past, taking these factors into account, EPA has concluded in some cases that concentration in the range of 10% requires a section 409 food additive regulation.

EPA solicits comment on its policy regarding when a food additive regulation is needed. Additionally, EPA solicits comment on whether there are additional or different factors it should consider in determining whether, upon processing, there is a possibility of residues exceeding the raw food tolerance.

C. "Ready-to-Eat" Classification

Enforcement of a section 409 tolerance for pesticide residues carried over from a raw commodity into a processed food is directed to food which is considered "ready-to-eat." [See paragraph A.4. of the NFPA petition summary in Unit II of this document.] Section 402(a)(2)(C) provides that a section 409 tolerance is not necessary when the concentration of a pesticide in a processed food when ready to eat is not greater than the associated section 408 tolerance. The Agency has not previously issued guidance on what constitutes a "ready-to-eat" processed food. EPA's general approach to that phrase has been that "ready-to-eat" food is processed food or feed available to the consumer or food processor. EPA has not interpreted the phrase "ready-to-eat" to mean necessarily ready for immediate consumption without any further mixing, cooking, or other preparation by the consumer. Thus, EPA has set food additive regulations for foods such as flour and tomato paste as well as for apple juice and potato chips. In setting food additive regulations on such commodities as flour and tomato paste, EPA has not considered whether the residue level of the pesticide in, for example, pizza, breads, cakes, or spaghetti sauce is likely to be greater than the corresponding raw food tolerances. EPA requests comment on this policy.

EPA requests that if any commenter advocates a narrow interpretation of the phrase "ready-to-eat" which excludes certain processed food forms, the commenter also address the feasibility of implementing such an interpretation for foods deemed not "ready-to-eat." The comment should address the consequences both for EPA in establishing tolerances and for FDA and USDA in enforcing the FFDCA.

D. Cancelling Affected FIFRA Registrations

Just as EPA attempts to coordinate its regulatory decisions under sections 408 and 409 of the FFDCA, EPA also attempts to coordinate its regulatory actions under FIFRA and the FFDCA; therefore, EPA does not permit registration under FIFRA of a pesticide whose use would result in adulterated food (40 CFR 152.112(g)). Under this coordination policy, as currently implemented, EPA does not register FIFRA uses or set section 408 tolerances where section 409 food additive regulations are needed for a pesticide use but cannot be established. Therefore, current policy dictates that generally, when a section 409 tolerance must be revoked, EPA should not only revoke the associated section 408 tolerance, but it should cancel the FIFRA registration for that use as well. Although not explicitly mentioned in the NFPA petition, this issue is related to the policies EPA must consider when determining what regulatory actions to take with respect to what pesticide uses affected by the Ninth Circuit's decision. EPA requests comment on this aspect of its policy. In particular, if commenters support continuing registrations and section 408 tolerances for pesticides that need section 409 tolerances, but are barred by the Delaney clause, EPA requests comments on whether, and what type of, warning statements would be appropriate on pesticide labels for affected uses.

IV. Related Issues for EPA Consideration in Future Regulation of Residues in Raw and Processed Foods

In addition to the issues specifically raised in or by the NFPA petition, there are other issues EPA must consider when determining which pesticides will be affected by the *Les* decision. EPA has outlined those issues below for the

purpose of soliciting public comment. If the *Les* decision is upheld, these issues will assume greater significance in EPA's regulation of pesticide residues.

A. The DES Proviso

The Delaney clause contains an exception to the prohibition of additives found to induce cancer for substances used: as an ingredient of feed for animals which are raised for food production, if the Secretary finds (i) that, under the conditions of use and feeding specified in proposed labeling and reasonably certain to be followed in practice, such additive will not adversely affect the animals for which such feed is intended, and (ii) that no residue of the additive will be found (by methods of examination prescribed or approved by the Secretary by regulations * * *) in any edible portion of such animal after slaughter or in any food yielded by or derived from the living animal. (21 U.S.C. 1348(c)(3)).

This provision is commonly referred to as the DES proviso because it was adopted in response to the use of the animal drug diethylstilbestrol (DES). FDA interprets the "no residue" language in the DES proviso to mean residues of the pesticide in the food which pose an upper-bound lifetime cancer risk of 1 in 1 million or less. 21 CFR 500.84. FDA's interpretation is not based on a *de minimis* interpretation, but on the principle of statutory construction that every provision of a statute must be given an effect. See 52 FR 49572. A literal application of the "no residue" requirement would, as a practical matter, make the DES proviso inoperable because given the increased sophistication of analytical methods, FDA has been unable to conclude that no trace of any given substance will remain in edible products. Id.

EPA solicits comment on the application of the DES proviso to pesticide residues in animal feeds, particularly in light of the *Les* decision.

B. Constituents Policy

Both EPA and FDA interpret the term "additive" in the Delaney clause to refer to the added substance as a whole and not to contaminants or impurities in the substance. Thus, if a constituent of a food additive such as a contaminant or impurity has been found to induce cancer, but the parent additive has not, the FDA and EPA have not invoked the Delaney clause, but rather have evaluated the parent (including risk from the constituents) under the general safety clause of the FFDCA. EPA does not regard deliberately added active or inert ingredients, and/or metabolites thereof, as candidates for consideration under the constituents policy, rather, EPA regards these substances as subject to the Delaney clause. EPA solicits comment on this interpretation of the term "additive" in the Delaney clause.

C. Section 18 Emergency Exemptions

Section 18 of FIFRA permits EPA to exempt State governments or Federal agencies from the requirements of FIFRA when EPA determines that an emergency situation exists and that the emergency use of the pesticide will not result in unreasonable adverse effects to the environment. The section 18 regulations require that, in deciding whether to issue an emergency exemption, EPA give "due consideration * * * to the progress which has been made toward registration of the proposed use, if a repeated specific or public health exemption is sought" (40 CFR 166.25(b)(2)). Because of EPA's coordination policy, whereby EPA will not register a use or establish a section 408 tolerance if concentration during processing indicates that a section 409 tolerance is required, but prohibited by Delaney, EPA could not make the finding of sufficient progress toward registration in cases where a food additive regulation is needed, but would be barred by the Delaney clause. If the *Les* decision is upheld, EPA will alert appropriate State and Federal agencies that EPA may not grant exemptions for uses that trigger Delaney clause concerns.

EPA seeks comment on this issue and on the impact of the potential elimination of the *de minimis* policy and retention of the coordination policy on the Agency's granting of FIFRA section 18 exemptions.

D. Regulatory Impacts

EPA is required under Executive Order 12291 to assess the benefits and costs to society which would result from revocation of tolerances affected by the court's decision, as well as from other regulatory actions which these revocations may trigger under current EPA policy. EPA has not undertaken a systematic assessment of the costs and benefits under EPA's policy, or the impacts associated with the policy changes suggested in the NFPA petition. While the degree of disruption will depend on which policies EPA ultimately uses, preliminary analyses suggest that section 409 tolerance revocations, coupled with current EPA policy, would significantly affect production of some agricultural commodities. These impacts may result in income loss to users, a reduction in the quality and quantity of affected crops, and increases in consumer prices. In many instances, impacts are expected to be concentrated in different geographic regions as affected by each region's degree of dependence on specific pesticides. There is also the possibility that some alternatives to affected pesticides may pose higher human (non-cancer) or environmental risks than the risks posed by the affected pesticides.

The Agency will conduct an assessment of the costs and benefits to society as a part of any regulatory action involving the Delaney clause and EPA's coordination policy. EPA has identified information, which is presented below, it believes would be useful to conduct this assessment. EPA requests comments on whether and what types of additional information would be useful to fully assess the costs and benefits of revoking affected tolerances.

Specifically, EPA believes information would be useful regarding the nature and extent of use (namely percent of crop treated, number of acre treatments applied annually, typical rate of application, and time of application) of pesticides and uses affected by the Delaney clause, pests controlled, likely alternative chemical and non-chemical controls, relative efficacy or performance of alternatives, the economic impacts to different sectors of the economy (e.g. crop producers, food processors and final consumers), and the impacts on imports and foreign competition which would result from the revocation of tolerances and food additive regulations on affected commodities and processed food products. EPA will also find its useful to consider the comparative risks of likely alternatives to affected pesticides. EPA will also consider information on the percent of each affected processed food product which has pesticide residues above the current associated section 408 tolerance, as well as information on the number of current users who would be affected if only section 409 tolerances were revoked.

Information on the timing of issuing tolerance revocations and effective dates would be useful in conducting the regulatory impact assessments once a decision to revoke is announced. EPA would find useful information, by both commodity and processed food, on the time of year for both pesticide use and crop harvest, the timing of processing in relation to harvest, and the length of time following harvest for both the raw agricultural commodities and different processed food products to clear domestic channels of trade. EPA will conduct an assessment using both typical and worst case estimates, as well

as consideration of regional impacts. This latter information will be helpful to EPA in assessing the impact to growers who use the pesticides prior to the revocation and in analyzing the extent of any dislocation resulting from the revocations.

E. Determining the Level for Section 408 Tolerances

As noted in Unit I of this notice, EPA sets section 408 tolerances based on the highest levels observed in controlled field trials. EPA's current policy is to include all data points reflecting the maximum application rate and minimum preharvest interval allowed on the label since crops could be legally treated in this manner. This tolerance setting procedure reduces the chances of a crop treated according to label directions having illegal residues. On some occasions, EPA has discarded one or more of the higher residue values in a particular set of data when there is evidence of extremely unusual weather conditions, misapplication of the pesticide, or the possibility of samples being switched after harvest. It is relatively rare that such discarding occurs when EPA establishes tolerances. On the other hand, international organizations such as the Codex Alimentarius often discard higher residue values such that their maximum residue limits (MRL's) tend to be lower than U.S. tolerances. EPA's approach has thus been occasionally criticized as producing section 408 tolerances that are unnecessarily high.

If EPA were to change its current policy and exclude these high residue values, EPA would sometimes set lower tolerances. As a consequence, residues would more often exceed tolerance levels in both raw and processed foods. However, it should be noted that there are other factors which more frequently account for the U.S. tolerances being higher than Codex MRL's. For example, the use patterns of the pesticide often differ in the United States and EPA includes residues of metabolites in tolerances more often than the international organizations.

EPA requests comments on the present policy used to establish section 408 tolerances. In particular, the Agency asks commenters to address the relationship between EPA's use of high residue values in setting section 408 tolerances and policies regarding when there is sufficient concentration of residues during processing to require a section 409 tolerance. Finally, EPA asks that comments address the advantages and disadvantages of changing the current policy on high residue values to follow more closely the approach used by the Codex Alimetarius.

V. Conclusion

The issues described above are among the considerations raised by the Ninth Ciruit's ruling on the Delaney clause and the NFPA petition. If the *Les* decision is upheld, EPA may solicit further comment on these issues, as well as other issues which are raised by the conflicts in the legislative scheme governing pesticides. In view of the complexity, interrelatedness, and number of the considerations arising from *Les*, and the NFPA petition, however, EPA believes these matters to be of sufficient public concern that EPA should begin soliciting comment at this time. EPA is not including a list of potentially affected pesticides in this notice. Instead, EPA expects to release a list of potentially affected pesticides at a later date, either prior to or as part of future regulatory actions. The Agency will consider public comment submitted in response to this notice in focusing and refining its discussion in future notices or actions involving the Delaney clause.

Dated: January 19, 1993.

William K. Reilly,

Administrator.

[FR Doc. 93–2701 Filed 2–4–93; 8:45 am]

BILLING CODE 6560–50–F

Reader Aids

Federal Register

Vol. 58, No. 23

Friday, February 5, 1993

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	523–3419

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, FEBRUARY

6601–6678.....1
6679–6874.....2
6875–7046.....3
7047–7184.....4
7185–7476.....5

CFR PARTS AFFECTED DURING FEBRUARY

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.

3 CFR

Executive orders:
12800 (Revoked by EO 12836).....7045
12818 (Revoked by EO 12836).....7045
12836.....7045
Administrative Orders:
Memorandums:
January 22, 1993.....7455
January 22, 1993.....7455
January 22, 1993.....7455

5 CFR

Proposed Rules:
970.....7052

7 CFR

1097.....6679
1099.....6679
Proposed Rules:
52.....7296
275.....7296
283.....7296

10 CFR

Proposed Rules:
30.....6730
40.....6730
50.....6730
70.....6730
72.....6730

11 CFR

201.....6875

12 CFR

203.....6601
207.....6602
220.....6602
221.....6602
224.....6602
611.....6604
612.....6605
796.....6605

14 CFR

33.....6875
39.....6703–6707, 6877–6881, 7185
71.....6709, 6884–6886, 7179
73.....6884
95.....6887
97.....6709, 6712
Proposed Rules:
39.....6740–6746, 6906, 7196
61.....7197
63.....7197
65.....7197
71.....6911
121.....7197
135.....7197
300.....7040
399.....7053

16 CFR

4.....7047

17 CFR

140.....6677
145.....7040
150.....6854
Proposed Rules:
1.....6748, 7056
3.....6748
10.....6748
145.....6748

18 CFR

157.....6893

19 CFR

Proposed Rules:
10.....6677

21 CFR

1308.....7186

23 CFR

140.....6713
Proposed Rules:
625.....6914

26 CFR

1.....6678, 7041, 7296
602.....6678
Proposed Rules:
1.....6854, 6922, 6923, 7179
26.....6854
301.....6854

29 CFR

2616.....6605
2617.....6605
Proposed Rules:
103.....7149

31 CFR

103.....7047

32 CFR

592.....6715
606.....6715
608.....6715
612.....6715
616.....6715

33 CFR

3.....6716
117.....6717

150....7330
154....7330
155....7376
334....6718
Proposed Rules:
117....6766, 6767
334....6768

36 CFR

Proposed Rules:
1191....6924

37 CFR

304....7051

38 CFR

1....7296

39 CFR

Proposed Rules:
3001....6769

40 CFR

2....7187
52....6606
60....7189
180....6893
261....6854
266....6607
271....6854
281....6894
300....7189
721....7190
Proposed Rules:
Ch. I....6609
261....6925
372....6609

42 CFR

59....7462
Proposed Rules:
59....7464

43 CFR

Public Land Order:
6956....6719

45 CFR

303....7040
1626....6608
Proposed Rules:
1607....6611
1609....6612

46 CFR

571....7190
Proposed Rules:
502....7199
505....7199
510....7199
540....7199

47 CFR

1....6895
73....7194, 7195
Proposed Rules:
Ch. 1....6937, 7062
2....6769
15....6769, 7205
73....6677
76....7205

48 CFR

Proposed Rules:
Ch. 53....6771

49 CFR

1....6896–6898
229....6899
9....6719
171....6864
172....6864
173....6864
174....6864
176....6864
390....6726
394....6726
Proposed Rules:
40....7197
199....7197
217....7197
219....7197
350....7197
382....7197
383....7197
391....7197
392....6937, 7197
395....6937, 7197
531....6939
571....7206
611....6948
653....7197
654....7197
1180....6612

50 CFR

650....7040
675....7040
Proposed Rules:
226....7206
672....6677

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 January 25, 1993

ELECTRONIC BULLETIN BOARD

Free **Electronic Bulletin Board** Service for Public Law Numbers is available on 202–275–1538 or 275–0920.

LIST OF ACTS REQUIRING PUBLICATION IN THE FEDERAL REGISTER, 1992

Additions to Table III, February 7, 1992 through November 10, 1992

This table lists the subject matter, public law number, and citations to the U.S. Statutes at Large and U.S. Code for those acts of the second session of the 102d Congress which require Federal agencies to publish documents in the Federal Register.

Table III appears in the CFR Index and Finding Aids volume revised as of January 1, 1993.

Description of Act	*Public Law*	*Citation*
To increase the number of weeks for which benefits are payable under the Emergency Unemployment Compensation Act of 1991, and for other purposes.	102–244	106 Stat. 4; 26 USC 3304 note.
Omnibus Insular Areas Act of 1992	102–247	106 Stat. 36; 16 USC 410tt–4.
To provide for the designation of the Flower Garden Banks National Marine Sanctuary.	102–251	106 Stat. 60; 16 USC 1433 note.
Generic Drug Enforcement Act of 1992	102–282	106 Stat. 155; 21 USC 335a.
Child Abuse, Domestic Violence, Adoption and Family Services Act of 1992.	102–295	106 Stat. 187; 42 USC 10414.
Medical Device Amendments of 1992	102–300	106 Stat. 238; 21 USC 360i note.
Copyright Amendments Act of 1992	102–307	106 Stat. 268; 2 USC 179a.
ADAMHA Reorganization Act	102–321	106 Stat. 387; 42 USC 300x–7.
Higher Education Amendments of 1992	102–325	106 Stat. 504; 20 USC 1070a–81. 106 Stat. 516; 20 USC 1077a. 106 Stat. 575; 20 USC 1087i. 106 Stat. 602; 20 USC 1087rr. 106 Stat. 633; 20 USC 1098a. 106 Stat. 694; 20 USC 1107. 106 Stat. 745; 20 USC 1132c–4. 106 Stat. 785; 20 USC 1136b.
Voting Rights Language Assistance Act of 1992	102–344	106 Stat. 922; 42 USC 1973aa–1a.
Small Business Credit and Business Opportunity Enhancement Act of 1992.	102–366	106 Stat. 1006; 15 USC 644 note. 106 Stat. 1018; 15 USC 661 note.
Dire Emergency Supplemental Appropriations Act, 1992, Including Disaster Assistance To Meet the Present Emergencies Arising From the Consequences of Hurricane Andrew, Typhoon Omar, Hurricane Iniki, and Other Natural Disasters, and Additional Assistance to Distressed Communities.	102–368	106 Stat. 1119; 16 USC 1433 note. 106 Stat. 1150.
Tourism Policy and Export Promotion Act of 1992	102–372	106 Stat. 1176; 22 USC 2123.
Older Americans Act Amendments of 1992	102–375	106 Stat. 1301, 1304; 42 USC 3001 note.
Department of the Interior and Related Agencies Appropriations Act, 1993.	102–381	106 Stat. 1419; 16 USC 1612 note.
United States-Hong Kong Policy Act of 1992	102–383	106 Stat. 1453; 22 USC 5722.
To amend the Solid Waste Disposal Act to clarify provisions concerning the application of certain requirements and sanctions to Federal facilities.	102–386	106 Stat. 1511; 42 USC 6939c.
Department of Transportation and Related Agencies Appropriations Act, 1993.	102–388	106 Stat. 1546.
Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993.	102–389	106 Stat. 1580, 1594.
To provide for the minting of commemorative coins to support the 1996 Atlanta Centennial Olympic Games and the programs of the United States Olympic Committee, to reauthorize and reform the United States Mint, and for other purposes.	102–390	106 Stat. 1631; 31 USC 5112.
Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993.	102–391	106 Stat. 1675.
Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993.	102–395	106 Stat. 1829.
Rocky Mountain Arsenal National Wildlife Refuge Act of 1992.	102–402	106 Stat. 1964.
Health Professions Education Extension Amendments of 1992.	102–408	106 Stat. 2006; 42 USC 292h. 106 Stat. 2085; 20 USC 1078–3.
Agency for Health Care Policy and Research Reauthorization Act of 1992.	102–410	106 Stat. 2095; 42 USC 299a–2. 106 Stat. 2100; 42 USC 299b–3.
To promote the conservation of wild exotic birds, to provide for the Great Lakes Fish and Wildlife Tissue Bank, to reauthorize the Fish and Wildlife Conservation Act of 1980, to reauthorize the African Elephant Conservation Act, and for other purposes.	102–440	106 Stat. 2227; 16 USC 4905. 106 Stat. 2228; 16 USC 4906. 106 Stat. 2229; 16 USC 4908, 4909.
National Defense Authorization Act for Fiscal Year 1993	102–484	106 Stat. 2453; 10 USC 2410e. 106 Stat. 2756; 29 USC 1662d–1 note. 106 Stat. 2769.
Depository Institutions Disaster Relief Act of 1992	102–485	106 Stat. 2771; 12 USC 3352. 106 Stat. 2772; 12 USC 4008 note. 106 Stat. 2773; 12 USC 1828 note.

Description of Act	Public Law	Citation
Energy Policy Act of 1992	102–486	106 Stat. 2808, 2809; 42 USC 6314. 106 Stat. 2812, 2814; 42 USC 6313. 106 Stat. 2826, 2827; 42 USC 6295. 106 Stat. 2889; 42 USC 13252. 106 Stat. 2890; 42 USC 13254. 106 Stat. 2891; 42 USC 13256. 106 Stat. 2892, 2894; 42 USC 13257. 106 Stat. 2986; 42 USC13368. 106 Stat. 3022; 26 USC 45. 106 Stat. 3103. 106 Stat. 3120; 42 USC 2239.
To make technical amendments to certain Federal Indian statutes.	102–497	106 Stat. 3260; 42 USC 4368b.
Veterans' Compensation Cost-of-Living Adjustment Act of 1992.	102–510	106 Stat. 3319; 38 USC 1114 note.
President John F. Kennedy Assassination Records Collection Act of 1992.	102–526	106 Stat. 3448; 44 USC 2107 note. 106 Stat. 3451, 3454, 3455; 44 USC 2107 note.
Telecommunications Authorization Act of 1992	102–538	106 Stat. 3537; 47 USC 903.
To establish the Keweenaw National Historical Park, and for other purposes.	102–543	106 Stat. 3570; 16 USC 410yy–2.
Futures Trading Practices Act of 1992	102–546	106 Stat. 3593; 7 USC 6j. 106 Stat. 3620; 7 USC 6f.
Housing and Community Development Act of 1992	102–550	106 Stat. 3717; 42 USC 1437f note. 106 Stat. 4027; 42 USC 11398. 106 Stat. 4049; 12 USC 1818.
Defense Production Act Amendments of 1992	102–558	106 Stat. 4216; 50 USC 2159. 106 Stat. 4217; 50 USC app. 2160.
To authorize and direct the Secretary of the Interior to convey certain lands in Livingston Parish, Louisiana, and for other purposes.	102–562	106 Stat. 4235; 16 USC 431 note.
Audio Home Recording Act of 1992	102–563	106 Stat. 4246, 4247; 17 USC 1010.
National Oceanic and Atmospheric Administration Authorization Act of 1992.	102–567	106 Stat. 4298; 33 USC 2803. 106 Stat. 4305, 4306; 15 USC 313 note.
Rehabilitation Act Amendments of 1992	102–569	106 Stat. 4385; 29 USC 726. 106 Stat. 4397; 29 USC 712 note. 106 Stat. 4437; 29 USC 795g. 106 Stat. 4449; 29 USC 796d–1.
To amend the Federal Food, Drug, and Cosmetic Act to authorize human drug application, prescription drug establishment, and prescription drug product fees and for other purposes.	102–571	106 Stat. 4496; 21 USC 379h.
Indian Health Amendments of 1992	102–573	106 Stat. 4585; 25 USC 1672.
Reclamation Projects Authorization and Adjustment Act of 1992.	102–575	106 Stat. 4751; 25 USC 390 note. 106 Stat. 4760; 16 USC 470c.
Waste Isolation Pilot Plant Land Withdrawal Act	102–579	106 Stat. 4780, 4782–4784, 4790.
High Seas Driftnet Fisheries Enforcement Act	102–582	106 Stat. 4906; 16 USC 1823 note. 106 Stat. 4912; 46 USC app. 1707a.
To amend the Juvenile Justice and Delinquency Prevention Act of 1974 to authorize appropriations for fiscal years 1993, 1994, 1995, and 1996, and for other purposes.	102–586	106 Stat. 4985; 42 USC 5614.
Oceans Act of 1992	102–587	106 Stat. 5047; 16 USC 1445a. 106 Stat. 5049; 16 USC 1442 note. 106 Stat. 5058; 16 USC 1433 note.
Homeless Veterans Comprehensive Service Programs Act of 1992.	102–590	106 Stat. 5137; 38 USC 7721.

Printed on recycled paper