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Presidential Documents

Title 3—

The President

Proclamation 6528 of February 14, 1993

American Heart Month, 1993

By the President of the United States of America

A Proclamation

Approximately every 34 seconds, someone in the United States dies of some form of heart and blood vessel disease. Heart attack, stroke, and other cardiovascular diseases kill nearly one million Americans every year.

Heart diseases and stroke exact an incalculable toll in human pain and suffering. More than 70 million Americans, young and old, currently suffer from one or more forms of cardiovascular disease. Stroke is the leading cause of serious disability and the third leading cause of death in the United States. Heart diseases and stroke also cost our Nation more than $117 billion in terms of health care expenses and lost productivity.

The Federal Government, through the National Heart, Lung, and Blood Institute, and the American Heart Association have spent millions of dollars on research into cardiovascular diseases and educational programs. That investment was greatly enhanced by the dedicated efforts of the Association's 3.7 million volunteers.

We know how important it is to educate people, particularly young people, about the use of tobacco products. We also know that controlling blood pressure, eating a diet low in fat and cholesterol, and exercising regularly are all prudent ways of reducing the risk of cardiovascular disease.

Advances in both the treatment and the prevention of heart and blood vessel diseases have resulted in great progress. From 1980 to 1990 age-adjusted death rates from heart attack declined 32.6 percent and during the same years the death rate from stroke dropped 32.4 percent.

Although significant progress has been made in the struggle to overcome cardiovascular diseases, we must not become complacent. We must strengthen and renew our commitment to winning this battle.

In recognition of the need for all Americans to become involved in the ongoing fight against cardiovascular diseases, the Congress, by Joint Resolution approved December 30, 1963 (77 Stat. 843; 36 U.S.C. 169b), has requested that the President issue an annual proclamation designating February as "American Heart Month."

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim the month of February 1993 as American Heart Month. I invite the Governors of the States, the Commonwealth of Puerto Rico, officials of other areas subject to the jurisdiction of the United States, and the American people to join me in reaffirming our commitment to combatting cardiovascular diseases and stroke

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of February, in the year of our Lord nineteen hundred and ninety-three, and of the Independence of the United States of America the two hundred and seventeenth.

William J. Clinton

[FR Doc. 93-3905
Filed 2-16-93; 11:11 am]
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Rules and Regulations

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

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92–NM–89–AD; Amendment 39–8437; AD 92–27–04]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects information in an existing airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes that requires structural inspections of older airplanes. This action corrects the rule by adding one additional service bulletin to a listing that denotes specific service bulletins for which inspections are not required by this AD. This action is necessary so that affected operators may avoid performing unnecessary redundant inspections. Additionally, this action corrects certain typographical errors that appeared in the AD.

DATES: Effective January 20, 1993.

The incorporation by reference of certain publications listed in the regulation is approved by the Director of the Federal Register as of January 20, 1993 (57 FR 59801, December 16, 1992).

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. 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: Steven C. Fox, Aerospace Engineer, Seattle Aircraft Certification Office, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2777; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: On December 8, 1992, the FAA issued AD 92–27–04, Amendment 39–8437 (57 FR 59801, December 16, 1992) to require structural inspections of older airplanes. That action was prompted by reports of incidents involving fatigue cracking and corrosion in transport category airplanes that are approaching or have exceeded their design life goal. The actions required by that AD are intended to prevent degradation in the structural capabilities of the affected airplanes.

When AD 92–27–04 was published in the **Federal Register**, paragraph (e) of the rule contained certain errors:

The listing that appeared in paragraph (e), which denoted certain Boeing service bulletins for which inspections are not required by this AD, inadvertently omitted one specific service bulletin. (The listed service bulletins are referenced in Boeing Document No. D6–35999, "Aging Airplane Service Bulletin Structural Modification and Inspection Program," Revision C, dated January 21, 1992, but are addressed by other separate AD's; therefore, the inspections required by those AD's are excluded from the inspection requirements of this rulemaking action.) The FAA has determined that it is warranted to take action to correct AD 92–27–04 by adding "Boeing Service Bulletin 747–57–2231, Revision 2, dated September 27, 1990," to the list appearing in paragraph (e). This action is necessary so that affected operators may avoid performing unnecessary redundant inspections.

One of the service bulletin numbers listed in paragraph (e) was cited incorrectly as "737–53–2283;" the correct number is "747–53–2283." This action corrects that typographical error.

Another typographical error incorrectly referred operators to paragraph (e) for procedures for obtaining approval of alternative methods of compliance with the AD. The correct reference should have been to paragraph (f) of the AD, since all alternative methods of compliance or adjustments to the compliance time are to be obtained under the provisions of paragraph (f). This action corrects that typographical error.

Action is taken herein to correct these errors and to correctly add the AD as an amendment to section 39.13 of the Federal Aviation Regulation (FAR). The effective date of the rule remains January 20, 1993.

The final rule is being reprinted in its entirety for the convenience of affected operators.

Since this action only corrects the listing of service bulletins that are the subject of other separate AD's and corrects certain typographical errors, it has no adverse economic impact and imposes no additional burden on any person. Therefore, notice and public procedures hereon are unnecessary.

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 correctly adding the following airworthiness directive (AD):

92–27–04. Boeing: Amendment 39–8437. Docket 92–NM–89–AD.

Applicability: Model 747 series airplanes; as listed in Section 4 of Boeing Document Number D6–35999, "Aging Airplane Service Bulletin Structural Modification and Inspection Program," Revision C, dated January 21, 1992; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent degradation of the structural capability of the airplane, accomplish the following:

Note: Refer only to section 4 of Boeing Document D6–35999; the appendices are not the subject of this AD.

(a) Except as provided in paragraph (e) of this AD, accomplish the inspections

specified in section 4 of Boeing Document No. D6–35999, Revision C, dated January 21, 1992, within the times specified in paragraph (b) of this AD, and thereafter at intervals not to exceed those specified in the corresponding service bulletin for the inspection.

(b) The maximum initial inspection times for the inspections contained in section 4 of Boeing Document No. D6–35999, Revision C, dated January 21, 1992, shall be the later of the time specified in either paragraph (b)(1) or (b)(2) of this AD:

(1) The threshold for the inspection time for the inspections specified in the corresponding service bulletin, measured as a total (flight cycles, time-in-service, as appropriate) accumulated on the airplane; or

(2) The phase-in period for the inspections specified in the corresponding service bulletin, measured from the effective date of this AD.

(c) If any of the discrepant conditions identified in the service bulletins are found as a result of the inspections required by this AD, the corresponding corrective actions specified in the service bulletins must be accomplished prior to further flight.

(d) The terminating action for each inspection required by paragraph (a) of this AD consists of the accomplishment of the modification specified in the corresponding service bulletin.

(e) Notwithstanding the references in section 4 of Boeing Document No. D6–35999, Revision C, dated January 21, 1992, to the following list of service bulletins, this AD does not require inspections in accordance with those service bulletins:

Service bulletin No.	Revision level	Service bulletin date
747–27A2253	4	January 25, 1990.
747–32–2190	4	October 26, 1989.
747–53–2253	2	March 29, 1990.
747–53–2265	7	January 25, 1990.
747–53–2283	3	November 1, 1989.
747–53–2289	1	January 26, 1989.
747–52–2186	4	October 24, 1991.
747–57–2231	2	September 27, 1990.

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

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

(g) 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.

(h) The inspections and corrective actions shall be done in accordance with section 4 of Boeing Document No. D6–35999, Revision C, dated January 21, 1992, which contains the following list of effective pages:

Note: Except for the title page of the document, no other pages of the document are dated.

Page number	Revision level shown on page
a, c, d, d.1, e, f, 2.0.1, 3.1.1, 3.2.1, 3.2.2, 3.2.3, 3.3.1, 3.4.1, 4.0.1, 4.1.1, 4.2.1, 4.2.2, 4.3.1, 4.3.2, 4.3.3, 5.1.1, 5.1.2, A.3.1, B.1.1, B.2.1, B.3.1, B.4.1.	C
3.0.1, A.1.1, A.2.1	B
1.2.2, 5.0.1	A
b, 1.1.1, 1.2.1, 2.0.2,	(Original)

This incorporation by reference was previously approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51, as of January 20, 1993 (57 FR 59801, December 16, 1992). Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. 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.

(i) This amendment is effective January 20, 1993.

Issued in Renton, Washington, on February 10, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–3664 Filed 2–16–93; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Judge Advocate General of the Navy has determined that USS CYCLONE (PC 1) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special functions as a naval patrol craft. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: January 27, 1993.

FOR FURTHER INFORMATION CONTACT: Captain R.R. Rossi, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332–2400, Telephone number: (202) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Judge Advocate General of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS CYCLONE (PC 1) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Rule 23(a)(ii), pertaining to display of a masthead light and a second (after) masthead light on vessels exceeding 50 meters in length; Annex I, paragraph 2(k), pertaining to the vertical distance between the forward and after anchor lights and the height of the forward anchor light above the hull; Rule 21(c), pertaining to location of the sternlight, without interfering with its special functions as a naval patrol craft. The Judge Advocate General of the Navy has also certified that the number of masthead lights displayed and the location of the other mentioned lights are in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the number and placement of lights on USS CYCLONE (PC 1) in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR part 706 is amended as follows:

1. The authority citation for 32 CFR part 706 continues to read:

Authority: 33 U.S.C. § 1605.

§ 706.2 [Amended]

2. Table Three of § 706.2 is amended by adding the following ship:

Vessel	Number	Masthead light ARC of visibility rule 21(A)	Side lights ARC of visibility rule 21(B)	Stem lights ARC of visibility rule 21(C)	Side lights distance inboard of ship sides in meters Annex I section 3(b)	Stem lights distance forward of stem in meters rule 21(C)	Forward anchor lights height above hull in meters Annex I section 2(k)	Anchor lights relationship of aft light to forward light in meters Annex I Sec. 2(k)
CYCLONE	PC 1	.....	.....	.....	.....	[1] 25.5	3.0	1.0

[1] Only when towing.

3. Table Four of § 706.2 is amended by adding the following paragraph:

Paragraph 17

The second masthead light required by Rule 23(a)(ii) will not be displayed on the PC 1 Class.

Dated: January 27, 1993.

W.L. Schachte, Jr.,

Rear Admiral, JAGC, U.S. Navy, Acting Judge Advocate General.

[FR Doc. 93–3672 Filed 2–16–93; 8:45 am]

BILLING CODE 3810–AE–10

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 2F4046/R1179; FRL–4185–3]

RIN 2070–AB78

Azadirachtin; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes an exemption from the requirement of a tolerance for residues of the azadirachtin (also called Azatin-EC, EPA No. 62552-3), which is a biochemical pesticide extracted from the berries of the Neem tree (*Azadirachta indica*), when used in or on raw agricultural commodities (RACs). This rule eliminates the need to establish a maximum permissible level for residues of this biochemical insecticide. AgriDyne Technologies, Inc., requested this tolerance exemption.

EFFECTIVE DATE: Effective on February 17, 1993.

ADDRESSES: Written objections, identified by the document control number (PP 2F4046/R1179), may be submitted to the Hearing Clerk (A-110), Environmental Protection Agency, rm. 3708M, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Philip O. Hutton, Product Manager (PM) 18, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, rm. 213, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-7690.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 11, 1992 (57 FR 8658), EPA issued a notice that announced that AgriDyne Technologies, Inc., 417 Wakara Way, Salt Lake City, UT 84108, had submitted pesticide petition (PP) 2F4046 to EPA under section 408(d) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(d), proposing that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of the insecticide azadirachtin in or on all raw agricultural commodities (RACs) when used as an insect growth regulator and/or antifeedant, including when it is applied to seeds, plant cuttings, transplants, and plants.

There were no comments or requests for referral to an advisory committee received in response to the notice of filing.

Azadirachtin is active against a wide variety of insect orders, inlcuding representatives of lepidoptera, coleoptera, diptera, thysanopters, orthoptera, and homoptera. Because of the wide susceptible insect host range, risk to nontarget insects may occur; therefore, until honey bee toxicity data are submitted, reviewed, and found acceptable by EPA, the product must not be used when honey bees are actively foraging.

The recommended application rates are as follows: 8 to 21 fluid ounces per acre (maximum rate = 20 grams of active ingredient per acre) in sufficient water to provide uniform and thorough coverage. Aerial or ground equipment may be used.

Residue Chemical Data and Toxicology Data

Residue chemistry data were not required. Such data were determined to be required only if the submitted toxicology data indicated that additional Tier II or III toxicology data were necessary as specified in 40 CFR 158.690(b). The submitted data for this use indicated that the product is of low mammalian toxicity/pathogenicity, and Tier II or III data were not required.

The following data were submitted in support of the petition, and other relevant material have been evaluated. The toxicology data considered in support of this exemption from the requirements of a tolerance include the following:

1. Acute oral toxicity in rats (Technical Grade Active Ingredient (TGAI)), Guideline Nos. 81-1/152-10. The acute oral LD_{50} for the TGAI as indicated by the data is greater than 3,540 mg/kg, the highest dose tested, when administered undiluted to albino rats.

2. Acute Dermal Toxicity Study in rabbits (Technical), Guideline Nos. 81-5/152-11. The test material when applied for 24 hours at a single dose of 2.0 gm/kg of NPI 720 (technical grade) to the shaved backs of the rabbits caused dermal irritation which was resolved by day 9. Azadirachtin was classified as a mild irritant.

3. Acute Inhalation Toxicity Study in Rats (Technical), Guideline No. 152B-12. The Acute Inhalation LD_{50} for the TGAI (Technical) as indicated by the data, is greater than 2.41 mg/L (average aerosol mass median aerodynamics diameter was 1.51 um with a standard deviation of 1.83), per animal, the highest dose tested. Although below the 5.0 mg/L limit test dose for an acute inhalation study, the reported concentration was the maximum dose possible under the test conditions. No deaths occurred during the course of the study. Toxicity Category III.

4. Primary Eye Irritation Study in Rabbits (Technical), Guideline No. 152B-13. The TGAI (Technical) was rated mild to moderately irritating after instillation of 0.1 gm of (Technical) the undiluted material. At 1 hour post-instillation the maximum eye irritation score was 15.3/110; by 24, 48, and 72 hours the scores were 6.2/110, 0.3/110, and 0/110, respectively. Toxicity Category III.

5. Primary Dermal Irritation in Rabbits (Technical), Guideline No. 152B-14. The TGAI product, when tested at a single dose (0.5 gm) by applying it to the shaved backs of rabbits, did not cause any dermal irritation after 4 hours of exposure. The dermal score was zero for all treated rabbits at all examination

times. Toxicity Category IV. Mild to slightly irritating.

6. Dermal Sensitization in Guinea Pigs. The technical end-use product (TEP) was categorized as a mild sensitizer when administered undiluted to albino guinea pigs. The test material was considered a weak dermal sensitizer to albino guinea pigs.

7. Mutagenicity (Technical), Guideline No. 152B-17 was evaluated for the potential to cause gene mutations in the *S. typhimurium* strains at any dose (5, 50, 500, 5,000 micrograms/plate) with or without S-9 activation. The study was negative.

The exemption from the requirement of a tolerance on all raw agricultural commodities (RAC's) is toxicologically supported.

1. Azatin-EC is a botanical insect growth regulator isolated from the berries of the Neem tree (*Azadirachta indica*) which has a unique mode of action, low use volume, targeted species specificity, and is naturally occurring. Azadirachtin is an insect growth regulator whose mode of actions include disruption of molting and metamorphosis of chitin-bearing invertebrates, and it is an antifeedant.

2. This product is a powder formulation that is to be made into an aqueous flowable product for application. It will be used at 20 grams or less per acre.

3. Azatin-EC will be applied to a wide variety of crops, including vegetable crops, not to exceed 20 grams per acre.

A lack of demonstrable toxicity to azadirachtin insecticide indicates that its use to aid in the control of a wide variety of lepidoteran, coleoptera, diptera, thysanoptera, orthoptera, and homoptera pests would not result in hazards to public health. The data submitted or referenced in this petition and other relevant material have been evaluated. The toxciological data considered in support of the exemption from the requirements of a tolerance did not show any deleterious effects that would indicate a cause for concern from the use of this product.

The acceptable daily intake and maximum permissible intake considerations are not relevant to this petition because of the low toxicity/pathogenicity demonstrated in the submitted studies.

Azatin-EC is considered useful for the purpose for which the exemption from the requirment of a tolerance is sought. It is concluded that a tolerance for azadirachtin is not necessary to protect the public health. Therefore, 40 CFR part 180 is amended as set forth below.

Any person adversely affected by this regulation may, within 30 days after the date of publication of this document in the **Federal Register**, file written objections and/or a request for a hearing with the Hearing Clerk at the address given above. 40 CFR 178.20. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections. 40 CFR 178.25. Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on each such issue, and a summary of any evidence relied upon by the objector. 40 CFR 178.27. A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested. 40 CFR 178.32.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291. Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or food additive regulations or raising tolerance levels or food additive regulations or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Dated: February 5, 1992.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. In part 180:

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

Authority: 21 U.S.C. 346a and 371.

b. In Subpart D, by adding new § 180.1119, to read as follows:

§ 180.1119 Azadirachtin; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for the biochemical azadirachtin, which is isolated from the berries of the Neem tree (*Azadirachta indica*), when used as a pesticide at 20 grams or less per acre on all raw agricultural commodities.

[FR Doc. 93-3593 Filed 2-16-93; 8:45 am]

BILLING CODE 6560-50-F

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40 CFR Part 180

[PP 2F4077/R1180; FRL-4185-5]

RIN 2070-AB78

Pesticide Tolerance for Clomazone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues for the herbicide clomazone [2-(2-chlorophenyl)-methyl-4,4-dimethyl-3-isoxazolidinone] in or on the raw agricultural commodity (RAC) cottonseed at 0.05 part per million (ppm). The regulation was requested by FMC Corp. and establishes the maximum permissible level for residues of the herbicide in or on cottonseed.

EFFECTIVE DATE: This regulation becomes effective February 17, 1993.

ADDRESSES: Written objectives, identified by the document control number, [PP 2F4077/R1180], may be submitted to: hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail, Robert J. Taylor, Product Manager (PM) 25, Registration Division (H7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 241, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-6800.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of June 10, 1992 (57 FR 24645), which announced that the FMC Corp., Agricultural Chemical Group, 1735 Market St., Philadelphia, PA 19103, had submitted a pesticide petition (PP 2F4077) to EPA requesting that the Administrator, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(d), amend 40 CFR 180.425 by establishing a regulation to permit the residues of the herbicide clomazone [2-(2-chlorophenyl)-methyl-4,4-dimethyl-3-isoxazolidinone] in or on the raw

agricultural commodity (RAC) cottonseed at 0.05 part per million (ppm).

There were no comments or requests for referral to an advisory committee received in response to the notice of filing.

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

1. Several acute toxicology studies were performed, placing technical-grade clomazone in toxicity Category III.

2. A 2-year carcinogenicity study with mice fed dosages of 0, 3, 15, 75, 150, and 300 mg/kg/day with a no-observed-effect level (NOEL) of 15.0 mg/kg/day and a LEL of 75 mg/kg/day.

3. A 2-year chronic toxicity/oncogenicity study in rats fed dosages of 0, 1, 5, 25, 50, and 100 mg/kg/day with a NOEL of 15.0 mg/kg/day and a LEL of 75 mg/kg/day.

4. A 1-year feeding study in dogs fed dosages of 0, 2.5, 12.5, 62.5, and 187.5 mg/kg/day with a NOEL of 12.5 mg/kg/day, and a LEL of 62.5 mg/kg/day.

5. A developmental toxicity study in rats fed dosage levels of 0, 100, 300, and 600 mg/kg/day, with a maternal no-observed-effect level (NOEL) of 100 mg/kg/day, maternal lowest-effect level (LEL) of 300 mg/kg/day, and a fetotoxicity NOEL of 100 mg/kg/day, fetotoxic LEL of 300 mg/kg/day.

6. A developmental toxicity study in rabbits fed dosage levels of 0, 30, 240, and 1,000/700 mg/kg/day (1,000 changed to 700 on day 13 because of maternal toxicity) with negative results at the highest dose tested (HDT, 700 mg/kg/day) for teratogenic effects, maternal NOEL of 240 mg/kg/day, a maternal LEL of 700 mg/kg/day and a fetotoxicity NOEL of 240 mg/kg/day, fetotoxic LEL of 700 mg/kg/day.

7. Mutagenicity data include reverse gene mutation assays with *Salmonella* (negative), point mutation assays (weakly positive), an unscheduled DNA synthesis (negative), and a chromosomal aberration test (negative).

Based on the NOEL of 4.3 mg/kg bwt/day in the 2-year rat feeding study and using a hundred-fold uncertainty factor, the RfD (acceptable daily intake (ADI)) for clomazone is calculated to be 0.043 mg/kg bwt/day. The theoretical maximum residue contribution (TMRC) is 0.000028 mg/kg bwt/day for existing tolerances for the overall U.S. population. The current action will increase the TMRC by 0.000002 mg/kg bwt/day (0.002 percent of the RfD). These tolerances and previously established tolerances utilize a total of 0.066 percent of the ADI for the overall U.S. population.

For U.S. subgroup populations, nonnursing infants and childred aged 1 to 6 years, the current action and previously established tolerances utilize, respectively, a total of 0.253 percent and 0.128 percent of the ADI, assuming that residue levels are at the established tolerances and that 100 percent of the crop is treated.

The nature of the residue is adequately understood, and an adequate analytical method (gas chromatography using a nitrogen phosphorus detector) is available for enforcement purposes in Vol. II of the Food and Drug Administration Pesticide Analytical Method (PAM II, Method I). There are currently no actions pending against the registration of this chemical. No secondary residues are expected to occur in meat, milk, poultry, or eggs from this use.

Based on the above information cited, the Agency has determined that the establishment of the tolerance by amending 40 CFR part 180 will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above (40 CFR 178.20). The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or food additive regulations or raising tolerance levels or food additive regulations or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (40 FR 24950).

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

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: February 1, 1993.

Douglas D. Campt,
Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR part 180 is amended as follows:

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

Authority: 21 U.S.C. 346a and 371.

2. Section 180.425 is amended in the table therein by adding and alphabetically inserting the raw agricultural commodity cottonseed, to read as follows:

§ 180.425 2-(2-Chlorophenyl)-methyl-4,4-dimethyl-3-isoxazolidinone; tolerances for residues.

* * * * *

Commodity	Parts per million
* * * * *	
Cottonseed	0.05
* * * * *	

[FR Doc. 93-3597 Filed 2-16-93; 8:45 am]
BILLING CODE 6560-50-F

40 CFR Part 180

[PP 0F3869/R1177; FRL-4182-6]

RIN 2070-AB78

Pesticide Tolerance for 1-[[2-(2,4-Dichlorophenyl)-4-Propyl-1,3-Dioxolan-2-yl]Methyl]-1H-1,2,4-Triazole and its Metabolites Determined as 2,4-Dichlorobenzoic Acid

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes a tolerance for residues for the fungicide

1-[[2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2yl]methyl]-1H-1,2,4-triazole and its metabolites determined as 2,4-dichlorobenzoic acid in or on celery at 5.0 parts per million (ppm). This regulation was requested by Ciba-Geigy Corp. in a petition and would establish the maximum permissible levels for residues of propiconazole in or on the commodity.

EFFECTIVE DATE: This regulation becomes effective on February 3, 1993.

ADDRESSES: Written objections, identified by the document control number, [PP 0F3869/R1177], may be submitted to: hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail, Susan T. Lewis, Product Manager (PM) 21, Registration Division (H7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, contact: Susan T. Lewis, Product Manager (PM 21), Registration Division (H7505C), Rm. 227, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-6900.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of July 18, 1990 (55 FR 29268), which announced that the Ciba-Geigy Corp., P.O. Box 18300, Greensboro, NC 27419, had submitted a tolerance pesticide petition (PP 0F3869) to EPA requesting that the Administrator, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(d), propose to amend 40 CFR 180.434 by establishing a tolerance for the fungicide 1-[[2(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl]methyl]-1H-1,2,4-triazole and its metabolites, determined as 2,4-dichlrobenzoic acid, in or on celery at 5.0 ppm.

There were no comments received in response to the notice of filing. The toxicological data considered in support of the tolerance include the following:

1. Plant and animal metabolism studies.

2. Residue data for crop and livestock commodities.

3. Two enforcement methodologies and a multiresidue method of analysis.

4. A rat oral lethal dose (LD_{50}) of 1,517 milligrams/kilogram (mg/kg) of body weight.

5. A 90-day rat feeding study with a no-observed-effect level (NOEL) of 12 mg/kg/day.

6. A 90-day dog feeding study with a NOEL of 1.25 mg/kg/day.

7. A rabbit developmental toxicity study with a maternal NOEL of 100 mg/kg and a developmental toxicity greater than 400 mg/kg (highest dose tested).

8. A rat teratology study with a maternal toxicity NOEL of 30 mg/kg/day and a developmental toxicity NOEL of 30 mg/kg/day.

9. A two-generation rat reproduction study with a reproductive NOEL of 125 mg/kg/day (HDT) and a developmental NOEL of 25 mg/kg/day.

10. A 1-year dog feeding study with a NOEL of 1.25 mg/kg of body weight/day.

11. A 2-year rat chronic feeding/carcinogenicity study with a NOEL of 5 mg/kg/day with no carcinogenic potential under the conditions of the study up to and including approximately 125 mg/kg, the highest dose tested.

12. A 2-year mouse chronic feeding/carcinogenicity study with a NOEL of 15 mg/kg/day and with a statistically significant increase in combined adenomas and carcinomas of the liver in male mice at approximately 375 mg/kg, the highest dose tested.

13. Ames test with and without activation, negative.

14. A mouse dominant-lethal assay, negative.

15. Chinese hamster nucleus anomaly, negative.

16. Cell transformation assay, negative.

As part of EPA's evaluation of potential human health risks, propiconazole has been the subject of five peer reviews of the Office of Pesticide Programs Peer Review Committee and one Scientific Advisory Panel (SAP) meeting. Propiconazole was originally evaluated by the Peer Review Committee on January 15, 1987 and classified as a Group C (possible human) carcinogen with a recommendation made for the quantification of estimated potential human risk using a linearized low-dose extrapolation. The method resulted in the establishment of a $Q1^*$ of 7.9×10^{-2} $(mg/kg/day)^{-1}$.

The Peer Review Committee's decision was presented to the FIFRA Scientific Advisory Panel on March 2, 1988. The Panel did not concur with the committee's overall assessment of the weight-of-evidence on the carcinogenicity of propiconazole. The Panel recommended placing the chemical in Group D. The Panel concluded that the Category (Group C) classification was based on minimal evidence. The Panel's determination that EPA's Group C classification was based on minimal evidence, citing the fact that the incidence of liver tumors in male mice only occurred when the mice were given an excessive chemical dose.

In the second, third, and fourth Peer Reviews that followed, the Peer Review group considered recommendations of the SAP as well as rebuttals by the registrant. It's conclusion, however, that propiconazole should be classified as a Group C carcinogen with a quantification of potential human risk remained unchanged.

As part of a fifth Peer Review, EPA considered additional information provided by the registrant in support of its argument that the high-dose was excessively toxic in the mouse carcinogenicity study and thus should not be included in the evaluation of carcinogenic potential of propiconazole In support of this argument, the registrant provided two subchronic oral toxicity studies in mice. Ciba-Geigy also provided a reread of the pathology slides from one study which it felt indicated sufficient concurrent liver toxicity at 2,500 ppm to document that this dose was excessive. These findings were not present in the original pathology report.

Due to the inconsistency in Ciba-Geigy's report and the original report, the Agency requested that an independent (third) evaluation of the pathology slides be made to determine if the pathology reported could be confirmed. The results of the independent (third) pathology evaluation were used in the fifth Peer Review in place of data resulting from the earlier evaluations provided by Ciba-Geigy.

The Peer Review Committee considered the following facts regarding the toxicology data on propiconazole in a weight-of-evidence determination of carcinogenic potential: Increase numbers of adenomas (increased trend and pairs comparison) were found in the livers of male CD1 mice given 2,500 ppm of propiconazole in the diet; the treated animals had earlier fatalities than the controls; the numbers of carcinomas were increased (trend only) in male mice at the 2,500-ppm dose level; tumors were not significantly increased at the 500-ppm dose; although the adenomas observed in the treated animals were larger and more numerous than those in controls, the tumor type (adenomas) was the same; an excessive number of tumors was not found in female mice.

The Peer Review Committee determined that based on the additional information submitted by Ciba-Geigy from two 90-day subchronic studies in mice that: The 2,500 ppm used in the 2-year chronic study exceeded the MTD based on the endpoint of hepatic necrosis, and the 500 ppm used in the chronic study was inadequate to assess

the carcinogenicty of propiconazole. Based on the third pathology evaluation of the chronic study, the Peer Review Committee disagreed with Ciba-Geigy's argument that that study showed excessive toxicity at the 2,500-ppm dose. However, the Peer Review Committee concluded that the 90-day subchronic studies are a better measure of what would be an MTD.

Based upon these findings, the Peer Review Committee agreed that the classification for propiconazole should remain a Group C possible human carcinogen. For the purpose of risk characterization the Peer Review Committee recommended that the Reference Dose (RfD) approach should be used for quantification of human risk. This decision was based on the disqualification of the high dose (2,500 ppm), making the data inappropriate for the calculation of a $Q1^*$. Because the middle dose (500 ppm) was not considered sufficiently high enough for assessing the carcinogenic potential of propiconazole, EPA has requested an additional mouse study at intermediate dose levels in male mice only. EPA does not expect that these data will significantly change the above cancer assessment.

A Dietary Risk chronic exposure analysis was conducted for the use of propiconazol on celery. The analysis used a Reference Dose (RfD) of 0.013 mg/kg body weight (bwt)/day, based on a no-observed-effect-level (NOEL) of 1.25 mg/kg/bwt/day and an uncertainty factor of 100. The NOEL was taken from a 1-year feeding study in dogs which demonstrated as an effect irritation of the stomach in males. This RfD was previously approved by the Agency. The food uses and anticipated residues used in the analysis were obtained from data contained in the Agency's files. The Dietary Risk Analysis can use tolerance level residues and 100-percent crop treated to calculate the Theoretical Maximum Residue Contribution (TMRC) for the overall U.S. population and 22 population subgroups.

Here, anticipated residues and refined percent-crop-treated information were used to estimate the Anticipated Residues Contribution (ARC) for those same Dietary Exposure Analysis populations. The ARC is considered the more accurate estimate of dietary exposure. The ARC from published uses of propiconazole for the overall U.S. population is 0.000014 mg/kg bwt/day. This exposure utilizes approximately 0.1 percent of the RfD. Based on the proposed tolerance level, the use of propiconazole on celery contributes an additional 0.000305 mg/kg bwt/day (2.3 percent of the RfD) to the exposure, which raises the overall ARC to 0.000318 mg/kg bwt/day, or 2.45 percent of the RfD. The subgroup most highly exposed, children aged 1 through 6 years, has an ARC from published uses of 0.000041 mg/kg bwt/day, or 0.3 percent of the RfD. The proposed use on celery raises the exposure for that subgroup to 0.000440 mg/kg bwt/day, or 3.4 percent of the RfD.

The nature of the residue is adequately understood, and an adequate analytical method (gas chromatography) is available for enforcement purposes. Because of the long lead time from establishing these tolerances and food additive regulations to publication of the enforcement methodology in the Pesticide Analytical Manual, Vol. II, the analytical methodology is being made available in the interim to anyone interested in pesticide enforcement when requested from: Calvin Furlow, Public Information Branch, Field Operations Division (H7506C), 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1128C, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-5232.

The pesticide is considered useful for the purpose for which the tolerance is being sought. Based on the information and data considered, the Agency concludes that the amendment of the tolerance for celery will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above (40 CFR 178.20). The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or food additive regulations or raising tolerance levels or food additive regulations or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (40 FR 24950).

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

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: February 3, 1993.

Douglas D. Campt,
Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR part 180 is amended as follows:

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

Authority: 21 U.S.C. 346a and 371.

2. Section 180.434 is amended in the table therein by adding and alphabetically inserting the following raw agricultural commodity, to read as follows:

§ 180.434 1-[[2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl]methyl]-1H-1,2,4-triazole; tolerances for residues.

* * * * *

Commodity	Parts per million	Expiration date
* * *	*	*
Celery	5.0	.....
* * *	*	*

[FR Doc. 93-3545 Filed 2-16-93; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 180

[OPP-300272A; FRL-4183-5]

RIN 2070-AB78

Tetrapotassium Pyrophosphate; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes an exemption from the requirement of a tolerance for residues of tetrapotassium pyrophosphate (CAS Reg. No. 7320-345) when used as an inert ingredient (sequestrant, anticaking agent, or conditioning agent) in pesticide formulations applied to growing crops only. This regulation was requested by the Monsanto Co.

EFFECTIVE DATE: This regulation becomes effective February 17, 1993.

ADDRESSES: Written objections, identified by the document control number, (OPP-300272A), may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, rm. M3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Rosalind Gross, Registration Support Branch, Registration Division (H7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 724A, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-305-5971.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 16, 1992 (57 FR 59829), EPA issued a proposed rule that gave notice that the Monsanto Co., suite 1100, 700 14th St., NW., Washington, DC 20005, had submitted pesticide petition (PP) 1E03984 to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose to amend 40 CFR 180.1001(d) by establishing an exemption from the requirement of a tolerance for residues of tetrapotassium pyrophosphate ((CAS Reg. No. 7320-345), also known as potassium pyrophosphate) when used as an inert ingredient (sequestrant, anticaking agent, or conditioning agent) not to exceed 10 percent in pesticide formulations applied to growing crops only.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted in the petition and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance exemption will protect the public health. Therefore, the tolerance exemption is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above (40 CFR 178.20). The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

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

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

List of Subjects in 40 CFR Part 180

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

Dated: February 1, 1993.

Douglas D. Campt,
Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

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

Authority: 21 U.S.C. 346a and 371.

2. Section 180.1001(d) is amended in the table therein by adding and alphabetically inserting the inert ingredient, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
* * *	* * *	* * *
Tetrapotassium pyrophosphate (CAS Reg. No. 7320–345)	Not to exceed 10 percent of formulation.	Sequestrant, anticaking agent, conditioning agent
* * *	* * *	* * *

* * * * *

[FR Doc. 93-3599 Filed 2-16-93; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[FCC 93-22]

Antidrug Abuse Act of 1988 Certification Requirements

In the matter of Amendment of § 1.2002 of the Commission's Rules.

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action is to conform our rules to be consistent with of the Anti-Drug Abuse Act of 1988. The intended effect is to specifically exempt federal, state or local governmental entities or subdivisions thereof from the certification requirements of the Commission's rules implementing the Anti-Drug Abuse Act of 1988.

EFFECTIVE DATE: February 17, 1993.

FOR FURTHER INFORMATION CONTACT: Sharon Diskin, Office of General Counsel, Federal Communications Commission (202) 632-6990.

SUPPLEMENTARY INFORMATION:

Order

Adopted: January 13, 1993; *Released:* February 5, 1993.

By the Commission:

1. By this Order we amend § 1.2002(c) of our rules. This section implements section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. 862.

2. Section 5301 of the Anti-Drug Abuse Act of 1988 gives federal and state court judges the discretion to deny federal benefits to individuals convicted of offenses consisting of the distribution or possession of controlled substances. Under § 1.2002 of the Commission's Rules, 47 CFR 1.2002, an applicant for any new, modified, and or renewed instrument of authorization from the Commission must, in order to be eligible, certify that neither the applicant nor any party to the application is subject to a section 5301 denial of benefits.

3. By its terms, the only licenses section 5301 applies to are "professional" and "commercial" licenses. 21 U.S.C. 862 (d)(1)(A). Instruments of authorization obtained from the Commission by federal, state or local governmental entities or subdivisions thereof are not used for professional or commercial purposes and, therefore, these entities should be exempt from the certification requirements of our rules.

4. Because this rule change simply conforms our rules to the statute, and is a minor and non-controversial amendment in which the public is not likely to be interested, we find for good cause that compliance with the notice and comment provisions of the Administrative Procedure Act is unnecessary. See 5 U.S.C. 553(b)(B). For similar reasons, and because the amendment relieves a restriction, compliance with the effective date provision of the Administrative Procedure Act also is unnecessary. 5 U.S.C. 553(d).

5. Accordingly, pursuant to sections 4(i), 4(j) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), and 303(r), and the Anti-Drug Abuse Act of 1988, as amended, 21 U.S.C. 862, *It is ordered* That § 1.2002(c) of the Commission's Rules, 47 CFR 1.2002(c) is amended as set forth in the appendix, effective upon publication in the **Federal Register**.

List of Subjects in 47 CFR Part 1

Administrative practice and procedure.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Rule Change

Title 47 of the Code of Federal Regulations, part 1, is amended to read as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303; Implement, 5 U.S.C. 552, unless otherwise noted.

2. Paragraph (c) of § 1.2002 is revised to read as follows:

§ 1.2002 Applicants required to submit information.

* * * * *

(c) The provisions of paragraphs (a) and (b) of this section are not applicable to the Amateur Radio Service, the Citizens Band Radio Service, the Radio Control Radio Service, to users in the Public Mobile Services and the Private Radio Services that are not individually licensed by the Commission, or to federal, state or local governmental entities or subdivisions thereof.

[FR Doc. 93-3560 Filed 2-16-93; 8:45 am]

BILLING CODE 6712-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

48 CFR Parts 701, 706, 716, 719, 726, 733 and 752

[AIDAR Notice 93-1]

Miscellaneous Amendments

AGENCY: Agency for International Development, IDCA.

ACTION: Final rule.

SUMMARY: The Agency for International Development Acquisition Regulation (AIDAR) is being amended to reference the current OMB approval expiration date for AIDAR 752.7033; correct an obsolete office title; provide general guidance on content and signatory authority for determinations and findings; to bring the authority citations for AID's Disadvantaged Enterprise Program up to date; to remove obsolete material concerning AID protest procedures; and to remove a reference to an obsolete AID emblem.

EFFECTIVE DATE: March 19, 1993.

FOR FURTHER INFORMATION CONTACT: FA/PPE, Mr. James M. Kelly, room 1600I, SA-14, Agency for International Development, Washington, DC 20523-1435. Telephone: (703) 875-1534.

SUPPLEMENTARY INFORMATION: The contract clause at AIDAR 752.7033 concerning physical fitness of contractor employees requires use of an information collection form. OMB approval of the referenced form has been extended through May 31, 1995. AIDAR 701.105(a) which lists AIDAR information collections and recordkeeping requirements is amended to reflect this new expiration date.

AIDAR 701.601 is amended to correct an obsolete office title.

New coverage concerning determinations and findings (D&F's) is added. This new coverage supplements the corresponding FAR coverage by providing AID Contracting Officers with guidance on form and content of D&F's, by providing general guidance on signatory authority for D&F's, and by designating Contracting Officers as being authorized to sign the D&F for a cost-plus fixed-fee contract under FAR 16.306(c).

The authority citation for AID's Disadvantaged Enterprise Program is

being amended to delete references to specific legislation. Appropriations acts in general are cited as the authority.

In subpart 733.70, AID's protest procedures, AIDAR 733.7006(d) is being removed. This paragraph excluded Contracting Officer determinations of responsibility from consideration. Upon review, we determined that was not in strict conformance with the latest GAO guidelines or FAR coverage.

The contract clause at AIDAR 752.7009 is amended to remove a reference to the discontinued AID handclasp emblem.

The changes being made by this Notice are editorial and administrative and are not considered significant rules under FAR 1.301 or subpart 1.5, nor major rules as defined in Executive Order 12291. This Notice will not have an impact on a substantial number of small entities, nor does it establish any information collection as contemplated by the Regulatory Flexibility Act and Paperwork Reduction Act. Because of the nature and subject matter of this Notice, use of the proposed rule/public comment approach was not considered necessary. We decided to issue as a final rule; however, we welcome public comment on the material covered by this Notice or any other part of the AIDAR at any time. Comments or questions may be addressed as specified in the "FOR FURTHER INFORMATION CONTACT" section of the preamble.

List of Subjects in 48 CFR Parts 701, 706, 716, 719, 726, 733, and 752

Government procurement.

Accordingly for the reasons set out in the Preamble, 48 CFR chapter 7 is amended as follows:

1. The authority citations in parts 701, 706, 716, 719, 726, 733, and 752 continue to read as follows:

Authority: Sec. 621, Public Law 87–195, 75 Stat. 445 (22 U.S.C. 2381), as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673, 3 CFR 1979 Comp., p. 435.

PART 701—FEDERAL ACQUISITION REGULATION SYSTEM

Subpart 701.7—Purpose, Authority, Issuance

701.105 [Amended]

2. Paragraph (a) of section 701.105, OMB approval under the Paperwork Reduction Act, is amended by removing the May 31, 1992 expiration date shown for OMB Control Number 0412–0536 and adding May 31, 1995.

Subpart 701.6—Contracting Authority and Responsibility

701.601 [Amended]

3. Paragraph (b)(4) of section 701.601, General, is amended by removing "MS/PPE" and adding "FA/PPE".

4. A new subpart 701.7 is added to read as follows:

Subpart 701.7—Determinations and Findings

701.704 Content.
701.707 Signatory authority.

SUBPART 701.7—DETERMINATIONS AND FINDINGS

701.704 Content.

There is no AID-prescribed format or form for determinations and findings (D&Fs). D&Fs are to contain the information specified in FAR 1.704 and any information which may be required by the FAR or AIDAR section under which the D&F is issued.

701.707 Signatory authority.

Unless otherwise specified in the FAR or AIDAR section under which the D&F is issued, the Contracting Officer is the signing official.

PART 706—COMPETITION REQUIREMENTS

Subpart 706.3—Other Than Full and Open Competition

5. Section 706.302–5 is revised as follows:

706.302–5 Authorized or required by statute.

Annual appropriations acts authorize AID to contract with certain disadvantaged enterprises using other than full and open competition. The provisions implementing this authority are set forth in 706.302–71 and part 726.

6. Paragraph (a)(1) of section 706.302–71 is revised as follows:

706.302–71 Small disadvantaged businesses.

(a) * * *

(1) Citation: Fiscal year 1993 Foreign Operations, Export Financing, and Related Programs Appropriations Act, Sec. 563.

* * * * *

PART 716—TYPES OF CONTRACTS

Subpart 716.3—Cost Reimbursement Contracts

7. A new section 716.306 is added to read as follows:

716.306 Cost-plus-fixed-fee contracts.

(a)–(b) [Reserved]

(c) The Contracting Officer is authorized to sign the D&F specified in FAR 16.306(c)(2).

PART 719—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

8. Section 719.272 is revised to read as follows:

719.272 Small disadvantaged business policies.

In addition to the requirements in FAR part 19, part 726 provides for contracting and subcontracting with small disadvantaged businesses and other disadvantaged enterprises based on provisions of the foreign assistance appropriations acts.

PART 726—OTHER SOCIOECONOMIC PROGRAMS

9. Section 726.000 is revised as follows:

726.000 Scope of part.

This part supplements FAR part 19 and implements the provisions of the foreign assistance appropriations acts concerning disadvantaged enterprises which require, in general, that not less than ten percent of the aggregate amount made available for development assistance and for assistance for famine recovery and development in Africa shall be made available to disadvantaged enterprises. See part 705 and part 706 for additional provisions on publicizing contract actions and using other than full and open competition.

Subpart 726.1—General

10. Section 726.104 is revised as follows:

726.104 Exceptions.

The notification requirement in 705.207 and the subcontracting requirement in 726.301 are based on statutory requirement and may not be deviated from under the provisions of subpart 701.4. By statute, the Administrator or designee may determine that these requirements do not apply to a particular contract or category of contracts. The Procurement Executive has been designated to make such determinations. One such determination concerning subcontracting is set out in 726.301(b).

PART 733—PROTESTS, DISPUTES AND APPEALS

Subpart 733.70—AID Procedures for Protests

733.7006 [Amended]

11. Section 733.7006 is amended by removing paragraph (d), and by redesignating paragraphs (e), (f), (g), and (h) as paragraphs (d), (e), (f), and (g).

PART 752—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Subpart 752.70—Texts of AID Contract Clauses

752.7009 [Amended]

12. The contract clause in section 752.7009, Marking, is amended by changing the clause date from "(APR 1984)" to "(JAN 1993)", and by amending paragraph (a) of the clause by removing the words "* * * red, white and blue handclasp * * *".

Dated: January 12, 1993

John F. Owens,

Procurement Executive.

[FR Doc. 93-3532 Filed 2-16-93; 8:45 am]

BILLING CODE 6116-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration (NOAA)

50 CFR Parts 611 and 675

[Docket No. 921185-3021]

Foreign Fishing; Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Final 1993 initial specifications of groundfish and prohibited species catch allowances; closures.

SUMMARY: NMFS announces final specifications of total allowable catches (TACs), initial apportionments of TAC for each category of groundfish, and associated management measures in the Bering Sea and Aleutian Islands Area (BSAI) during the 1993 fishing year. This action is necessary to establish harvest limits for groundfish during the 1993 fishing year and associated management measures. NMFS also is closing specified fisheries consistent with the final 1993 groundfish specifications and fishery bycatch allowances of prohibited species. The intended effect of this action is to conserve and manage the groundfish resources in the BSAI area.

DATES: Effective February 11, 1993 through 24:00 Alaska local time, on December 31, 1993, or until changed by subsequent notice in the **Federal Register**.

ADDRESSES: Comments on directed fishing closures should be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, Service, P.O. Box 21668, Juneau, Alaska 99802-1668 (Attn: Lori Gravel). The final Environmental Assessment prepared for the 1993 TAC specifications may be obtained from the same address, or by calling 907-586-7228. The final Stock Assessment and Fishery Evaluation (SAFE) report may be requested from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone 907-271-2809.

FOR FURTHER INFORMATION CONTACT: Susan J. Salveson, Fisheries Management Division, Alaska Region, NMFS, 907-586-7228.

SUPPLEMENTARY INFORMATION: Groundfish fisheries in the BSAI are governed by Federal regulations (50 CFR 611.93 and 675) that implement the Fishery Management Plan for the Groundfish Fishery of the BSAI (FMP). The FMP was prepared by the North Pacific Fishery Management Council (Council) and approved by the Secretary of Commerce (Secretary) under the Magnuson Fishery Conservation and Management Act (Magnuson Act).

The FMP and implementing regulations require the Secretary, after consultation with the Council, to specify annually the TAC, initial domestic annual harvest (DAH), and initial total allowable level of foreign fishing (TALFF) for each target species and the "other species" category for the succeeding fishing year (§ 675.20(a)(7)). The sum of the species' TACs must be within the optimum yield (OY) range of 1.4 million to 2.0 million metric tons (mt) (§ 675.20(a)(2)). For 1993, the sum of TACs is equal to 1,998,620 mt, as indicated in Table 1.

Proposed initial TAC, reserve, DAH, and TALFF amounts for the 1993 fishing year were published in the **Federal Register** on December 7, 1992 (57 FR 57718). Comments were invited through January 4, 1993. No written comments were received within the comment period. Oral comments were received, and public consultation with the Council occurred during the Council meeting in Anchorage, Alaska, on December 8-13, 1992. Council recommendations and biological and economic data that were available at the Council's December meeting were considered in implementing these final 1993 specifications.

The specified TAC for each species is based on the best available biological and socioeconomic information. The Council, its Advisory Panel (AP), and its Scientific and Statistical Committee (SSC), at their September and December 1992 meetings, reviewed current biological information about the condition of groundfish stocks in the BSAI. This information was compiled by the Council's BSAI groundfish Plan Team and presented in the 1993 SAFE report for the BSAI groundfish fisheries. The Plan Team annually produces such a document as the first step in the process of specifying TACs. The SAFE report contains a review of the latest scientific analyses and estimates of each species' biomass and other biological parameters. From these data and analyses, the Plan Team estimates an acceptable biological catch (ABC) for each species category.

A summary of preliminary ABCs for each species for 1993 and other biological data from the September 1992 draft SAFE report were provided in the discussion supporting proposed 1993 specifications (57 FR 57718, December 7, 1992). The Plan Team's recommended ABCs were reviewed by the SSC, AP, and Council at their September 1992 meetings. Based on the SSC's comments concerning technical methods and new biological data not available in September, the Plan Team revised its ABC recommendations in the final SAFE report dated November 1992. The revised ABC recommendations were again reviewed by the SSC, AP, and Council at their December 1992 meetings. While the SSC endorsed most of the Plan Team's recommendations for 1993 ABCs set forth in the final SAFE report, the SSC recommended revisions to ABC amounts calculated for Aleutian Basin pollock, Pacific cod, and Atka mackerel. With the exception of Atka mackerel, the Council adopted the SSC's recommendations for 1993 ABCs. The recommended ABCs, listed in Table 1, reflect harvest amounts that would not cause overfishing as defined in the FMP. A brief discussion of the SSC's revisions to the ABCs recommended by the Plan Team and the Council's ABC recommendation for Atka mackerel follows:

Aleutian Basin (Bogoslof) Pollock

The Plan Team indicated in the final SAFE report that the current biomass (B) of Aleutian Basin pollock (650,000 mt), as predicted by a stock cohort analysis, is about 10 percent of the largest observed biomass and well below former "pristine" biomass levels (B_{MSY}).

Information is not available to precisely estimate the ratio of B/B_{MSY}, but based on historical biomass survey information, the SSC believes the ratio is about 0.25. Given the Council's overfishing definition and the low abundance level of Aleutian Basin pollock, the SSC recommended that an exploitation rate (F) equal to 25 percent of that recommended by the Plan Team (0.26) is appropriate. The SSC used this F to calculate an ABC, applying the rate (0.26×0.25) to the 1993 biomass estimate to obtain an ABC of 42,000 mt (650,000)(0.26×0.25).

Pacific Cod

During the December 1992 meeting of the Council and its SSC and AP, NMFS presented new information on Pacific cod biomass and exploitation rates. Analytic results based on this information were not completed and available to the Plan Team during its November 1992 meeting and, therefore, were not included in the Plan Team's final SAFE report. The new information included a revised estimate of 1993 exploitable biomass (624,000 mt) based on an updated stock synthesis model. The new analysis confirmed the declining biomass trend estimated for the past 3 years by the Plan Team, including the 1993 biomass estimate set forth in the final SAFE report (655,000 mt). Furthermore, NMFS presented a new data set on size-at-maturity that differs from that used by the Plan Team to calculate the $F_{0.35}$ exploitation rate. The SSC noted that the two data sets were collected in the 1970's and early 1980's and may not reflect the current size at maturity for the BSAI Pacific cod stock. No information is available to select a preferred data set to estimate the $F_{0.35}$ exploitation rate, but the SSC believed the true value falls within the range derived from the two sets of maturity data.

The SSC believed the new information suggests that Pacific cod biomass is less abundant than estimated in 1992, and this decrease should be considered in setting ABC. The SSC agreed with the Plan Team's strategy for calculating ABC and recommended that ABC be calculated by applying an $F_{0.35}$ exploitation rate to the revised estimate of 1993 biomass (624,000 mt). The SSC recommended that the two exploitation rates derived from the two sets of maturity data be averaged to calculate ABC. The ABC, based on the averaged exploitation rates and new estimate of exploitable biomass, is 164,500 mt.

Atka Mackerel

The SSC's December 1992 recommendation for the 1993 ABC remained unchanged from that proposed by the SSC in September. The SSC accepted the Plan Team's 1993 estimate of exploitable biomass (1,171,000 mt) and ABC (351,000 mt), although it expressed concern about limited data upon which the annual biomass estimate is based. The SSC also was apprehensive about possible environmental problems that may result from an increased harvest of the magnitude supported by the Plan Team's estimate of 1993 ABC. Atka mackerel is a prey species of northern fur seals and Steller sea lions. During their migrations, northern fur seals (a depleted species) feed heavily on Atka mackerel as they move through the Aleutian passes. Given these concerns, the SSC maintained its 1992 recommendation to phase in the Plan Team's estimate of ABC over a 6-year period by adopting the 1993 biomass estimate and raising the exploitation rate in steps from the natural mortality rate (M)/6 in 1992, M/3 in 1993, to M in 1997. According to this schedule, the recommended ABC for 1993 (0.30/3)(1,171,000) is 117,100 mt.

The main purpose of this approach is to postpone a large ABC increase until it has been confirmed by additional data and analysis. The SSC recommended this level of ABC, provided that regulatory measures are implemented to distribute the Atka mackerel harvest over the range of the stock in proportion to the distribution of biomass. This approach would require 70 percent of the catch to be taken west of 180° W. longitude. Corresponding ABCs in the eastern and western Aleutians would be 32,100 mt and 85,000 mt, respectively.

In response to concerns about spatial distribution of harvest, the SSC recommended that the 1993 ABC for Atka mackerel be reduced to 32,100 mt to avoid a disproportionate harvest of Atka mackerel in the eastern Aleutian Islands and possible impacts on marine mammals. The SSC believed that an ABC of 32,100 mt would protect marine mammals while an FMP amendment is being developed that would authorize regulations to distribute Atka mackerel TAC amounts and associated fishing effort in proportion to biomass distribution.

While acknowledging the SSC's concerns about spatial distribution of Atka mackerel harvest, the Council recommended that an ABC level of 117,100 mt be established for 1993. The Council further recommended that the TAC amount be set at a level equal to the SSC's recommended ABC level of 32,100 mt until such time that an FMP amendment is implemented that would allow for the spatial distribution of a higher TAC.

A draft analysis examining options for splitting the Aleutian Islands subarea to allow for the spatial distribution of Atka mackerel TAC is scheduled to be presented to the Council during early 1993. Pending Council action and, if approved by the Secretary, a final rule implementing new management areas could be implemented by late summer 1993.

TAC Specifications

The Council developed its TAC recommendations (Table 1) based on the final ABCs as adjusted for other biological and socioeconomic considerations, including maintaining the total TAC between the OY range of 1.4–2.0 million mt. Each of the Council's recommended TACs for 1993 is equal to or less than the final 1993 ABC for each species category. Therefore, NMFS finds that the recommended TACs are consistent with the biological condition of groundfish stocks. The Council also recommended division of certain TACs between seasons and gear types, as described below.

Apportionment of TAC

As required by § 675.20(a)(3) and 675.20(a)(7)(i), each species TAC initially is reduced by 15 percent. The sum of these 15-percent amounts is the reserve. The reserve is not designated by species or species group, and any amount of the reserve may be reapportioned to a target species or the "other species" category during the year, providing that such reapportionments do not result in overfishing.

The initial TAC (ITAC) for each target species and the "other species" category at the beginning of the year, which is equal to 85 percent of TAC, is then apportioned between DAH and TALFF. Each DAH amount is further apportioned between two categories of U.S. fishing vessels: The domestic annual processing (DAP) category includes U.S. vessels that process catch on board or deliver it to U.S. fish processors. The joint venture processing (JVP) category includes U.S. fishing vessels working in joint ventures with foreign processing vessels authorized to receive catches in the U.S. exclusive economic zone.

In consultation with the Council, the initial amounts of DAP and JVP are determined by the Director, Alaska Region, NMFS (Regional Director). Consistent with the final 1991 and 1992 initial groundfish specifications, the Council recommended that 1993 DAP

specifications be set equal to TAC and that zero amounts of groundfish be allocated to JVP and TALFF. In making this recommendation, the Council considered the capacity of DAP harvesting and processing operations and anticipates that 1993 DAP operations will harvest the full TAC specified for each BSAI groundfish species category.

The final TACs, ITACs, and initial apportionments of BSAI groundfish for 1993 are listed in Table 1 of this action. The apportionment of pollock TACs among fisheries and seasons is discussed below.

TABLE 1.—FINAL 1993 ACCEPTABLE BIOLOGICAL CATCH (ABC), TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), AND ITAC APPORTIONMENTS OF GROUNDFISH IN THE BERING SEA AND ALEUTIAN ISLANDS AREA [1 2]

Species	ABC	TAC	Initial TAC (ITAC) = DAP [3 4]
Pollock			
Bering Sea (BS)	1,340,000	1,300,000	1,105,000
Aleutian Islands (AL)	58,700	51,600	43,860
Bogoslof Subarea	42,000	1,000	850
Pacific cod	164,500	164,500	139,825
Sablefish			
BS	1,500	1,500	1,275
AL	2,600	2,600	2,210
Atka mackerel	117,100	32,000	27,200
Yellowfin sole	238,000	220,000	187,000
Rock sole	185,000	75,000	63,750
Greenland turbot	7,000	7,000	5,950
Arrowtooth flounder	72,000	10,000	8,500
Other flatfish [5]	191,000	79,000	67,150
Pacific Ocean perch			
BS	3,330	3,330	2,831
AL	13,900	13,900	11,815
Other red rockfish [6]			
BS	1,400	1,200	1,020
Sharpchin/Northern			
AL	5,670	5,100	4,335
Shortraker/Rougheye			
AL	1,220	1,100	935
Other rockfish [7]			
BS	400	360	306
AL	925	830	706
Squid	3,400	2,000	1,700
Other Species [8]	26,600	26,600	26,610
Totals	2,476,245	1,998,620	1,698,827

[1] Amounts are in metric tons. These amounts apply to the entire Bering Sea (BS) and Aleutian Islands (AI) area unless otherwise specified. With the exception of pollock and for the purpose of these specifications, the BS includes the Bogoslof subarea.
[2] Zero amounts of groundfish are specified for Joint Venture Processing (JVP) and Total Allowable Level of Foreign Fishing (TALFF).
[3] Initial TAC (ITAC) = 0.85 of TAC; initial reserve = TAC—ITAC = 299,793 mt.
[4] DAP = domestic annual processing = ITAC.
[5] "Other flatfish" includes all flatfish species except for Pacific halibut (a prohibited species) and all other flatfish species that have a separate specified TAC amount.
[6] "Other red rockfish" includes shortraker, rougheye, northern and sharpchin.
[7] "Other rockfish" includes *Sebastes* and *Sebastolobus* species except for Pacific ocean perch and the "other red rockfish" species.
[8] "Other species" includes sculpins, sharks, skates, eulachon, smelts, capelin, and octopus.

Apportionment of the Pollock TAC to the Inshore and Offshore Components and to the Western Alaska Community Development Quota (CDQ) Reserve

Regulations at § 675.20(a)(3)(ii) require one-half of the pollock TAC placed in the non-specific reserve for each subarea, or 7.5 percent of the pollock TACs, be assigned to a Western Alaska Community Development Quota (CDQ) reserve. Given the 1993 pollock TACs recommended by the Council, the 1993 CDQ reserve amounts for each subarea are as follows:

BSAI subarea	Pollock CDQ (mt)
Bering Sea	97,500
Aleutian Islands	3,870
Bogoslof	75

Under regulations governing the CDQ program (50 CFR 675.27), NMFS may allocate the 1993 pollock CDQs established for each subarea to eligible Western Alaska communities or groups of communities that have an approved community development plan (CDP). The Secretary has approved six CDPs and associated percentages of the CDQ reserve for each CDP recipient for 1993 (57 FR 58157, December 9, 1992). Table 2 lists the approved CDP recipients, and each recipient's allocation of the 1993 pollock CDQ reserve for each subarea. Seasonal allowances of the CDQ reserve are discussed below.

Regulations at § 675.20(a)(2)(iii) require that the 1993 pollock ITAC specified for each subarea of the BSAI be allocated 35 percent to the inshore component and 65 percent to the offshore component (Table 3). Definitions of these components are found at § 675.2. Seasonal allowances of the inshore and offshore pollock allocations are discussed below.

TABLE 2.—APPROVED SHARES (%'S) AND RESULTING ALLOCATIONS AND SEASONAL ALLOWANCES (METRIC TONS) OF THE 1993 POLLOCK CDQ RESERVE SPECIFIED FOR THE BERING SEA (BS), ALEUTIAN ISLANDS (AI), AND BOGOSLOF (BF) SUBAREAS AMONG APPROVED CDP RECIPIENTS

CDP recipient	Percent	Allocation	BSAI roe season allowance [1]
Aleutian Pribilof Island Community Development Assn.:			
BS	18	17,550	8,217
AI		697	
BF		13	
Subtotal		18,260	
Bristol Bay Economic Development Corp.:			
BS	20	19,500	9,130
AI		774	
BF		15	
Subtotal		20,289	
Central Bering Sea Fishermen's Assn.:			
BS	10	9,750	4,565
AI		387	
BF		7	
Subtotal		10,144	
Coastal Villages Fishing Coop.:			
BS	27	26,325	12,325
AI		1,045	
BF		20	
Subtotal		27,390	
Norton Sound Fisheries Development Assn.:			
BS	20	19,500	9,130
AI		774	
BF		15	
Subtotal		20,289	
Yukon Delta Fisheries Development Assn.:			
BS	5	4,875	2,283
AI		194	
BF		4	
Subtotal		5,073	
Total	100	101,445	45,650

[1] No more than 45 percent of a CDP recipient's 1993 pollock allocation may be harvested during the pollock roe season, January 1 through April 15.

TABLE 3.—SEASONAL ALLOWANCES OF THE INSHORE AND OFFSHORE COMPONENT ALLOCATIONS OF POLLOCK TACS [1,2]

Subarea	TAC	ITAC [3]	Roe season [4]	Non-roe season [5]
Bering Sea:				
Inshore		386,750	174,038	212,712.
Offshore		718,250	323,212	395,038.
Total	1,300,000	1,105,000	497,250	607,750.
Aleutian Islands:				
Inshore		15,351	15,351	Remainder.
Offshore		28,509	28,509	Remainder
Total	51,600	43,860	43,860	Remainder.
Bogoslof:				
Inshore		298	298	Remainder.
Offshore		552	552	Remainder.
Total	1,000	850	850	Remainder.

[1] TAC=total allowable catch.
[2] Based on an offshore component allocation of 0.65(TAC) and an inshore component allocation of 0.35(TAC).
[3] ITAC=initial TAC=0.85 of TAC; 0.15 of TAC is apportioned to the reserve.
[4] January 1 through April 15.
[5] June 1 through December 31, although the Council has adopted for Secretarial review a regulatory amendment that would delay the start of the 1993 non-roe season to August 15.

Seasonal Allowances of the Pollock ITAC and CDQ Reserve

Under § 675.20(a)(2)(ii), the ITAC of pollock for each subarea of the BSAI is divided between two seasons (i.e., January 1 through April 15, the roe season, and June 1 through December 31, the non-roe season). For purposes of pollock management, regulations at § 675.20(a)(2)(ii) authorize the specification of separate TAC amounts for pollock in each subarea of the BSAI management unit. These subareas are

defined at § 675.2 as the Bering Sea, Aleutian Islands, and Bogoslof subareas.

When specifying seasonal allowances of the pollock ITACs, the Council also considered the following nine factors as listed in section 14.4.10 of the FMP:

1. Estimated monthly pollock catch and effort in prior years;
2. Expected changes in harvesting and processing capacity and associated pollock catch;
3. Current estimates of, and expected changes in, pollock biomass and stock conditions; conditions of marine mammal stocks, and biomass and stock conditions of species taken as bycatch in directed pollock fisheries;
4. Potential impacts of expected seasonal fishing for pollock on pollock stocks, marine mammals, and stocks and species taken as bycatch in directed pollock fisheries;
5. The need to obtain fishery-related data during all or part of the fishing year;
6. Effects on operating costs and gross revenues;
7. The need to spread fishing effort over the year, minimize gear conflicts, and allow participation by various elements of the groundfish fleet and other fisheries;
8. Potential allocative effects among users and indirect effects on coastal communities; and
9. Other biological and socioeconomic information that affects the consistency of seasonal pollock harvests with the goals and objectives of the FMP.

The record of these considerations is summarized at Agenda D–1(e) for the December 1992 Council meeting and in appendix D of the final SAFE report dated November 1992. Also, at its December 1992 meeting, the Council adopted a regulatory amendment for Secretarial review that, if approved, would delay the start of the pollock non-roe season from June 1 to August 15. This action was considered by the Council when recommending seasonal apportionments of pollock because the proposed delay would enhance the quality, recovery rates, and value of pollock harvested during the non-roe season.

Based on the above criteria, the Council has recommended that the seasonal allowances of the pollock ITAC specified for the Bering Sea subarea be set at 45 percent of the ITAC during the roe season (497,250 mt) and 55 percent during the non-roe season (607,750 mt). The resulting seasonal allowances of the inshore and offshore component allocations of pollock are listed in Table 3. As in 1992, the Council recommended that the entire pollock ITAC specified for the Aleutian Islands and Bogoslof subareas (43,860 mt and 850 mt, respectively) be made available at the beginning of the fishing year and that the Bogoslof subarea be closed to directed fishing for pollock.

As authorized under § 675.20(a)(7)(ii), the Council recommended also that no more than 45 percent of the CDQ pollock reserve be harvested during the pollock roe season, January 1 through April 15. The remainder of the CDQ reserve may be harvested any time after April 15, consistent with other regulatory provisions governing the groundfish fisheries. The resulting seasonal allowance of each CDP's pollock allocation is listed in Table 2. The Council's recommended percentage of the CDQ reserve apportioned to the pollock roe season is consistent with and based on the same determinations as the percentage allowance of the ITAC recommended for the roe season.

The Council recommended that directed fishing for pollock in the Bogoslof subarea be prohibited and that a 1,000 mt pollock TAC be specified for the Bogoslof subarea for bycatch purposes only. NMFS concurs with the Council's recommendation and has prohibited directed fishing for pollock in this subarea (see Directed fishing closures, below). As a result, apportionment of the Bogoslof subarea pollock TAC into seasonal allowances is unnecessary.

In reviewing the Council's recommendations for seasonal allowances of the pollock ITACs specified for the Bering Sea and Aleutian Islands subareas, NMFS considered how the recommended allowances address the factors listed above and mitigate potential problems associated with the pollock roe fishery.

In the Bering Sea subarea, the recommended roe season allowance of the pollock ITAC and the CDQ reserve will prevent an inappropriate or unintended allocation of the pollock TAC between seasons and among industry sectors by limiting the roe season harvest to less than 42 percent of the pollock TAC and 45 percent each of the pollock ITAC and CDQ reserve. The recommended seasonal apportionment of the ITAC for the roe season is a 5 percent increase from the seasonal allowance specified for the 1991 and 1992 roe seasons (40 percent of the ITAC). In recommending this increase, the Council considered (1) the lack of evidence that an increased harvest during the pollock spawning period would have an adverse effect on spawning stocks, and (2) pollock harvests during this period allow for the best economic value and use of the pollock resource.

Without seasonal allowances in the Bering Sea subarea, pollock harvests during the roe season would increase because of (1) the high value of pollock roe relative to other pollock products and (2) the common property nature of the pollock resource and an open access management regime that gives no incentive to delay harvesting. Therefore, without a specified seasonal allowance, the potential exists for a disproportionately large roe season harvest. In this event, those vessels and processors that have the capacity to catch and process roe-bearing pollock most rapidly would have a competitive advantage over those elements of the industry that conduct slower, more evenly paced operations.

NMFS finds that the seasonal allowances of the Bering Sea pollock TAC prevent an inappropriate or unintended allocation of the pollock TAC between seasons and among industry sectors. Furthermore, the specified allowances of ITAC and the CDQ reserve between the roe and non-roe seasons, respectively, will provide a reasonable balance between roe and non-roe season harvests. The recommended roe season catch limit will allow production of valuable pollock products while preventing an excessively disproportionate harvest in the roe season. Relative to 1992, the amount of Bering Sea pollock harvested during the 1993 roe season will be increased from 40 percent to 45 percent of the ITAC, plus 45 percent of the CDQ reserve. The resulting 1993 roe season harvest amount is 542,900 mt.

Even with this roe season harvest increase, NMFS finds that the roe season allowances may help to prevent adverse effects on the ecosystem and on future pollock productivity from intensive fishing mortality during the roe season. Clear evidence does not exist to show that intensive fishing during a compressed season results in significant negative impacts on the ecosystem. The complexity of the ecosystem can easily mask any statistical relationship between the abundance of pollock eggs and larvae, and the future abundance of various pollock predators (including the threatened Steller sea lion) and of harvestable stocks of pollock. If commercial fishery removals are detrimental to sea lion foraging success, it is during the winter season that this effect would be the most pronounced. Steller sea lions are likely to be more nutritionally stressed during winter than summer because of ecological (e.g., fewer prey resources) and biological factors (e.g., pregnant females have higher nutritional needs and newly-

weaned juveniles are less adept foragers). However, roe season pollock fisheries tend to harvest larger fish than non-roe season fisheries. Large fish are expected to be less important in the diet of Steller sea lions, particularly juveniles, than smaller fish. Thus, the increased roe season share of the pollock TAC may not be significant to sea lion feeding success. Furthermore, additional sea lion protection measures have been submitted for implementation in 1993 to extend the 10 nautical mile (nm) trawl closure around Ugamak Island to a 20 nm closure when directed fishing for pollock is open during the roe season. Given the remaining uncertainties about the effect of the BSAI pollock fishery on sea lions, NMFS has determined that the recommended season allowances for the Bering Sea roe season, together with existing sea lion protection measures, are adequate to ensure that the fishery will not adversely affect the survival or recovery of Steller sea lions.

The Council made no recommendation to allocate pollock by season in the Aleutian Islands subarea. Therefore, the entire 43,860 mt of pollock ITAC specified for this subarea will be available for harvest during the roe season, and any amount unharvested on April 15 will be available for harvest during the non-roe season beginning June 1, subject to other harvesting limitations.

The recommended 1993 pollock TAC for the Aleutian Islands subarea is unchanged from that specified for 1992. Similarly, the 1992 TAC also was not seasonally apportioned. In the discussion supporting the final 1992 initial groundfish specifications (57 FR 3952, February 3, 1992), NMFS presented its determination that the lack of seasonal apportionments of the Aleutian Islands pollock TAC would not have an adverse effect on Steller sea lions. Given existing sea lion protection measures, NMFS has similarly determined that seasonal apportionments of the 1993 Aleutian Island pollock TAC would not provide additional protection for sea lions that would be meaningful. NMFS also has determined that the Council's recommendation not to implement seasonal apportionments of the pollock ITAC in the Aleutian Islands subarea is consistent with Council objectives with respect to harvesting roe-bearing pollock. NMFS is preparing an analysis of options for spatially dispersing the harvest of Atka mackerel and other groundfish species in the Aleutian Islands subarea. As part of this analysis, NMFS will further explore the desirability of spatially and temporally dispersing groundfish harvests in the Aleutian Islands subarea to further protect Steller sea lions.

With respect to the Council recommendations for seasonal allowances of the pollock ITACs (Table 3), NMFS concurs in the nine findings considered by the Council as required by the FMP in setting these allowances. By basing these findings on the biological and socioeconomic information contained in the final SAFE report dated November 1992, NMFS finds that the recommended seasonal allowances of pollock are based on, and consistent with, the types of information required by the FMP under section 14.4.10.

Apportionment of Pollock TAC to the Non-pelagic Trawl Gear Fishery

Regulations under § 675.24(c)(2) authorize the Secretary, in consultation with the Council, to limit the amount of pollock TAC that may be taken in the directed fishery for pollock using non-pelagic trawl gear. This authority is intended to reduce the amount of halibut and crab bycatch that occurs in non-pelagic trawl operations.

The Council has recognized that the existing definition of pelagic trawl gear at § 675.2 allows vessels using this gear type to circumvent the intent of non-pelagic trawl gear restrictions and continue fishing in contact with the seabed in a manner that results in halibut and crab bycatch rates that do not significantly differ from those experienced by vessels using trawl gear other than pelagic trawl gear. In response, at its April 22–26, 1992 meeting, the Council adopted for Secretarial review and approval a revised definition of pelagic trawl gear that is intended to more effectively reduce prohibited species bycatch rates experienced by vessels using this gear type. At its December 1992 meeting, the Council also adopted a performance based standard for pelagic trawl gear that would further Council intent to limit trawl operations in contact with the seabed when fishing with non-pelagic trawl gear is prohibited. NMFS intends to propose a rule that would implement the revised pelagic trawl gear definition and associated performance based standard. If approved, a final rule implementing the Council's action could be effective by the time the non-roe pollock season starts. This would allow for more effective non-pelagic trawl gear closures that are implemented to reduce halibut and crab bycatch under § 675.21(c).

Given the Council's concerns about the effectiveness of the existing pelagic trawl gear definition to reduce bycatch rates and recent Council action to address these concerns, the Council did not propose to limit the amount of pollock TAC that may be taken in the 1993 directed fishery for pollock by vessels using non-pelagic trawl gear. If the revised pelagic trawl definition and performance based standard are implemented, the Council believes that restrictions on the use of non-pelagic trawl gear to reduce prohibited species bycatch amounts will become more effective. NMFS concurs in the Council's recommendation, and no limit on the amount of pollock TAC that may be taken in the directed fishery for pollock using non-pelagic trawl gear is specified.

Sablefish Gear Allocation

Regulations at § 675.24(c)(1) divide sablefish TACs for the Bering Sea and Aleutian Islands subareas between trawl and hook-and-line/pot gear fisheries. Gear allocations of TACs are specified in the following proportions:

Bering Sea subarea: trawl gear—50 percent; hook-and-line/pot gear—50 percent, and

Aleutian Islands subarea: trawl gear—25 percent; hook-and-line/pot gear—75 percent.

Based on the 1993 TAC specifications in Table 1, trawl and hook-and-line/pot gear allocations of sablefish in each subarea are equivalent to the TACs and ITACs listed in Table 4.

TABLE 4.—FINAL 1993 GEAR SHARES OF BSAI SABLEFISH TAC

Subarea	Gear	Percent of TAC	Share of TAC (mt)	Share of ITAC (mt)[1]
Bering Sea[2]	Trawl	50	750	637
	Hook-and-line/pot gear	50	750	638

TABLE 4.—FINAL 1993 GEAR SHARES OF BSAI SABLEFISH TAC—Continued

Subarea	Gear	Percent of TAC	Share of TAC (mt)	Share of ITAC (mt)[1]
Aleutian Islands	Trawl	25	650	553
	Hook-and-line/pot gear	75	1,950	1,657

[1] Initial TAC (ITAC) = 0.85 of TAC, rounded to the nearest whole mt; 0.15 of TAC is apportioned to reserve. The sum of both ITAC gear shares in a subarea is equal to the ITAC for that subarea in Table 1.
[2] Includes Bogosiof subarea.

Allocation of Crab, Halibut, and Herring Prohibited Species Catch (PSC) Limits Established for the BSAI Trawl Gear Fisheries

PSC limits of red king crab and *C. bairdi* Tanner crab in Bycatch Limitation Zones (50 CFR 675.2) of the Bering Sea subarea and for Pacific halibut throughout the BSAI area are established for BSAI trawl fisheries under § 675.21(a). The PSC limits are:

–200,000 red king crabs applicable to Zone 1;
–one million *C. bairdi* Tanner crabs applicable to Zone 1;
–three million *C. bairdi* Tanner crabs applicable to Zone 2;
–4,400 mt of Pacific halibut (primary PSC limit) applicable to Zones 1 and 2H; and
–5,333 mt of Pacific halibut (secondary PSC limit) applicable to the entire BSAI area.

Under § 675.21(a)(6), the PSC limit of Pacific herring caught while conducting any trawl operation for groundfish in the BSAI is 1 percent of the annual eastern Bering Sea herring biomass. At this time, the best estimate of 1993 Pacific herring biomass is 212,187 mt. This amount was derived using 1992 survey data on an age-structured biomass projection model developed by the Alaska Department of Fish and Game. Therefore, the 1993 Pacific herring PSC limit for 1993 is 2,122 mt.

Regulations under § 675.21(b) authorized the apportionment of each PSC limit established for the BSAI trawl fisheries into prohibited species bycatch allowances that are assigned to specified fishery categories. Regulations at § 675.21(b)(4) define seven trawl fishery categories for this purpose (midwater pollock, Greenland turbot/arrowtooth flounder/sablefish, rock sole/other flatfish, yellowfish sole, rockfish, Pacific cod, and pollock/Atka mackerel "other species").

At its December 1992 meeting, the Council recommended prohibited species bycatch allowances based on the anticipated bycatch of crabs, halibut, and herring during the 1993 fishing year and the assumption that halibut bycatch mortality limits proposed under Amendment 21 to the FMP would be approved and implemented by the Secretary. Under the proposed rule (57 FR 60788, December 22, 1992), halibut bycatch mortality limits would be established for trawl and non-trawl gear (3,775 mt and 900 mt, respectively) for 1993 and beyond. If the proposed halibut bycatch mortality limits are approved by the Secretary, the Council's recommended apportionments of the proposed halibut mortality limits among fisheries and seasons will be published in the **Federal Register** with the final rule implementing the halibut mortality limits. Also, if approved, the revised bycatch mortality allowances implemented under Amendment 21 would supersede the trawl bycatch allowances implemented under the final 1993 initial specifications. If the trawl and non-trawl halibut bycatch mortality limits proposed under Amendment 21 are implemented during 1993, the amount of halibut bycatch mortality experienced in the trawl and non-trawl fisheries from the beginning of the 1993 fishing year will be counted against the respective bycatch mortality allowances.

However, for purposes of specifying final 1993 initial specifications of prohibited species bycatch allowances, no assumption is made with respect to approval of the halibut bycatch mortality limits proposed under Amendment 21. Therefore, specified fishery bycatch allowances of Pacific halibut are based on the existing PSC limit of 5,333 mt. Tables 5 and 6 list prohibited species bycatch allowances and seasonal apportionments of the halibut bycatch allowances that are based on the Council's recommended halibut bycatch mortality allowances, but are proportionately revised to reflect the 5,333 mt halibut PSC limit set forth in existing regulations.

In general, the trawl fishery bycatch allowances listed in Table 5 reflect the recommendations made to the Council by its AP. These recommendations were based on 1992 bycatch amounts, anticipated 1993 harvest of groundfish by trawl gear, anticipated changes in fishery bycatch needs pending approval of a final rule implementing halibut bycatch mortality limits, and assumed halibut mortality rates in the different trawl fisheries based on analyses of 1991 observer data. Public testimony and Council debate centered on the halibut bycatch allowances recommended for the Pacific cod trawl fishery and whether the constraining nature of the recommended allowance would prematurely close the Pacific cod trawl fishery in a manner that resulted in an inappropriate allocation of Pacific cod to the hook-and-line fleet. The Council determined that the recommended halibut bycatch allowance for the Pacific cod trawl fishery was consistent with its intent to optimize the use of available halibut bycatch amounts under the existing PSC limit and proposed mortality limits. The Council further determined that the resulting bycatch allowance for the Pacific cod trawl fishery is similar to that specified for 1992 under a final rule implementing Amendment 19 to the FMP (57 FR 43926, September 23, 1992) and closure of the trawl fishery under 1993 halibut bycatch constraints should not result in additional significant allocative effects.

The Council expressed its intent to allow a directed fishery for Greenland turbot and recommended a halibut bycatch allowance for the Greenland turbot trawl fishery. The Council did not consider specifying a *C. bairdi* Tanner crab bycatch allowance for the Greenland turbot fishery in Zone 2, although such an allowance must be specified if a directed trawl fishery is to take place under 50 CFR 675.21. The Regional Director acknowledges that relatively small amounts of *C. bairdi* Tanner crab are taken in the Greenland turbot fishery. In 1991, the most recent year during which a directed fishery for Greenland turbot was authorized, a total of 15,145 *C. bairdi* Tanner crab was taken in the trawl fishery. Of this amount, only 1,100 crab were taken in Zone 2. Given these amounts and the uncertainty of where trawl vessels will fish for Greenland turbot during the 1993 fishery, the Regional Director is specifying a 10,000 crab bycatch allowance for the Greenland turbot fishery in Zone 2 to allow for a directed trawl fishery. The *C. bairdi* Tanner crab bycatch allowances recommended by the Council for other trawl fishery categories are proportionately reduced

to provide a 10,000 crab bycatch allowance for the Greenland turbot fishery. Under § 675.20(e)(5), any amount of this PSC allowance that remains after the trawl fishery for Greenland turbot fishery is closed may be reapportioned to one or more of the bycatch allowances specified for other trawl fisheries under provisions set forth at § 675.20(e).

TABLE 5.—FINAL 1993 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL FISHERIES

Fisheries	Zone 1	Zone 2	Zones 1+2H	BSAI-wide
Red king crab, number of animals:				
Yellowfin sole	40,000			
Rcksol/othflat [1]	80,000			
Turb/arrow/sab [2]	0			
Rockfish	0			
Pacific Cod	40,000			
Pick/Atka/othr [3]	40,000			
Total	200,000			
C. bairdi Tanner crab, number of animals:				
Yellowfin sole	175,000	1,220,916		
Rcksol/oth. flat	475,000	199,333		
Turb/arrow/sabl	0	10,000		
Rockfish	0	24,917		
Pacific cod	175,000	398,667		
Pick/Atka/othr	175,000	1,146,167		
Total	1,000,000	3,000,000		
Pacific halibut, metric tons:			Primary halibut	Secondary halibut
Yellowfin sole			607	736
Rcksol/oth. flat			603	731
Turb/arrow/sabl			247	299
Rockfish			241	292
Pacific cod			1,197	1,451
Pick/Atka/othr			1,505	1,824
Total			4,400	5,333
Pacific herring, metric tons:				
Midwater pollock				1,534
Yellowfin sole				359
Rcksol/oth. flat				0
Turb/arrow/sabl				0
Rockfish				9
Pacific cod				27
Pick/Atka/othr [4]				193
Total				2,122

[1] Rock sole and other flatfish fishery category.
[2] Greenland turbot, arrowtooth flounder, and sablefish fishery category.
[3] Pollock, Atka mackerel, and "other species" fishery category.
[4] Pollock other than midwater pollock, Atka mackerel, and "other species" fishery category.

Seasonal Apportionments of PSC Limits

Regulations at § 675.21(b)(2) authorize the Secretary, after consultation with the Council, to establish seasonal apportionments of prohibited species bycatch allowances among the fisheries to which bycatch has been apportioned. Under § 675.21(b)(2), the basis for any such apportionment must be based on the following type of information:

1. The seasonal distribution of prohibited species;
2. Seasonal distribution of target groundfish species relative to prohibited species distribution;
3. Expected prohibited species bycatch needs on a seasonal basis relevant to change in prohibited species biomass and expected catches of target groundfish species;
4. Expected variations in bycatch rates throughout the fishing year;
5. Expected changes in directed groundfish fishing seasons;
6. Expected start of fishing effort; and
7. Economic effects of establishing seasonal prohibited species apportionments on segments of the target groundfish industry.

At its December 1992 meeting, the Council recommended that the halibut bycatch allowances listed in Table 5 be seasonally apportioned as shown in Table 6. The recommended seasonal apportionments reflect recommendations made to the Council by its AP. The AP considered and balanced a variety of factors. In particular, it noted that bycatch allowances specified for 1992 resulted in premature closure of the Pacific cod trawl fishery and that, unlike in 1992, a directed fishery for Greenland turbot would be authorized in 1993. Therefore, prohibited species bycatch amounts would need to be apportioned to this fishery, to support directed fishing with trawl gear.

The Pacific cod fishery is expected to continue to be important as an early year target fishery due to the anticipated completion of the Bering Sea pollock roe fishery by mid-February and the start of the flatfish fisheries on May 1 (§ 675.23(c)). Pacific cod is most vulnerable to trawl gear early in the year when the catch per unit of effort is highest and historical halibut bycatch rates are lowest. Therefore, the AP determined that the Pacific cod trawl fishery could produce the largest economic return by having the opportunity to fish the resource early in the year. Consequently, the AP recommended that all the halibut PSC allowance apportioned to the Pacific cod trawl fishery be made available at the beginning of the 1993 fishing year.

The AP also recommended that 73 percent of the halibut bycatch allowance apportioned to the rock sole/other flatfish fishery category be allocated to

the first quarter of 1993 when most of the rock sole TAC is harvested in the highly valued rock sole roe fishery. Except for rock sole, directed fishing for all other flatfish species begins on May 1 of each year to reduce halibut and red king crab bycatch rates that occur earlier in the year (§ 675.23(c)). The remaining amounts of the bycatch allowance apportioned to this fishery category is equally apportioned to the second and the third and fourth quarters combined to support a small directed effort for rock sole and other flatfish outside the rock sole roe season.

As mentioned above, the yellowfin sole season begins on May 1 of each year. The halibut bycatch allowance apportioned to the yellowfin sole fishery is divided into two seasonal apportionments; May 1–July 31, and August 1–December 31. The recommended apportionments of the halibut bycatch allowance to each season (39 percent and 61 percent, respectively) are intended to prevent an excessive bycatch of halibut in July and August when halibut become more vulnerable to shallow water fisheries and bycatch rates increase, as well as reduce the likelihood of a premature closure of the yellowfin sole fishery.

The AP recommended that zero amounts of halibut be apportioned to the Greenland turbot/sablefish/arrowtooth flounder trawl fishery category during the first 2 months of the open season for Greenland turbot (May and June). This action would delay directed fishing for Greenland turbot and sablefish by vessels using trawl gear until halibut bycatch amounts become available on July 4, 1993. The intent of this recommendation was to delay the trawl fishery until midsummer when halibut have migrated to more shallow depths relative to Greenland turbot and sablefish, and halibut bycatch rates are significantly reduced.

The AP recommended that zero amounts of halibut be apportioned to the rockfish fishery during the first 3 months of 1993. Forty percent of this fishery's halibut bycatch allowance would be available on April 4, and the remainder would be available July 4. The intent of the AP's recommendation was to delay the start of the rockfish fishery to provide a greater opportunity for participants in this fishery to more fully harvest TAC amounts of all rockfish species under existing halibut bycatch limitations. A delay in the rockfish fishery also would minimize bycatch amounts of chinook salmon in the rockfish fishery, which are typically higher during the first 3 months of the year. The AP recognized that the delay of the rockfish trawl fishery to the second quarter of 1993 will allow more vessels to participate in the fishery after the seasonal allowance of pollock specified for the pollock roe season had been harvested, but that some vessels that would have fished for rockfish during the first quarter will be prohibited from fishing for rockfish during that time.

The AP's recommended seasonal apportionment of the halibut bycatch allowance specified for the pollock/Atka mackerel/"other species" fishery category is based on the seasonal allowances of the Bering Sea pollock ITAC recommended for the roe and non-roe seasons, and the assumption that most of the pollock taken during the roe season will be taken with pelagic trawl gear with reduced halibut bycatch rates. Therefore, the seasonal apportionments of the halibut bycatch allowance are 25 percent during the roe season and the remainder during the non-roe season.

The Council adopted the recommendations of the AP as an effective balance of the interests affected by halibut bycatch allowances specified for the trawl gear fisheries. The Council's recommended seasonal apportionments of the prohibited species bycatch allowances are intended to allow an increased amount of the groundfish OY to be harvested by providing for directed groundfish fisheries when catches per unit of effort are high and corresponding prohibited species bycatch rates are relatively low.

In approving the Council's recommended seasonal apportionment of the halibut bycatch allowances to the trawl fisheries, NMFS considered seven types of information specified at § 675.21(b)(2) as follows:

1. The biomass trends and distribution of Pacific halibut as summarized in appendix B of the SAFE report dated November 1992 and other scientific documents of the International Pacific Halibut Commission;

2. The seasonal distribution of the groundfish fisheries as described in the SAFE report dated November 1992 and other NMFS documents and the Council's recommendation that directed fisheries for arrowtooth flounder, "other rockfish," and sablefish with trawl gear be prohibited;

3. The expected halibut bycatch by each of the fishery categories that are eligible to receive prohibited species bycatch allowances based on historical bycatch rates presented in appendix E of the final SAFE report dated November 1992;

4. The expected variations in bycatch rates throughout the year based on the same data referenced in item 3;

5. The establishment of roe and non-roe seasons for pollock in the Bering Sea; and the start of directed fishing for flatfish species, except rock sole, on May 1;

6. The delay of the trawl fisheries on January 20 of each year (675.23(d)); and

7. Resulting economic effects of seasonal apportionments of the prohibited species bycatch allowances are expected to be positive if more groundfish are harvested with trawl gear than otherwise would be possible without the seasonal apportionments. However, no data are available to quantify the marginal benefit of this action.

TABLE 6.—FINAL SEASONAL APPORTIONMENTS OF THE 1993 PACIFIC HALIBUT BYCATCH ALLOWANCES FOR THE BSAI TRAWL FISHERIES

Fishery	Seasonal bycatch allowance (mt halibut)
Yellowfin sole:	
May 01–Jul. 31	286
Aug. 01–Dec. 31	450
Total	736
Rock sole/"other flatfish":	
Jan. 01–Apr. 03	531
Apr. 04–Jul. 03	100
Jul. 04–Dec. 31	100
Total	731
Turbot/arrowtooth flounder/sablefish:	
Jan. 01–Jul. 03	0
Jul. 04–Dec. 31	299
Total	299
Rockfish:	
Jan. 01–Apr. 03	0
Apr. 04–Jul. 03	118
Jul. 04–Dec. 31	174
Total	292
Pacific cod:	
Jan. 01–Dec. 31	1,451
Pollock/Atka mackerel/"other species":	
Jan. 01–Apr. 15	456
Apr 16–May 31	0
Jun. 01–Dec. 31	1,368
Total	1,824
Total 1993 Halibut Bycatch Limit	5,333

Directed Fishing Closures

A principal consideration for the Council in developing its 1993 TAC recommendations was ensuring that the sum of the species TACs did not exceed the maximum OY of 2 million mt. After consideration of the amounts of each species category TAC that is required for bycatch in other directed fisheries, the Council recommended that ABC amounts specified for "other rockfish," and the trawl allocation of sablefish TACs specified for the Bering Sea and Aleutian Islands subareas are not sufficient to support directed fisheries. As such, TAC amounts for these species

were set either at 90 percent of, or equal to, ABC with the Council intent that these amounts would be used for bycatch purposes only.

The Council also recommended that the TAC specified for Bogoslof pollock be set at a level to avoid a directed fishery for pollock in the Bogoslof subarea, yet provide for bycatch in other groundfish fisheries. The Council made this recommendation because of the poor status of the Bogoslof pollock population, the importance of supporting international efforts to curtail fishing on the Aleutian Basin pollock populations, and to minimize any potential adverse effects of the precipitous decline in the biomass of the Bogoslof pollock on marine mammals and seabirds.

The Council further recommended that the 1993 TAC specified for arrowtooth flounder be set at a level to support bycatch in other groundfish fisheries. Although the 1993 ABC calculated for arrowtooth flounder would support a larger TAC, arrowtooth flounder normally is retained only as a bycatch species, and significant target operations for this species do not yet exist.

NMFS concurs in the Council's recommendation to prohibit directed fishing for Bogoslof pollock and arrowtooth flounder and that specified ITACs of 850 mt and 8,500 mt, respectively, are sufficient to support bycatch amounts of these species caught incidental to other directed fishing operations.

Given the directed fishing standards for other rockfish under § 675.20(h), the Regional Director has determined that the entire initial TAC amounts specified for this complex in the Bering Sea and Aleutian Islands is needed to support incidental catch amounts in directed fisheries for other groundfish species. Therefore, NMFS is prohibiting directed fishing for "other rockfish" to prevent the specified TACs from being exceeded.

In summary, NMFS is prohibiting directed fishing for "other rockfish" and arrowtooth flounder in the Bering Sea and Aleutian Islands management areas and for pollock in the Bogoslof subarea effective February 11, 1993. This action is taken under authority provided at § 675.20(a)(8).

NMFS concurs in the Council's recommended seasonal apportionments of halibut bycatch allowances for the BASI trawl fisheries (Table 6). To support the Council recommendations, specified trawl fisheries are closed for periods of time when no prohibited species bycatch allowances are apportioned to support directed fishing. Therefore, under authority provided at § 675.21(c), NMFS is prohibiting operators of vessels using trawl gear from engaging in directed fishing for: (1) Greenland turbot in the BSAI from May 1, 1993 through July 3, 1993; (2) sablefish in the Bering Sea and Aleutian Islands management areas through July 3, 1993; (3) rockfish in the BSAI through April 3, 1993; and (4) Greenland turbot, sablefish, and rockfish in Bycatch Limitation Zone 1 during the remainder of 1993. These closures are effective February 11, 1993.

Groundfish PSC Limits

No PSC limits for groundfish species are specified under this action. Authority to annually specify PSC limits for groundfish species or species groups for which the TAC can be completely harvested by domestic fisheries is provided at § 675.20(a)(6). In practice, these PSC limits apply only to JVP or TALFF fisheries for species that have a zero JVP or TALFF apportionment. At this time, no groundfish are proposed to be allocated to either JVP or TALFF and specifications of groundfish PSC limits are unnecessary.

Expiration of Interim 1993 Specifications

Regulations under § 675.20(a)(7)(i) authorize one-fourth of each proposed ITAC and apportionment thereof, one-fourth of each PSC allowance, and the proposed first seasonal allowance of pollock to be in effect at the start of the 1993 fishing year on an interim basis and to remain in effect until superseded by final initial specifications for 1993. Hence, the final 1993 initial groundfish harvest specifications and prohibited species bycatch allowances implemented under this action supersede the interim 1993 specifications published in Tables 1 and 5 of the proposed specifications (57 FR 57718, December 7, 1992).

Classification

This action is authorized under 50 CFR 611.93(b) and 675.20 and complies with Executive Order 12291.

NMFS prepared an environmental assessment on the 1993 TAC specifications, which concludes that no significant impact on the environment will result from their implementation.

Immediate effectiveness of the directed fishing closures for pollock in the Bogoslof subarea, and for "other rockfish," arrowtooth flounder, and sablefish allocated to trawl gear is necessary to prevent excessive harvests of these species. Without this action, specified TAC amounts will be prematurely reached, retention of these species will become prohibited, and U.S. fishermen who retain bycatch amounts of these species will be disadvantaged. Similarly, the immediate effectiveness of the directed fishing closures for the rockfish, Greenland turbot, and sablefish trawl fisheries is necessary to reduce Pacific halibut bycatch rates in these fisheries, increase the harvest of these species under existing halibut bycatch limitations, and reduce the possibility for premature closure of these fisheries under specified bycatch allowances. Therefore, the Assistant Administrator for Fisheries, NOAA, finds for good cause that it is impractical and contrary to the public interest to provide prior notice and comment or to delay the effective date. As immediate effectiveness of this action is necessary to benefit fishermen who would otherwise forego harvestable amounts of groundfish, the 30-day delayed effectiveness also is waived. However, interested persons are invited to submit comments in writing to the Regional Director (see ADDRESSES) for 15 days after the effective date of this action.

An informal consultation under the Endangered Species Act was concluded for the final 1993 initial groundfish specifications on January 20, 1993. As a result of the informal consultation, the Regional Director determined that fishing activities under the final 1993 TACs are not likely to adversely affect endangered or threatened species.

List of Subjects

50 CFR Part 611

Fisheries, Foreign relations.

50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

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

Dated: February 9, 1993.

Samuel W. McKeen,

Program Management Officer.

[FR Doc. 93-3579 Filed 2-11-93; 9:27 am]

BILLING CODE 3510-22-M

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50 CFR Part 675

[Docket No. 921185-3021]

Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Prohibition of retention.

SUMMARY: NMFS is prohibiting retention of the shortraker/rougheye rockfish species group (SRRE) in the Aleutian Islands subarea (AI) of the Bering Sea

and Aleutian Island Management Area (BSAI) and is requiring that incidental catches of SRRE be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the interim harvest amount specified for SRRE in the AI has been taken.

EFFECTIVE DATES: Effective 12 noon, Alaska local time (A.l.t.), February 10, 1993, through 12 midnight, A.l.t., December 31, 1993.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, Resource Management Specialist, Fisheries Management Division, NMFS, 907–586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by the Secretary of Commerce according to the Fishery Management Plan for Groundfish of the BSAI (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

In accordance with § 675.20(a)(7)(i) the interim harvest amount for SRRE in the AI was established by the publication of proposed specifications (57 FR 57718, December 7, 1992) as 259 metric tons.

The Director of the Alaska Region, NMFS, has determined, in accordance with § 675.20(a)(9), that the interim harvest amount for SRRE in the AI has been reached. Therefore, NMFS is requiring that SRRE be treated as prohibited species in the AI, as described in § 675.20(c), and is prohibiting retention of SRRE in the AI effective from 12 noon, A.l.t., February 10, 1993, through 12 midnight, A.l.t., December 31, 1993.

Classification

This action is taken under 50 CFR 675.20 and is in compliance with E.O. 12291.

List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

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

Dated: February 10, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93–3578 Filed 2–10–93; 4:20 pm]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 58, No. 30
Wednesday, February 17, 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.

FEDERAL RESERVE SYSTEM

12 CFR Part 205

[Regulation E; Docket No. R-0796]

Electronic Fund Transfers; Proposed Revisions Regarding Electronic Benefit Transfer Programs

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board is publishing for comment a proposal to revise Regulation E, which implements the Electronic Fund Transfer Act (EFT Act), to cover electronic benefit transfer (EBT) programs established by federal, state, or local government agencies. EBT programs involve the issuance of plastic access cards and personal identification numbers to recipients of government benefits, and enable recipients to access their benefits—such as Aid to Families with Dependent Children, food stamps, or Supplemental Security Income—through automated teller machines and point-of-sale terminals.

The proposal generally would apply Regulation E to EBT programs but sets forth certain limited modifications under authority granted to the Board by section 904(c) of the EFT Act. In particular, periodic account statements would not be required provided certain conditions are met.

This proposal would affect primarily government agencies that administer EBT programs, and would affect only indirectly most depository institutions and other private-sector entities.

The Board is providing a 90-day comment period, in view of the complexity of the subject matter and the need for extra time for commenters to assemble supporting information.

DATES: Comments must be received on or before May 21, 1993.

ADDRESSES: Comments should refer to Docket No. R-0796 and be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551. They may also be delivered to the guard station in the Eccles Building Courtyard on 20th Street, NW. (between Constitution Avenue and C Street, NW.) between 8:45 a.m. and 5:15 p.m. weekdays. Except as provided in § 261.8 of the Board's Rules Regarding the Availability of Information (12 CFR 261.8), comments received will be available for inspection and copying by members of the public in the Freedom of Information Office, room B-1122 of the Eccles Building between 9 a.m. and 5 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: Jane Jensen Gell, Dale I. Nishimura, Mary Jane Seebach, Staff Attorneys, or John C. Wood, Senior Attorney (202/452-2412 or 202/452-3667), Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System. For the hearing impaired *only*, contact Dorothea Thompson, Telecommunications Device for the Deaf (TDD), at (202/452-3544), Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Background

Regulation E

Regulation E implements the Electronic Fund Transfer Act. Types of transfers covered by the act and regulation include transfers initiated through an automated teller machine (ATM), point-of-sale (POS) terminal, automated clearinghouse (ACH), telephone bill-payment system, or home banking program. The act and regulation provide rules that govern these and other electronic fund transfers. The rules prescribe restrictions on the unsolicited issuance of ATM cards and other access devices; disclosure of terms and conditions of an EFT service; documentation of electronic fund transfers by means of terminal receipts and account statements; limitations on consumer liability; procedures for error resolution; and certain rights related to preauthorized transfers.

The application of the EFT Act and Regulation E is not limited to traditional financial institutions holding consumers' accounts. The regulation also applies to any entities that issue access devices and enter into agreements with consumers to provide EFT services. For EFT services made available by other than an account-holding financial institution, the act directs the Board to assure, by regulation, that the provisions of the act are made applicable.

Government benefit programs involving electronic delivery. For a number of years the federal government has taken steps, in conjunction with state and local agencies, to expand electronic delivery of government payments. Besides direct deposit, the government has explored the feasibility of "electronic benefit transfer" (EBT) programs to deliver benefits such as Aid to Families with Dependent Children (AFDC), food stamps, and Supplemental Security Income (SSI).

An EBT program functions much like a private-sector system for electronic fund transfers. Eligible recipients receive plastic magnetic-stripe cards and personal identification numbers (PINs) and they access benefits through electronic terminals. In the case of cash benefits such as AFDC or SSI, the programs use ATMs that are part of existing private-sector networks, as well as POS terminals. For food stamp benefits, they use POS terminals in grocery stores; in some cases the equipment is dedicated solely to the EBT program, while in others it also is used for private-sector transactions.

To obtain funds, recipients insert the magnetic-stripe card into a terminal that reads the encoded information, and enter the PIN to verify their identity. The terminal communicates with a database to ascertain that a recipient is eligible for benefits, that the card has not been reported lost or stolen, and that benefits are available in an amount sufficient to cover the requested transaction. In cash benefit programs, the recipient receives a cash disbursement; in the case of food stamp benefits, the recipient's allotment is charged and the merchant's account credited for the amount of the food purchase.

Recipients who have participated in EBT pilots have overwhelmingly reported that EBT offers advantages over the paper-based system. These advantages include faster access to benefits, greater convenience in terms of times and locations for obtaining benefits, greater security, lower costs (for example, by eliminating check-cashing fees), and, in the case of food

stamp benefits, greater privacy and dignity.

Benefit program agencies are interested in expanding the use of EBT, both for direct federal benefit programs and for federally funded programs that are state administered. For many agencies, EBT may provide a way to increase operational efficiency, to reduce costs, and to improve service to benefit recipients. New impetus for the use of EBT comes from federal legislation that took effect April 1, 1992, authorizing the states to use electronic delivery of food stamp benefits in place of paper coupons; states previously could seek approval to use EBT for food stamp benefits only on a demonstration basis.

An important goal for agencies involved in EBT is the achievement of uniform operating guidelines for EBT programs to allow the combination of multiple programs into a single system, thereby reducing operating costs through economies of scale. The Treasury Department, through its Financial Management Service, performs a coordinating role in assisting efforts to work toward uniformity; since 1989 it has convened periodic meetings of staff from more than a dozen federal agencies, as well as hosting meetings with state agencies, private-sector organizations, and consumer groups with interests in EBT.

About thirty states have EBT programs in different stages of development. Currently, there are eight states, most of them operating on a limited geographic basis. The first statewide expansion is currently taking place in the state of Maryland. About twenty other states have programs in different stages of development.

Board's Authority

A question that has arisen for EBT programs, and is addressed by this proposal, concerns coverage of EBT by the EFT Act and Regulation E. The Federal Reserve Board has a broad mandate under the EFT Act to determine coverage when electronic services are offered by other than traditional banking institutions. Section 904(d) provides that in the event EFT services are made available to consumers by a person other than a financial institution holding a consumer's account, the Board shall ensure that the act's provisions are made applicable to such persons and services.

The legislative history of the EFT Act elaborates on the Board's authority to determine if particular services should be covered by the Act, based on whether such transfers are initiated electronically, whether current laws provide adequate consumer safeguards, and whether coverage is necessary to achieve the Act's basic objectives. A Senate Banking Committee report noted that the statutory delegation of authority to the Board would enable the Board to examine new services on a case-by-case basis, thereby contributing substantially to the act's overall effectiveness. The Congress contemplated that, as no one could foresee EFT developments in the future, "regulations would keep pace with new services and assure that the act's basic protections continue to apply." S. Rep. No. 95-915, 95th Cong., 2d Sess. 9-10 (1978).

A legal issue raised in regard to Regulation E's coverage of EBT programs is whether, for purposes of the EFT Act, these systems involve the initiation of an electronic transfer of funds that results in debiting or crediting an account. The act defines "account" to mean "a demand deposit, savings deposit, or other asset account * * * as described in regulations of the Board, established primarily for personal, family, or household purposes * * *." Regulation E uses substantially the same wording, except that it uses the phrase "or other consumer asset account." The reference to "consumer" asset accounts distinguishes them from business-purpose accounts, which are not subject to the regulation.

The Board has issued an Official Staff Commentary to Regulation E to provide guidance in interpreting the requirements of the regulation. In 1987, an interpretation was added which stated that an electronic payment of government benefits was not subject to Regulation E because there was no credit or debit to a "consumer asset account." The interpretation, made on policy grounds, focused on the fact that a government agency (rather than the recipient) had established the account from which funds were being disbursed. Because EBT programs were still in an experimental stage, it seemed important at that time to allow pilot projects to proceed without added concerns about compliance with the EFT Act. That position has been reexamined and, in the Board's opinion, the fact that a government agency establishes an asset account for a recipient's use (as opposed to the recipient's doing so) is not a sufficient basis for excluding these accounts from Regulation E's coverage.

Options Considered by the Board

In keeping with the authority granted by the statute, the Board has considered whether: EBT programs should be entirely exempt from Regulation E; should be fully covered; or should be covered, but with modifications to deal with aspects of EBT (both as to possible compliance difficulties and recipient needs) that differ from other EFT services.

A number of factors support Regulation E's coverage of EBT programs. EBT recipients use the same kinds of magnetic-stripe plastic cards and electronic terminals in conducting transactions as do consumers of EFT services in general. Indeed, in EBT systems that piggyback on existing EFT networks, the terminals used are one and the same. The transactions themselves, such as cash withdrawals and purchases, are also similar. From the recipient's viewpoint, an EBT system functions in much the same way as if the recipient had an ordinary checking account with direct deposits of government benefits going in and with ATM and POS service available to access the benefits.

In regard to the disbursement of food stamp benefits, an argument has been made that the account cannot be used to obtain cash, but only to buy food, and thus, that it differs so greatly from an ordinary bank account that Regulation E should not apply. Nothing in the act or regulation, however, excludes an account from coverage because it can only be accessed electronically for limited purposes or in limited ways. Moreover, the food stamp program clearly involves the transfer of money, with transactions clearing the banking system in a similar way to other types of payments.

The Board believes that, considering the language of the EFT Act, its legislative history, and the close similarity of EBT systems to other EFT services, legal support is lacking for a complete exemption of EBT programs (either cash or food stamp programs) from coverage.

The two remaining options are full coverage of EBT under Regulation E, or coverage with certain modifications.

Option proposed by the Board

Following its preliminary analysis of the issues and a weighing of policy considerations, the Board proposes to revise Regulation E to cover EBT programs with certain modifications.

The EFT Act gives the Board the authority to make appropriate modifications to the requirements of the Act. The Act provides in section 904(c) that regulations "may provide for such adjustments and exceptions for any class of electronic fund transfers, as in the judgment of the Board are necessary or proper * * * to facilitate compliance therewith." This provision is virtually identical to section 105 of the Truth in

Lending Act, a provision interpreted by the United States Supreme Court as granting the Board great discretion in defining coverage. The Court consistently has recognized the Congress's delegation of broad authority to the Board. *Mourning* v. *Family Publications Serv.*, 411 U.S. 356 (1973); *Ford Motor Credit Co.* v. *Milhollin*, 444 U.S. 555, at 566 (1980); *Anderson Bros. Ford* v. *Valencia*, 452 U.S. 205, at 219 (1981).

Federal and state agencies operating or considering EBT programs, advocates for government benefit recipients, and others have recommended regulatory modifications (for example, in the limitations on consumer liability for unauthorized electronic fund transfers and in the provisions concerning error resolution). The agencies have suggested that full application of Regulation E would increase the costs of delivering benefits to the point that offering EBT might not be economically feasible, because EBT programs may be only marginally cost-effective even without factoring in Regulation E compliance costs. They have expressed the view that as a result the expected advantages of EBT, for benefit recipients as well as for program agencies and other participants in the payment system, could not be realized.

The Board also received recommendations from an interagency EBT Steering Committee that was established within the federal government to coordinate EBT efforts among federal agencies, providing a high-level forum for addressing policy and operational issues. Agencies represented include the Treasury Department's Financial Management Service, the Agriculture Department's Food and Nutrition Service, the Health and Human Services Department's Social Security Administration and Administration for Children and Families, the Office of Management and Budget, and other federal agencies that have an interest in planning for EBT systems. During 1992 the EBT Steering Committee considered whether and in what manner Regulation E might apply to EBT programs, and recommended the modification of certain requirements of Regulation E should the Board bring EBT programs under regulatory coverage.

The Board has incorporated part of the EBT Steering Committee's recommendations in the proposed revisions to Regulation E. The Board proposes to modify the documentation rules as they apply to EBT, so that a periodic statement would not be required if certain conditions were met (including availability of account balance information). The Board believes that this proposed modification is warranted because the most relevant information would be available through other means to benefit recipients under the Board's proposal. Providing periodic statements would also have a considerable cost impact upon EBT programs. The proposed modification concerning documentation is explained in detail in the discussion of proposed § 205.15, in section (5) below.

The proposed revisions to Regulation E follow part of the EBT Steering Committee's recommendations. The Board recognizes that benefit program agencies are concerned about the operational and cost impacts in the areas of liability for unauthorized transfers and error resolution, for example, but believes that insufficient information has been presented thus far to support the suggested modifications in these areas. This is particularly true in light of the importance of these provisions of Regulation E to users of EFT services generally.

The basic premise followed in this proposal is that all consumers using EFT services should receive substantially the same protection under the EFT Act and Regulation E, unless good reason can be shown that would require different provisions for different groups of consumers. The Board requests comment on whether additional modifications should be considered, together with an explanation of why modifications are needed and supporting data. For example, a recommendation against full application of Regulation E on the grounds that it would hinder the introduction or expansion of EBT programs should be supported by an explanation of why modifications are needed, together with specifics such as data on costs.

The Board's proposal contains certain other modifications to account for differences between EBT programs and other EFT services, and for the fact that periodic statements may not be sent under this proposal (since other provisions of the regulation relate closely to the statement requirement). These proposed modifications are explained in detail in the discussion of proposed § 205.15, in section (5) below.

Coverage of EBT under Regulation E would affect primarily state and federal benefit program agencies, and would directly involve only those depository institutions and others in the private sector that may contract with government agencies to provide EBT service.

The Board's proposal is limited to programs for disbursing government benefits, as opposed to salaries (whether government or private). Some of the military services, as well as certain private-sector employers, have installed ATMs through which salary and perhaps other payments can be made in a manner similar to EBT systems. Such systems already are fully covered by Regulation E.

In bringing EBT accounts within the scope of the EFT Act's definition of "account," the Board does not express a position about the status of the funds for any other legal purpose. For example, legal ownership of the funds in EBT accounts (by the recipient or a state, for example) is not affected by this rule-making.

The Board is providing a 90-day comment period on this proposal, instead of the usual 60 days, due to the complexity of the issues that have to be addressed and the need to allow extra time that commenters may need to gather data supporting arguments in favor of or against additional modifications in regulatory requirements, as discussed earlier.

Explanation of Proposed New § 205.15

Paragraph (a)—Compliance by government agency

The new section would extend Regulation E's coverage to the electronic transfer of government benefits.

The term "account" (otherwise defined in § 205.2(b)) is defined for purposes of § 205.15 to mean an account established by a government agency for distributing benefits to a consumer by electronic terminals such as ATMs or POS terminals, whether or not the account is directly held by a financial institution (for example, an "account" that consists of a computerized database—with the consumer's name and record of benefit transfers that is accessed for verification purposes before a particular transaction is approved—would also be covered).

Paragraph (b)—Issuance of access devices

Under § 205.5, debit cards, PINs or other access devices may not be issued unless the consumer has requested the device, although institution may issue an unsolicited access device in limited circumstances under § 205.5(b). The limitations protect a consumer from having an access device issued which could be used to access the consumer's funds without the consumer's knowledge and approval or without the consumer's being informed of the terms and conditions of having such a device.

The proposal does not incorporate the exceptions for unsolicited issuance that

are contained in § 205.5(b). Recipients need the devices to obtain their benefits, and the Board believes that agencies are unlikely to issue cards and PINs without the consumer's involvement. The proposal provides that, for purposes of the section, a consumer has requested an access device if the consumer has applied for government benefits that the agency disburses or will disburse by means of electronic fund transfer.

The Board recognizes that many states' EBT programs may require compulsory use of an access device to obtain benefits. Section 913 of the EFT Act prohibits requiring a consumer to establish an account at a particular institution, as a condition of employment or receipt of government benefits, to receive electronic fund transfers. The Board does not believe, however, that this prohibition against compulsory use is an impediment to EBT programs.

The ban clearly prevents agencies from requiring consumers to open accounts at a particular institution in order to receive electronic fund transfers; it does not bar agencies from requiring recipients to receive benefits electronically. Typically, participants in EBT programs do not maintain personal bank accounts, nor are they required to open bank accounts to receive government benefits. Instead, the government agency establishes an account for the consumer's use in collecting benefits only (the account is not a full-service banking account; for example, the consumer cannot deposit funds). Consequently, the Board views the Act's compulsory-use prohibition as inapplicable in the context of EBT programs. The Board solicits comment on whether stating the restrictions on unsolicited issuance is appropriate or necessary in light of the compulsory nature of EBT programs.

Paragraph (c)—Alternative to periodic statement

Regulation E requires financial institutions to provide periodic statements for any account to or from which electronic fund transfers can be made. EBT programs have not required periodic statements, as recipients' account balance information is available through other means and transfers under EBT programs are limited to cash withdrawals at ATMs and purchases at POS terminals. Thus, producing and mailing monthly periodic statements could represent an unnecessary cost (estimates range from about $.32 to $.75 per recipient per month).

The proposal requires that in lieu of a periodic statement, an agency must furnish the consumer with some other means of accessing balance information. An agency would be required to provide balance information, for example, by means of balance inquiry terminals or a readily available telephone line. In some instances, however, recipients may need a detailed written accounting of EBT transactions. Under the proposal, they would be entitled, upon request, to a written transaction history itemizing transactions that go back at least two months before the request date.

The Board solicits comment on whether more complex EBT systems developed in the future (for example, allowing third-party payments) may necessitate periodic statements or other documentation, and whether the Board should address this issue at present.

Paragraph (d)—Modified requirements

Periodic statements are a central component of Regulation E's disclosure scheme, and the Board recognizes that certain modifications are necessary to facilitate compliance by government agencies that do not issue statements. The proposal requires such agencies to comply with the modified regulatory requirements discussed below. The Board solicits comment on whether additional modifications are necessary to assist compliance.

Paragraph (d)(1)—Initial disclosures

Section 205.7 requires that written disclosures of the terms and conditions of an EFT service be given at or before the commencement of the service. While government agencies would be required to provide such disclosures, three of the disclosures would be modified. First, government agencies would provide a telephone number, or numbers, the consumer could use to obtain information about the balance remaining in the consumer's account or to obtain a written account history. Second, agencies would disclose that the consumer has a right to receive a written account history, upon request. Third, agencies would provide an error resolution notice different from the notice set forth in § 205.7(a)(10) (see discussion concerning proposed error resolution notice, below).

Paragraph (d)(2)—Annual notice

Section 205.8(a) of the regulation requires an annual notice explaining the error resolution procedures required by the regulation. Under the proposal, agencies would have to provide a notice that is substantially similar to the proposed notice in appendix A(12) (see discussion concerning proposed error resolution notice below).

Under § 205.8, financial institutions also must provide an advance notice of certain adverse changes to terms disclosed in the initial disclosures. No modification has been made for EBT programs. While certain term changes (such as transaction limitations) would be subject to § 205.8(a), however, other changes would continue to be governed only by EBT program rules. For example, the notice of change in terms would *not* apply to changes in the amount of a consumer's benefit, for which a notice is generally required under the agencies' program rules.

Paragraph (d)(3)—Terminal receipts

Section 205.9(a) requires a written receipt at the time a consumer initiates an electronic fund transfer at an electronic terminal. The receipts provide specific information about the transfer including, for example, the amount and date of the transfer.

For programs in which the government agency does not provide a periodic statement, the Board believes it is necessary to make balance information available on a more immediate basis. Thus, the proposal requires that the terminal receipt also show the balance available to the recipient after the transfer. (For food stamp EBT programs, disclosure of the balance is already required by the Food and Nutrition Service. 7 CFR 274.12(f)(3)(i).)

Paragraph (d)(4)—Liability of consumer

Regulation E limits the liability of consumers for unauthorized withdrawals from an account. Three tiers of maximum liability can apply. If the consumer notifies the institution within two business days of learning of the loss or theft of a debit card, the consumer's liability is limited to $50. If the consumer delays reporting, the liability limit can rise to $500 for any unauthorized withdrawals that occur after two business days. A third tier can apply if an account statement shows an unauthorized transfer and the consumer fails to notify the institution within 60 days: the consumer's liability will be unlimited for any subsequent unauthorized transactions.

In EBT programs that are currently in place, the agencies do not replace benefits unless the recipient has reported the loss or theft of the card before an unauthorized withdrawal takes place. Benefits are treated as cash once the recipient's account has been credited; any subsequent loss of benefits falls on the recipient (except in certain situations involving program or system error or fraud). In certain situations, agencies may provide emergency funds to assist the recipient who has reported losing funds, but not as a matter of right.

The Board proposes that government agencies be subject to the same liability rules as are applicable to financial institutions. The Board believes that the EFT Act generally mandates the same degree of protection for benefit recipients as for the general public. The Board solicits comment on potential costs associated with implementing the liability rules for EBT programs and why such implementation would present a greater burden for government agencies than that experienced by financial institutions.

To parallel the current regulation, the proposal provides for unlimited liability for subsequent losses if a consumer does not report unauthorized electronic fund transfers that appear on the written account history within 60 days after receiving that account history. The Board solicits comment on whether such a provision is pertinent to EBT programs given that recipients are likely, due to the pressing need for their benefits, to report unauthorized transfers much sooner than 60 days after requesting an account history.

Paragraph (d)(5)—Error resolution

Regulation E requires providers of EFT services to investigate and resolve alleged errors promptly and within specified time limits. "Error" includes an unauthorized electronic fund transfer, failure to properly credit or debit an account with an electronic transfer, and other types of discrepancies. A consumer's notice of error must be received by the institution within 60 days after the institution sent the periodic statement. Within 10 business days after receiving the consumer's notice, an institution must complete its investigation and resolution of the error. Alternatively, it may provisionally credit the account for the alleged error, in which case the institution is given a total of 45 days in which to resolve the claim; if no error is found to exist, the institution may debit the account for the amount provisionally credited.

The proposal would require government agencies to comply with the error resolution procedures when an oral or written notice is received within 60 days after the consumer obtains a terminal receipt or a written account history on which the alleged error is reflected.

Appendix A to Part 205—Model Disclosure Clauses

Section A(12)—Disclosure of Error Resolution Procedures for Government Agencies That Do Not Provide Periodic Statements (§ 205.15(d)(1)(iii) and (d)(2))

Sections 205.7 and 205.8 require notices describing procedures the consumer should follow in case of errors or questions about electronic transfers involving the consumer's account. These notices track the regulation's error resolution procedures and are triggered by the institution's receipt of a notice of error no later than 60 days after the institution provided a periodic statement.

The proposed notice for EBT programs conforms to the modifications discussed under paragraph (d)(5) above. The Board solicits comment on what additional information should be included in the notice. For example, should the notice include a description of the process used by the agency to recover funds credited to the consumer's account if it turns out no error occurred?

Form of Comment Letters

Comment letters should refer to Docket No. R-0796. The Board requests that, when possible, comments be prepared using a standard typeface with a type size of 10 or 12 characters per inch. This will enable the Board to convert the text into machine-readable form through electronic scanning, and will facilitate automated retrieval of comments for review. Comments may also be submitted on computer diskettes, using either the 3.5" or 5.25" size, in any DOS-compatible format.

List of Subjects in 12 CFR Part 205

Consumer protection, Electronic funds transfers, Federal Reserve System, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Board proposes to amend 12 CFR part 205 as follows:

PART 205—ELECTRONIC FUND TRANSFERS

1. The authority citation for part 205 is revised to read as follows:

Authority: 15 U.S.C. 1693b.

2. Section 205.15 is added to read as follows:

§ 205.15 Government systems for electronic benefit transfer.

(a) *Compliance by government agency.* (1) A government agency is deemed to be a financial institution and, except as provided in this section, shall comply with the act and this regulation if it directly or indirectly issues an access device to a consumer for use in initiating the electronic fund transfer of government benefits through electronic terminals such as automated teller machines or point-of-sale terminals.

(2) For purposes of this section, the term *account* means an account established by a government agency for distributing government benefits to a consumer through electronic terminals such as automated teller machines or point-of-sale terminals.

(b) *Issuance of access devices.* A government agency may issue a validated access device to a consumer only upon request. For purposes of this section, a consumer has requested an access device if the consumer applies for government benefits that the agency disburses or will disburse by means of electronic fund transfer.

(c) *Alternative to periodic statement.* A government agency need not furnish the periodic statements required by § 205.9(b) of this part if the agency:

(1) *Information access.* Makes information about the consumer's account balance available to the consumer through one or more of the following means:

(i) An electronic terminal or balance inquiry terminal; or

(ii) A readily available telephone line; and

(2) *Written account history.* Provides the consumer, upon request, with a written account history that lists transaction information about the consumer's account for at least two months preceding the request date.

(d) *Modified requirements.* A government agency that relies on the exception created by paragraph (c) of this section shall comply with the following requirements:

(1) *Initial disclosures.* The agency shall modify the disclosures required by § 205.7(a) of this part by providing:

(i) *Telephone number.* The telephone number the consumer may use to obtain the account balance and a written account history.

(ii) *Documentation.* A summary of the consumer's right to receive a written account history upon request (in place of the periodic statement disclosure required by § 205.7(a)(6) of this part).

(iii) *Error resolution notice.* A notice that is substantially similar to the error resolution notice contained in appendix A(12) of this part (in place of the disclosure required by § 205.7(a)(10) of this part).

(2) *Annual notice.* The agency shall provide an annual notice that is substantially similar to the error resolution notice contained in appendix A(12) of this part (in place of the notice required by § 205.8(b) of this part).

(3) *Terminal receipts.* The agency shall disclose on the terminal receipt the balance remaining in the consumer's account after a transfer.

(4) *Liability of consumer.* For purposes of § 205.6(b)(2) and (3) of this part, the agency shall substitute "written account history" for "periodic statement."

(5) *Error resolution.* The agency shall comply with the requirements of § 205.11 of this part in response to an oral or written notice from the consumer that is received no later than 60 days after the consumer obtains the terminal receipt or the written account history on which the alleged error is first reflected.

3. Appendix A is amended by adding section A(12) to read as follows:

Appendix A to Part 205—Model Disclosure Clauses

* * * * *

Section A(12)—Disclosure of Error Resolution Procedures for Government Agencies That Do Not Provide Periodic Statements (§ 205.15(d)(1)(iii) and (d)(2))

In case of errors or questions about your electronic transfers:

Telephone us at [insert telephone number]

or

Write us at [insert address]

as soon as you can, if you think your terminal receipt is wrong or if you need more information about a transfer shown on a receipt or written account history. We must hear from you no later than 60 days after the date you receive a terminal receipt or written account history on which the problem or error appears.

(1) Tell us your name and account number (if any).

(2) Describe the error or the transfer you are unsure about, and explain as clearly as you can why you believe it is an error or why you need more information.

(3) Tell us the dollar amount of the suspected error.

If you tell us orally, we may require that you send us your complaint or question in writing within 10 business days.

We will tell you the results of our investigation within 10 business days after we hear from you and will correct any error promptly. If we need more time, however, we may take up to 45 days to investigate your complaint or question. If we decide to do this, we will credit your account within 10 business days for the amount you think is in error, so that you will have the use of the money during the time it takes us to complete our investigation. If we ask you to put your complaint or question in writing and we do not receive it within 10 business days, we may not credit your account during the investigation.

If we decide that there was no error, we will send you a written explanation within three business days after we finish our investigation. You may ask for copies of the documents that we used in our investigation.

By order of the Board of Governors of the Federal Reserve System, February 5, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93-3258 Filed 2-16-93; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Chapter I

[Summary Notice No. PR-93-1]

Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of petitions for rulemaking received and of dispositions of prior petitions; correction.

SUMMARY: This action makes a correction to the summary described for docket no. 27044 in a notice of petitions for rulemaking published on January 25, 1993 (58 FR 5947). This action corrects that error.

DATES: Comments on petitions received must identify the petition docket number involved, and must be received on or before March 26, 1993.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of Chief Counsel, attn: Rules Docket (AGC-10), Petition docket no. _____, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: D. Michael Smith, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-7624.

SUPPLEMENTARY INFORMATION: In the summary for docket no. 27044, the petitioner was incorrectly named as Mr. John E. Gillick. The name of the petitioner should be corrected to read "Business Express, Inc."

Issued in Washington, DC on February 9, 1993.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

[FR Doc. 93-3624 Filed 2-16-93; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 92-NM-161-AD]

Airworthiness Directives; Boeing 737-200 and -300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Boeing Model 737 series airplanes, that currently requires structural inspections to detect cracks of the aft lower cargo doorway frames and repair of cracked parts. That AD provided for an optional modification which, if installed, would terminate the repetitive inspections required by that AD; however, this action, would require repetitive inspections to continue after the modification is installed. This proposal is prompted by new crack growth data indicating that cracks may develop after installation of the modification. The actions specified by the proposed AD are intended to prevent the development of undetected frame cracking, which could result in rapid loss of cabin pressure.

DATES: Comments must be received by April 12, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-161-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

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

FOR FURTHER INFORMATION CONTACT: Thomas Rodriguez, Aerospace Engineer, Seattle Aircraft Certification Office, Airframe Branch, ANM-120S, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2779; fax (206) 227-1181.

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-161-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-161-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

On October 23, 1987, the FAA issued AD 87-06-08 R1, Amendment 39-5763 (52 FR 41703, October 30, 1987), applicable to certain Model 737 series airplanes, to require structural inspections of the aft lower cargo doorway frames and repair of cracked parts, and to provide an optional terminating action for the repetitive inspections required by the AD. That action was prompted by reports of frame cracking, attributed to fatigue of the aft lower cargo doorway frames, which was induced by fuselage pressurization cycles. The requirements of that AD are intended to prevent the development of undetected frame cracking, which could result in rapid loss of cabin pressure.

AD 87-06-08 R1 provided for an optional terminating action for the required inspections. The terminating action consisted of installation of a modification described in Boeing Service Bulletin 737-53-1096. Since issuance of that AD, however, new crack growth data have shown that cracks may develop after installation of the modification. Therefore, the FAA has determined that additional repetitive inspections following installation of the modification are necessary in order to ensure the continued operational safety of these airplanes.

The FAA has reviewed and approved Boeing Service Bulletin 737-53-1096, Revision 5, dated January 16, 1992, that describes procedures for repetitive structural inspections to detect cracks of the aft lower cargo doorway frames. The service bulletin includes procedures for either the repair or modification of cracked parts, followed by additional repetitive inspections.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 87-06-08 R1 to continue to require structural inspections to detect cracks of the aft lower cargo doorway frames and repair of cracked parts. The proposed AD would revise the existing requirements by requiring the accomplishment of additional repetitive inspections after the previously-considered "terminating modification" or repair has been accomplished. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The proposed AD also includes an optional interim repair, in accordance with the Structural Repair Manual (SRM), that may be accomplished if the cracking found is within certain limits. After such repair, additional repetitive inspections would be required.

There are approximately 1,198 Model 737-200 and -300 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 464 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $102,080. 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 removing amendment 39-5763 (52 FR 28564, July 31, 1987), and by adding a new airworthiness directive (AD), to read as follows:

Boeing: Docket 92-NM-161-AD. Supersedes AD 87-06-08 R1, Amendment 39-5763.

Applicability: Model 737-200 and -300 series airplanes, line numbers 6 through 1204, inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

Note: Paragraph (a) of this AD restates the inspection requirements of AD 87-06-08 R1, Amendment 39-5763. As allowed by the phrase, "unless accomplished previously," if the requirements of AD 87-06-08 R1 have been accomplished previously, paragraph (a) of this AD does not require those inspections to be repeated.

To prevent the development of undetected frame cracking, which could result in rapid loss of cabin pressure, accomplish the following:

(a) Prior to the accumulation of 20,000 landings, or within 1,000 landings after December 17, 1987 (the effective date of AD 87-06-08 R1, Amendment 39-5763), whichever occurs later, unless previously accomplished within the last 3,000 landings prior to December 17, 1987, conduct a close visual inspection of the forward and aft body frames adjacent to the aft lower cargo door for cracks, in accordance with Boeing Service Bulletin 737-53-1096, dated July 24, 1985; Revision 1, dated April 2, 1987; Revision 2, dated July 30, 1987; Revision 3, dated February 8, 1990; or Revision 4, dated February 14, 1991. Thereafter, repeat the close visual inspections at intervals not to

exceed 4,000 landings until the requirements of paragraph (b) are accomplished.

(b) Prior to the accumulation of 20,000 landings, or within 1,000 landings after the effective date of this AD, whichever occurs later, unless previously accomplished within the last 3,000 landings prior to the effective date of this AD, conduct a close visual inspection of the forward and aft body frames adjacent to the aft lower cargo door for cracks, in accordance with Boeing Service Bulletin 737-53-1096, Revision 5, dated January 16, 1992. Thereafter, repeat the close visual inspections at intervals not to exceed 4,000 landings.

(c) If any crack is detected as a result of any of the inspections required by this AD, prior to further flight, accomplish the requirements of paragraph (c)(1) or (c)(2) of this AD, as applicable:

(1) Modify or repair the crack in accordance with Boeing Service Bulletin 737-53-1096, Revision 1, dated April 2, 1987; Revision 2, dated July 30, 1987; Revision 3, dated February 8, 1990; Revision 4, dated February 14, 1991; or Revision 5, dated January 16, 1992. After modification or repair, accomplish the requirements of paragraph (e) of this AD.

(2) If any crack is found that does not exceed the limits specified in the Boeing 737 Structural Repair Manual (SRM), the crack may be temporarily repaired in accordance with the SRM. After such repair is accomplished, repeat the close visual inspections required by paragraph (b) of this AD at intervals not to exceed 4,000 landings until modification or repair is accomplished in accordance with the service bulletins specified in paragraph (c)(1) of this AD. After such modification or repair, accomplish the requirements of paragraph (e) of this AD.

(d) If no crack is detected as a result of any of the inspections required by this AD, repeat the close visual inspections required by paragraphs (a) or (b) of this AD at intervals not to exceed 4,000 landings until modified in accordance with Boeing Service Bulletin 737-53-1096, Revision 1, dated April 2, 1987; Revision 2, dated July 30, 1987; Revision 3, dated February 8, 1990; Revision 4, dated February 14, 1991; or Revision 5, dated January 16, 1992. After modification, accomplish the requirements of paragraph (e) of this AD.

(e) For any area that is modified or repaired in accordance with Boeing Service Bulletin 737-53-1096, initial release, dated July 24, 1986; Revision 1, dated April 2, 1987; Revision 2, dated July 30, 1987; Revision 3, dated February 8, 1990; Revision 4, dated February 14, 1991; or Revision 5, dated January 16, 1992: Prior to the accumulation of 28,000 landings after the modification or repair has been accomplished, or within 1,000 landings after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 4,000 landings, conduct a close visual inspection of the forward and aft doorway frames of the aft lower cargo door to detect cracks, in accordance with the service bulletin.

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

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

(g) 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 10, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-3606 Filed 02-16-93; 8:45 am]

BILLING CODE 4910-13-P

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14 CFR Part 39

[Docket No. 92-NM-197-AD]

Airworthiness Directives; Fokker Model F27 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 Fokker Model F27 series airplanes. This proposal would require a one-time high frequency eddy current inspection to detect fatigue cracks on the main landing gear (MLG) upper members at the intersection of the side face and the cross bore; replacement of cracked upper members; rework of the upper members; and reporting findings of cracks that exceed certain limits. This proposal is prompted by a report of fatigue cracks found on two MLG assembly upper members at the intersection of the side face and the cross bore. The actions specified by the proposed AD are intended to prevent failure of the MLG.

DATES: Comments must be received by April 12, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-197-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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:

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-197-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-197-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

The Rijksluchtvaartdienst (RLD), which is the airworthiness authority for The Netherlands, recently notified the FAA that an unsafe condition may exist on certain Fokker Model F27 series airplanes on which certain Dowty Rotol main undercarriage upper members

have been installed. The RLD advises that fatigue cracks were found on two main landing gear (MLG) assembly upper members at the intersection of the side face and the cross bore. Fatigue cracks in this area, if not detected and repaired, could result in failure of the MLG.

Fokker has issued Service Bulletin F27/32–162, dated March 8, 1991, which describes procedures for a one-time high frequency eddy current inspection to detect cracks on the MLG upper members at the intersection of the side face and the cross bore, and rework of the upper members. The rework involves producing a radius of 1.27 mm (0.050 inch) at the intersection of the side face and the cross bore. The Fokker service bulletin references Revision 2 of Dowty Aerospace Gloucester Service Bulletins 32–165B, 32–86S, 32–53SW, and 32–73W, all dated January 11, 1991, for additional information. The RLD classified the Fokker service bulletin as mandatory and issued Netherlands Airworthiness Directive BLA No. 91–041, dated May 10, 1991, in order to assure the continued airworthiness of these airplanes in The Netherlands.

This airplane model is manufactured in The Netherlands and is type certificated for operation in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the RLD has kept the FAA informed of the situation described above. The FAA has examined the findings of the RLD, 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 a one-time high frequency eddy current inspection to detect cracks on the MLG upper members at the intersection of the side face and the cross bore; replacement of cracked upper members; rework of the upper members; and reporting findings of cracks that exceed certain limits. The actions would be required to be accomplished in accordance with the Fokker service bulletin described previously.

The FAA estimates that 25 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $1,375, or $55 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:

Fokker: Docket 92–NM–197–AD.

Applicability: Model F27 series airplanes; serial numbers 10102 through 10684, inclusive, 10686, 10687, and 10689 through 10692, inclusive; on which Dowty Rotol main undercarriage upper members, P/N 200463301, 200251300, 200251301, 200567300, or 200680300, are installed; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

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

(a) Within 9 months after the effective date of this AD, perform a high frequency eddy current inspection to detect cracks in the upper members of the MLG, in accordance with Fokker Service Bulletin F27/32–162, dated March 8, 1991.

(1) If no crack is found, prior to further flight, mark the upper members in accordance with Fokker Service Bulletin F27/32–162, dated March 8, 1991.

(2) If any crack is found, prior to further flight, replace the cracked upper member with one that has been inspected and has been found to be free of cracks, or with one that has been reworked, in accordance with the service bulletin.

(b) Within 12,000 landings since the last overhaul, or within 6 months after the effective date of this AD, whichever occurs later, rework upper members of the MLG that have not been reworked previously, in accordance with Fokker Service Bulletin F27/32–162, dated March 8, 1991.

(c) Within 10 days after accomplishing the inspection required by paragraph (a) of this AD, report the finding of any crack that exceeds 0.1 inch (2.54 mm) to Dowty Aerospace Customer Support Center, Service Manager, P.O. Box 49, Sterling, Virginia 20167; or fax (703) 430–4932. Reports must include the extent and location of cracks, the part number or issue number of the cracked upper member, the total number of landings on the cracked upper member, and the total number of landings since overhaul of the cracked upper member. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(d) 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.

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

(e) 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 10, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–3605 Filed 2–16–93; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 92-NM-239-AD]

Airworthiness Directives; Boeing Model 757 and 767 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 Boeing Model 757 and 767 series airplanes. This proposal would require an examination of the nameplate on the static inverter to determine the part number; replacement of the static inverter with an improved model, if necessary; and performance of an operational test of the static inverter following replacement. This proposal is prompted by several reports of loss of 115-volt AC electrical power to the standby bus during ground power transfer operations. The actions specified by the proposed AD are intended to prevent shutdown of the static inverter during power transfer, which could result in the inability to restart the engines in the event of a dual engine flameout.

DATES: Comments must be received by April 12, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-239-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

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

FOR FURTHER INFORMATION CONTACT: Stephen S. Oshiro, Aerospace Engineer, Systems and Equipment Branch, ANM-130S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2793; fax (206) 227-1181.

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-239-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-239-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

Recently, one operator of Boeing Model 767 series airplanes reported several incidents of loss of 115-volt AC electrical power to the standby bus during ground power transfer operations. Investigation revealed that the loss of this electrical power was caused by inadvertent shutdown of the static inverter that supplies 115-volt AC electrical power to the standby bus. Testing of the static inverter indicated that it may cease to operate when input power to the static inverter is momentarily interrupted for durations of a certain length of time. Although the reported incidents occurred while the airplanes were on the ground, similar interruptions of input power to the static inverter may occur in flight in the event of a dual engine flameout. This condition, if not corrected, could result in the inability to restart the engines in the event of a dual engine flameout.

The FAA has reviewed and approved Boeing Service Bulletin 757-24A0069, Revision 1, dated December 10, 1992; and Boeing Alert Service Bulletin 767-24A0085, dated September 17, 1992, that describe procedures for an examination of the nameplate on the static inverter to determine the part number of the static inverter; replacement of the static inverter with an improved inverter, if necessary; and performance of an operational test following replacement. The power systems on the Boeing Model 757 and 767 series airplanes are similar in design. Identical static inverters (part number S282T004-7) are installed on both the Model 757 and 767 series airplanes. The replacement static inverters (part number S282T004-8) have improvements in the design of the circuitry that preclude the power loss problems.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require an examination of the nameplate on the static inverter; replacement of the static inverter, if necessary; and performance of an operational test following replacement. The actions would be required to be accomplished in accordance with the service bulletins described previously.

There are approximately 479 Boeing Model 757 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 297 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would be provided by the manufacturer at no cost to the operator. The total cost impact of the proposed AD on U.S. operators of Boeing Model 757 series airplanes is estimated to be $16,335, or $55 per airplane.

There are approximately 451 Boeing Model 767 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 158 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would be provided by the manufacturer at no cost to the operator. The total cost impact of the proposed AD on U.S. operators of Boeing Model 767 series airplanes is estimated to be $8,690, or $55 per airplane.

Based on these figures, the total cost impact of the proposed AD on U.S. operators of Boeing Model 757 and 767 series airplanes is estimated to be $25,025, or $55 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:

Boeing: Docket 92–NM–239–AD.

Applicability: Model 757 series airplanes, line numbers 1 through 411 inclusive, 413 through 444 inclusive, 446 through 470 inclusive, and 472 through 480 inclusive; and Model 767 series airplanes, line numbers 1 through 451 inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent the inability to restart the engines in the event of a dual engine flameout, accomplish the following:

(a) Within 12 months after the effective date of this AD, perform an examination of the nameplate on the static inverter to determine the part number of the static inverter, in accordance with Boeing Service Bulletin 757–24A0069, Revision 1, dated December 10, 1992 (for Model 757 series airplanes); or Boeing Alert Service Bulletin 767–24A0085, dated September 17, 1992 (for Model 767 series airplanes); as applicable.

(1) If Boeing part number (P/N) S282T004–7 appears on the nameplate of the static inverter, prior to further flight, replace the static inverter with an improved model and perform an operational test, in accordance with the applicable service bulletin.

(2) If Boeing P/N S282T004–7 does not appear on the nameplate of the static inverter, no further action is required by this AD.

(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, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

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

(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.

Issued in Renton, Washington, on February 10, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–3607 Filed 2–16–93; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 71

[Airspace Docket No. 92–ASO–14]

Proposed Alteration of VOR Federal Airways, Reporting Points, and Jet Routes; MS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to change the name of the Greenwood, MS, very high frequency omnidirectional range/tactical air navigation (VORTAC) to the Itta Bena, MS, VORTAC. The Greenwood VORTAC is located approximately 10 miles west of the Greenwood-Leflore Airport. The FAA has determined that its current name is misleading because confusion exists between Greenwood, MS, and Greenville, MS, which are located adjacent to each other. Also, FAA guidelines state that navigational aids (NAVAID's) not located on the airport surface should not have the same name as the primary airport. This proposal would change the name in all airways, reporting points, and jet routes that have Greenwood in their text.

DATES: Comments must be received on or before April 1, 1993.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ASO–500, Docket No. 92–ASO–14, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9250.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 92–ASO–14." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained

in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-220, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3485. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to change the name of the Greenwood, MS, VORTAC to the Itta Bena, MS, VORTAC. The Greenwood VORTAC is located approximately 10 miles west of the Greenwood-LeFlore Airport in the town of Itta Bena. This name change should end the confusion that currently exists between Greenwood, MS, and Greenville, MS, which are located adjacent to each other. Domestic VOR Federal airways, low altitude reporting points, high altitude reporting points, and jet routes are published in §§ 71.123, 71.203, 71.207, and 71.607, respectively, of FAA Order 7400.7A dated November 2, 1992, and effective November 27, 1992, which is incorporated by reference in 14 CFR 71.1. The airways, reporting points, and jet routes listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Domestic high altitude reporting points, Domestic low altitude reporting points, Domestic VOR Federal airways, Incorporation by reference, Jet routes.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7A, Compilation of Regulations, dated November 2, 1992, and effective November 27, 1992, is amended as follows:

Section 71.123 Domestic VOR Federal Airways

* * * * *

V-9 [Revised]

From Leeville, LA, via INT Leeville, 333° and New Orleans, LA, 181° radials; New Orleans; McComb, MS; Jackson, MS; Itta Bena, MS; Gilmore, AR; Malden, MO; Farmington, MO; St. Louis, MO; Capital, IL; Pontiac, IL; INT Pontiac 343° and Rockford, IL, 169° radials; Rockford; Janesville, WI; Madison, WI; Oshkosh, WI; Green Bay, WI; Iron Mountain, MI; to Houghton, MI.

* * * * *

V-11 [Revised]

From Brookley, AL; Greene County, MS; Jackson, MS; Itta Bena, MS; Holly Springs, MS; Dyersburg, TN; Cunningham, KY; Pocket City, IN; Indianapolis, IN; Marion, IN; Fort Wayne, IN; to INT Fort Wayne 038° and Carleton, MI, 262° radials.

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V-278 [Revised]

From Texico, NM, via Plainview, TX; Guthrie, TX; Bridgeport, TX; Blue Ridge, TX; Paris, TX; Texarkana, AR; Monticello, AR; Greenville, MS; Itta Bena, MS; Bigbee, MS; to Vulcan, AL.

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V-535 [Revised]

From Itta Bena, MS; INT Itta Bena 010° and Holly Springs, MS, 225° radials; Holly Springs.

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V-555 [Revised]

From New Orleans, LA, via Picayune, MS; McComb, MS; INT McComb 019° and Jackson, MS, 169° radials; Jackson; INT Jackson 010° and Itta Bena, MS, 159° radials; to Itta Bena.

* * * * *

V-557 [Revised]

From McComb, MS, via INT McComb 348° and Jackson, MS, 199° radials; Jackson; INT Jackson 340° and Itta Bena, MS, 189° radials; to Itta Bena.

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Section 71.203 Domestic Low Altitude Reporting Points

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Greenwood, MS [Removed]

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Itta Bena, MS [New]

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Section 71.207 Domestic High Altitude Reporting Points

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Greenwood, MS [Removed]

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Itta Bena, MS [New]

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Section 71.607 Jet Routes

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J-35 [Revised]

From New Orleans, LA, via McComb, MS; Itta Bena, MS; Memphis, TN; Farmington, MO; St. Louis, MO; Capital, IL; Pontiac, IL; Joliet, IL; to Northbrook, IL.

* * * * *

J-52 [Revised]

From Vancouver, BC, Canada, via Spokane, WA; Salmon, ID; Dubois, ID; Rock Springs, WY; Denver, CO; Kiowa, CO; Lamar, CO; Liberal, KS; INT Liberal 137° and Ardmore, OK, 309° radials; Ardmore; Dallas-Fort Worth, TX; Texarkana, AR; Itta Bena, MS; Bigbee, MS; Vulcan, AL; Atlanta, GA; Colliers, SC; Columbia, SC; Raleigh-Durham, NC; to Richmond, VA. The portion within Canada is excluded.

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Issued in Washington, DC, on February 5, 1993.

Harold W. Becker,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 93-3623 Filed 2-16-93; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 92-ASW-08]

Proposed Revision of Transition Area; Lawton, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This notice withdraws the Notice of Proposed Rulemaking (NPRM), Airspace Docket No. 92–ASW–08, which was published in the **Federal Register** on August 25, 1992. That notice proposed to revise the transition area located at Lawton, OK. That proposal was necessitated due to the development of a new standard instrument approach procedure (SIAP) to the Henry Post Army Air Field (AAF), utilizing the Lawton very high frequency omnidirectional range/distance measuring equipment (VOR/DME). The intended effect of that proposal was to provide adequate controlled airspace for aircraft executing the new VOR/DME Runway (RWY) 17 SIAP to the Henry Post AAF.

Since the NPRM was published in the **Federal Register** on August 25, 1992, (57 FR 38456), the Terminal Airspace Reclassification Final Rule, published in the **Federal Register** August 27, 1992 (57 FR 38962), effected the necessary revision to the transition area, making this proposal unnecessary.

EFFECTIVE DATE: Immediately upon publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Alvin E. DeVane, System Management Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530; telephone: (817) 624–5535

SUPPLEMENTARY INFORMATION: On August 25, 1992, an NPRM was published in the **Federal Register** to revise the transition areas located at Lawton, OK. That proposal was necessitated due to the development of a new SIAP to the Henry Post AAF. The Terminal Airspace Reclassification Final Rule, published in the **Federal Register** August 27, 1992 (57 FR 38962), effected the necessary revisions to the transition areas, making this proposal unnecessary.

List of Subjects in 14 CFR Part 71

Aviation safety, Incorporation by reference, Transition areas.

The Withdrawal

Accordingly, pursuant to the authority delegated to me, the NPRM, Airspace Docket No. 92–ASW–08, as published in the **Federal Register** on August 25, 1992 (57 FR 38456), is hereby withdrawn.

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 48 U.S.C. 106(g); 14 CFR 11.69.

Issued in Fort Worth, TX on January 29, 1993.

Richard J. Cibak,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 93–3617 Filed 2–16–93; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

[EE–12–92]

RIN 1545–AQ61

Interest-Free Adjustments of Underpayments of Employment Taxes; Hearing Cancellation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Cancellation of notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed amendments to the regulations on interest-free adjustments of underpayments of certain employment taxes.

DATES: The public hearing originally scheduled for Wednesday, February 24, 1993, beginning at 10 a.m. is cancelled.

FOR FURTHER INFORMATION CONTACT: Mike Slaughter of the Regulations Unit, Assistant Chief Counsel (Corporate), 202–622–7190 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed amendments to the Employment Tax Regulations (26 CFR part 31) under section 6205 of the Internal Revenue Code (Code). A notice of proposed rulemaking and public hearing appearing in the **Federal Register** for Thursday, December 10, 1992 (57 FR 58423), announced that the public hearing on proposed amendments under section 6205 of the Internal Revenue Code would be held on Wednesday, February 24, 1993, beginning at 10 a.m., in the IRS Commissioner's Conference Room, room 3313, Internal Revenue Building, 1111 Constitution Avenue, NW. Washington, DC.

The public hearing scheduled for Wednesday, February 24, 1993, has been cancelled.

Dale D. Goode,

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

[FR Doc. 93–3556 Filed 2–16–93; 8:45 am]

BILLING CODE 4830–01–M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 768; Re. Notice No. 741]

RIN 1512–AA07

Spring Mountain Viticultural Area (91F–067P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Amended notice of proposed rulemaking; reopening of comment period.

SUMMARY: By Notice No. 741, published June 4, 1992, the Bureau of Alcohol, Tobacco and Firearms (ATF) requested comments on the proposed establishment of a viticultural area located in Napa County, California, to be known as "Spring Mountain." One commenter, representing Spring Mountain Vineyards, expressed concern that consumers would be confused by establishment of a viticultural area with the same name as its brand name, "Spring Mountain." The petitioners subsequently amended their petition to request the viticultural area name "Spring Mountain District." No other changes to the original petition as described in Notice No. 741 were requested. ATF is amending the proposed rule and reopening the comment period.

DATES: Written comments must be received by March 19, 1993.

ADDRESSES: Send written comments to: Chief, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091–0221, Attn: Notice No. 768.

FOR FURTHER INFORMATION CONTACT: Marjorie D. Ruhf, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202–927–8230).

SUPPLEMENTARY INFORMATION:

Background

On June 4, 1992, ATF published Notice No. 741 (57 FR 23559) proposing establishment of a viticultural area in Napa County, California, to be known as "Spring Mountain." This proposal is the result of a petition submitted on behalf of Marston Vineyards and York Creek Vineyards. In the supplementary information for the notice, ATF reviewed the background of the viticultural area approval process and requirements and discussed the evidence submitted by the petitioner in

compliance with these requirements. ATF also asked for comments from all interested parties.

ATF received four comments during the 60-day comment period. Two commenters, Cain Cellars and Summit Ranch Vineyard, both of St. Helena, California, wrote in support of the proposed area. The third commenter representing Spring Mountain Vineyards, expressed concern that its brand name, "Spring Mountain", a trademark used since 1940, would be "rendered worthless" by establishment of a viticultural area with the same name and the subsequent use of that name on labels of other wine producers. The commenter suggested changing the viticultural area's name to "Spring Mountain District" to differentiate between the brand and the viticultural area, and prevent consumer confusion. The fourth comment, from the petitioner, responded to the arguments submitted on behalf of Spring Mountain Vineyard, but did not object to the suggested amendment of the name. On December 2, 1992, the petitioner wrote to ATF to amend its original petition by changing the proposed viticultural area name to "Spring Mountain District." As the petitioner has sought to amend its petition by requesting a new name for the proposed viticultural area, we are issuing an amended notice of proposed rulemaking and reopening the comment period. As the only change from Notice No. 741 is the name of the proposed area, only name evidence will be discussed in this notice. Interested parties should comment only on the appropriateness of the proposed, or any other name, and refer to Notice No. 741 for all other information about the proposed area.

With respect to the original petition, evidence that the name "Spring Mountain" is locally and/or nationally known as referring to the area specified in the petition was set forth in Notice No. 741. In addition, the petitioner has provided the following items of evidence which support the use of the name "Spring Mountain District":

(a) An article in the local newspaper, the St. Helena Star, on December 7, 1877, made reference to "Spring Mountain District" and mentioned viticultural activities in the area.

(b) In the St. Helena Star for January 9, 1880, there was a "Spring Mountain Notes" column which included this item: "Fifty eight tons of grapes were sold from Spring Mountain district last Fall, and it is calculated that 100 acres of new vineyard will be put in this Spring."

(c) In Massee's Guide to Wines of America (1974) "Spring Mountain" is described as being "well on its way to becoming a separate district in its own right, much like Carneros, * * *"

(d) A label used by Ritchie Creek Vineyard of St. Helena, California, for its 1980 Ritchie Creek Vineyard Cabernet Sauvignon shows the name "Spring Mt. Dist."

ATF believes that the above-stated evidence is sufficient to warrant the desired name change. Nevertheless, in order to consider any comments that the public might have on this issue, we are reairing this notice.

Executive Order 12291

It has been determined that this proposed regulation is not a major regulation as defined in Executive Order 12291 and a regulatory impact analysis is not required because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. Any benefit derived from the use of a viticultural area name is the result of the proprietor's own efforts and consumer acceptance of wines from a particular area. No new requirements are proposed. Accordingly, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Public Law 96–511, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this notice of proposed rulemaking because no requirement to collect information is proposed.

Public Participation

ATF requests comments from all interested parties. Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closing date.

ATF will not recognize any comment as confidential. Comments may be disclosed to the public. Any material which a commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure. During the comment period, any person may request an opportunity to present oral testimony at a public hearing. However, the Director reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

Drafting Information

The principal author of this document is Marjorie D. Ruhf, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practices and procedures, Consumer protection, Viticultural areas, Wine.

Authority and Issuance

Title 27, Code of Federal Regulations, part 9, American Viticultural Areas, is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. Subpart C is amended by adding § 9.145 to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.145 Spring Mountain District.

(a) *Name.* The name of the viticultural area described in this section is "Spring Mountain District."

(b) *Approved maps.* The appropriate maps for determining the boundary of the Spring Mountain District viticultural area are four U.S.G.S. 7.5 minute series topographical maps of the 1:24000 scale. They are titled:

(1) "Kenwood, Calif.," 1954 (photorevised 1980);

(2) "Rutherford, Calif.," 1951 (photorevised 1968);

(3) "St. Helena, Calif.," 1960 (photorevised 1980);

(4) "Calistoga, Calif.," 1958 (photorevised 1980).

(c) *Boundary.* The Spring Mountain District viticultural area is located in Napa County, California, within the Napa Valley viticultural area. The boundary is as follows:

(1) Beginning on the Calistoga quadrangle map at the Napa-Sonoma county line at the boundary line between sections 18 and 19 in T8N/R6W;

(2) Then east along the boundary line between sections 18 and 19 for approximately ¾ of a mile to its intersection with Ritchie Creek at the boundary line between sections 17 and 20 in T8N/R6W;

(3) Then northeast along Ritchie Creek approximately 2 miles, to the 400 foot contour line in the northeast corner in section 16 of T8N/R6W;

(4) Then along the 400 foot contour line in a northeast then generally southeast direction, through the St. Helena and Rutherford quadrangle maps, approximately 9 miles, past the town of St. Helena to the point where it intersects Sulphur Creek in Sulphur Canyon, in the northwest corner of section 2 in T7N/R6W;

(5) Then west along Sulfur Creek (onto the Kenwood quadrangle map) and south to the point where it first divides into two intermittent streams in section 3 in T7N/R6W;

(6) Then south along the intermittent stream approximately 1.5 miles to the point where it intersects the 2,360 foot contour line in section 10 in T7N/R6W;

(7) Then southwest in a straight line, approximately .10 mile, to the unnamed peak (elevation 2600 feet) at the boundary line between Napa and Sonoma Counties;

(8) Then in a generally northwest direction along the Napa-Sonoma county line, through sections 10, 9, 4, 5, 32, 33, 32, 29, 20, and 19, to the beginning point on the Calistoga quadrangle map at the boundary between sections 18 and 19 in T8N/R6W.

Approved: February 5, 1993.

Stephen E. Higgins,

Director.

[FR Doc. 93-3612 Filed 2-16-93; 8:45 am]

BILLING CODE 4610-31-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 180

[OPP-300271; FRL-4178-9]

RIN 2070-AB78

Ethoxylated Polyarylalkylphenols; Tolerance Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that an exemption from the requirement of a tolerance be established for residues of certain ethoxylated polyarylalkylphenols when used as inert ingredients (surfactants) in pesticide formulations applied to growing crops only. This proposed regulation was requested by Rhone Poulenc, Inc.

DATES: Comments, identified by the document control number (OPP-300271), must be received on or before March 19, 1993.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 1128, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part of all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by the EPA without prior notice. The public docket is available for public inspection in rm. 1128 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Connie Welch, Registration Support Branch, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 711I, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-7252.

SUPPLEMENTARY INFORMATION: Rhone-Poulenc, Inc., CN 7500, Cranbury, NJ 08512-7500, has submitted pesticide petition (PP) 1E4003 to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(e), propose to amend 40 CFR 180.1001(d) by establishing an exemption from the requirement of a tolerance for residues of alpha-[2,4,6-tris[1-(phenyl)ethyl]phenyl]-omega-hydroxy poly(oxyethylene); alpha-[2,4,6-tris[1-(phenyl)ethyl]phenyl]omega-hydroxy poly(oxyethylene), mixture of monohydrogen and dihydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, potassium, sodium and zinc salts; alpha-[2,4,6-tris[1-(phenyl)ethyl]phenyl]-omega-hydroxy poly(oxyethylene) sulfate, and the corresponding ammonium, calcium, magnesium, potassium, sodium, and zinc salts; and alpha-[2,4,6-tris[1-(phenyl)ethyl]phenyl]-omega-hydroxy poly(oxyethylene) poly(oxypropylene) copolymer, when used as inert ingredients (surfactants) in pesticide formulations applied to growing crops only.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

As part of the EPA policy statement on inert ingredients published in the **Federal Register** of April 22, 1987 (52 FR 13305), the Agency established data requirements which will be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. Exemptions from some or all of the requirements may be granted if it can be determined that the inert ingredient will present minimal or no risk.

The data submitted in the petition and other relevant material have been evaluated. A representative member of this class of chemicals was chosen to represent the entire group and was the test material for each of the studies described below. The toxicological data considered in support of this exemption from tolerance include:

1. A 90-day rat oral toxicity study with a no-observed-effect level (NOEL) of 30 milligrams (mg)/kilogram(kg)/day. The lowest effect level (LEL) was 100 mg/kg/day. This dose level appears to be at or near the level of statistical significance for renal tubular mineralization for male rats.

2. A rat developmental toxicity study with a maternal NOEL of 100 mg/kg/day (reduced body weight gain was experienced at higher doses), and a developmental NOEL of 100 mg/kg/day

Biologically relevant increases in litter incidence of unossified hind-limb phalanges were experienced at all doses, but statistically significant increases were experienced at top dose only.

3. Mutagenicity studies including a chromosomal aberration study in Chinese hamster ovary cells and a test for unscheduled DNA synthesis in rat primary hepatocyte cultures which were acceptable and negative.

4. Environmental fate studies including aerobic soil metabolism, soil adsorption/desorption, hydrolysis, and photolysis were also found to be acceptable.

Given the physical properties of these chemicals (molecular weight over 1,000, high water solubility, and partition coefficients unfavorable for absorption), there is low concern for dermal, gastrointestinal, or respiratory absorption.

Based upon the above information and review of its use, EPA has found that, when used in accordance with good agricultural practice, these ingredients are useful and tolerances are not necessary to protect the public health. Therefore, EPA proposes that exemptions from the requirement of a tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, (OPP-300271). All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

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

List of Subjects in 40 CFR Part 180

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

Dated: January 29, 1993.

Lawrence E. Culleen,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

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

Authority: 21 U.S.C. 346a and 371.

2. Section 180.1001(d) is amended by adding and alphabetically inserting the inert ingredients, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
* * *	* * *	* *
Alpha-[2,4,6-tris[1-(phenyl)ethyl]phenyl]-omega-hydroxy poly(oxyethylene); mixture of monohydrogen and dihydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, potassium, sodium and zinc salts, the poly(oxyethylene) content averages 4-150 moles).	Not more than 15% of the formulation.	Surfactant
Alpha-[2,4,6-tris[1-(phenyl)ethyl]phenyl]-omega-hydroxy poly(oxyethylene) poly(oxypropylene) copolymer, the poly(oxypropylene) content averages 2-8 moles, the poly(oxyethylene) content averages 16-30 moles, and the average molecular weight is 1,500.	Not more than 15% in the pesticide formulation.	Surfactant
Alpha-[2,4,6-tris[1-(phenyl)ethyl]phenyl]-omega-hydroxy poly(oxyethylene) sulfate, and the corresponding ammonium, calcium, magnesium, potassium, sodium, and zinc salts, the poly(oxyethylene content averages 4-150 moles.	Not more than 15% of the pesticide formulation.	Surfactant
Alpha-[2,4,6-tris[1-(phenyl)ethyl]phenyl]-omega-hydroxy poly(oxyethylene), the poly(oxyethylene) content averages 4-150 moles).	Not more than 15% of the formulation.	Surfactant
* * *	* * *	* *

* * * * *

[FR Doc. 93-3598 Filed 2-16-93; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 180

[OPP-300274; FRL-4185-8]

RIN 2070-AB78

Sodium Bisulfate; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that an exemption from the requirement of a tolerance be established for residues of sodium bisulfate (CAS Registry No. 7681-38-1) when used as an inert ingredient (acidifying/buffering agent) in pesticide formulations applied to growing crops only. This proposed regulation was requested by the American Cyanamid Co.

DATES: Comments, identified by the document control number (OPP-300274), must be received on or before March 19, 1993.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 1128, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part of all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by the EPA without prior notice. The public docket is available for public inspection in rm. 1128 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Connie Welch, Registration Support Branch, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 711I, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-7252.

SUPPLEMENTARY INFORMATION: The American Cyanamid Co., Agricultural Research Division, P.O. Box 400, Princeton, NJ 08540, submitted pesticide petition (PP) 2E4160, requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(e), amend 40 CFR 180.1001(d) by establishing an exemption from the requirement of a tolerance for residues of sodium bisulfate (CAS Reg. No. 7681-38-1) when used as an inert ingredient (acidifying/buffering agent) in pesticide formulations applied to growing crops only.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

The data submitted in the petition and other relevant material have been evaluated. As part of the EPA policy statement on inert ingredients published in the **Federal Register** of April 22, 1987 (52 FR 13305), the Agency established data requirements which will be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. Exemptions from some or all of the requirements may be granted if it can be determined that the inert ingredient will present minimal or no risk.

The chemical is considered by the Agency to be a minimum risk inert (List 4A). List 4A inert ingredients are generally regarded as innocuous by the Agency.

The Agency has decided that the data normally required to support the proposed tolerance exemption for sodium bisulfate will not need to be submitted. The rationale for this decision is described below.

1. Sodium bisulfate dissociates to sodium cation, hydrogen cation, and sulfate anion.

2. Numerous substances that dissociate to one or more of these same components are already exempt from the requirement of a tolerance when used in accordance with good agricultural practices, as inert (or occasionally active) ingredients in pesticide formulations applied to growing crops and to raw agricultural commodities after harvest. These include sodium sulfate, potassium sulfate, ammonium sulfate, magnesium sulfate, ferric sulfate, and zinc sulfate basic and monohydrate.

3. Under Food and Drug Administration regulations (21 CFR 184.1143, 184.1443, and 184.1643, respectively), ammonium sulfate, magnesium sulfate, and potassium sulfate are affirmed as generally recognized as safe (GRAS) when added directly to human food.

4. Sodium bisulfate is approved by the Food and Drug Administration for use in adhesives used as components of articles intended for use in packaging, transporting, or holding food under 21 CFR 175.105.

Based on the information and review of its use, EPA has found that, when used in accordance with good agricultural practice, this ingredient is useful and a tolerance is not necessary to protect the public health. Therefore, EPA proposes that the exemption from the requirment of a tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, (OPP-300274). All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

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

List of Subjects in 40 CFR Part 180

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

Dated: January 29, 1993.

Lawrence E. Culleen,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

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

Authority: 21 U.S.C. 346a and 371.

2. Section 180.1001(d) is amended by adding and alphabetically inserting the inert ingredient, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
* * *	* * *	* * *
Sodium bisulfate (CAS Registry No. 7681-38-1)		Acidifying/buffering agent
* * *	* * *	* * *

* * * * *

[FR Doc. 93–3596 Filed 2–16–93; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 2, 88, 90 and 94

[PR Docket No. 92–235; DA 93–145]

Revision of Regulations on the Private Land Mobile Radio Services; Modification of Policies

In the Matter of Replacement of Part 90 by Part 88 To Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; order extending comment and reply comment periods.

SUMMARY: The Chief, Private Radio Bureau has adopted an Order extending the time periods in which to file comments and reply comments to the Notice of Proposed Rule Making, 57 FR 54034 (November 16, 1992) in this proceeding. The new dates for comments and reply comments are May 28, 1993, and July 14, 1993, respectively. This action will provide commenters additional time so they may use information gained from a public conference on this proceeding to be held at the FCC on March 1, 1993.

DATES: Comments must be filed on or before May 28, 1993. Reply Comments must be field on or before July 14, 1993.

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

FOR FURTHER INFORMATION CONTACT: Doron Fertig, Policy and Planning Branch, Land Mobile and Microwave Division, Private Radio Bureau, (202) 632–6497.

SUPPLEMENTARY INFORMATION:

Order Extending Comment and Reply Comment Periods

Adopted: February 8, 1993; *Released:* February 9, 1993.

Comment Date: May 28, 1993.

Reply Comment Date: July 14, 1993.

By the Chief, Private Radio Bureau;

1. On November 6, 1992, the Commission released a Notice of Proposed Rule Making, 7 FCC Rcd 8105 (1992), (Notice), in this proceeding. The specified deadlines for comments and reply comments were February 26, 1993 and April 14, 1993, respectively. On January 20, 1993, the Public Safety Communications Council (PSCC) filed a letter requesting that we extend the date for filing Comments and Reply Comments in this proceeding to August 25, 1993, and October 14, 1993, respectively. On February 3, 1993, the Land Mobile Communications Council (LMCC) filed a petition requesting that we extend the date for filing Comments to May 28, 1993. On February 4, 1993, PowerSpectrum, Inc. (PSI) filed a petition requesting that we extend the date for filing Comments and Reply Comments to May 26, 1993, and July 26, 1993, respectively.

2. PSCC based its request on the size of the Notice and on the need for additional time to conduct equipment tests and to review the U.S. Government planned migration to narrowband equipment. LMCC, an organization whose membership includes 20 trade associations, plans to develop an industry consensus position and to file it as comments by April 28, 1993. They would like the extension to give the public time to comment on this industry consensus. PSI requests the extra time to study the impact of the proposed channeling plans on the potential use of its frequency hopping multiple access technology (FHMA).

3. The proposals set forth in the Notice represent the most comprehensive review of the rules governing the private land mobile radio allocations below 512 MHz since there inception. The blueprint on how to increase channel capacity, to promote more efficient use of these channels, and to simplify the rules governing their use is complex and deserves the fullest cooperation between users of this spectrum and the government to assure that the rules ultimately adopted will constructively serve the public interest. To assist in this process we have scheduled a conference for March 1, 1993 to discuss publicly the issues raised in the Notice. In order to allow commenters the benefit of information gained in this meeting, and for the reasons set forth by the petitioners, we have concluded that additional time to prepare comments should be granted. We also believe, however, that the public interest requires us to reach a timely decision on the issues raised in the Notice and, thus, conclude that a long extension would disserve the land mobile radio community.

4. Accordingly, it is ordered; based on the authority granted in section 0.331 of the Commission's Rules and Regulations, 47 CFR 0.331, that the petition of LMCC is granted, that the petitions of PSSC and PSI are granted to the extent indicated herein and otherwise denied, and, that the deadline for filing comments in the subject Notice of Proposed Rule Making is extended to May 28, 1993, and the deadline for filing reply comments is extended to July 14, 1993.

Federal Communications Commission.

Ralph A. Haller,

Chief, Private Radio Bureau.

[FR Doc. 93–3561 Filed 2–16–93; 8:45 am]

BILLING CODE 6712–01–M

Notices

Federal Register
Vol. 58, No. 30
Wednesday, February 17, 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

Farmers Home Administration

Availability of Rural Housing Targeting Set Aside (RHTSA) Funds

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice.

SUMMARY: The Farmers Home Administration (FmHA) announces the availability of Rural Housing Targeting Set Aside (RHTSA) funds for Fiscal Year (FY) 1993. This action is taken to publish notice of the availability of Sections 502, 504, 514, 515 and 524 loan/grant funds in targeted, underserved areas and certain colonials that are now eligible for FmHA housing assistance. The intended effect is to make the public aware of eligible targeted counties and targeted housing funds available through FmHA.

EFFECTIVE DATE: February 17, 1993.

FOR FURTHER INFORMATION CONTACT: Cynthia Reese-Foxworth, Loan Specialist, Multi-Family Housing Processing Division, at (202) 720–1608, or Gloria Denson, Senior Loan Specialist, Single Family Housing Processing Division at (202) 720–1474. The address is USDA–FmHA, South Agriculture Building, 14th and Independence Ave., SW., Washington, DC 20250–0700.

SUPPLEMENTARY INFORMATION:

Programs Affected

These programs/activities are listed in the Catalog of Federal Domestic Assistance under Nos:

10.405 Farm Labor Housing Loans and Grants
10.410 Low Income Housing Loans
10.411 Rural Housing Site Loans
10.415 Rural Rental Housing Loans
10.417 Very Low Income Housing Repair Loans and Grant
10.427 Rural Rental Assistance Payments

Discussion of Notice

7 CFR, part 1940, subpart L contains the "Methodology and Formulas for Allocation of Loan and Grant Program Funds." Exhibit C of subpart L contains information on RHTSA.

The Housing and Community Development Act of 1992 requires that at least 5 targeted counties contain Indian tribal lands. Based upon the selection criteria, 5 of the 100 targeted counties and 2 of the pooled counties contain Indian tribal lands. They are as follows:

Apache County, Arizona
Coconino County, Arizona
Rolette County, North Dakota
Sioux County, North Dakota
Dewey County, South Dakota
Blaine County, Montana (Pool Funds Only)
Benson County, Montana (Pool Funds Only)

FmHA is particularly interested in receiving loan requests for tribal organizations in these counties to develop housing. The following information has been provided to FmHA field offices on Fiscal Year 1993 RHTSA funds and designated counties eligible for FmHA housing assistance:

State	Very low-income 502 loans FY 1993 set aside	Low-income 502 loans FY 1993 set aside	Total 502 loans FY 1993 set aside	504 Grants FY 1993 set aside	504 loans FY 1993 set aside	515 loans FY 1993 set aside
Alabama	492,000	738,000	1,230,000	12,000	11,000	516,000
Arizona	492,000	738,000	1,230,000	12,000	11,000	516,000
Arkansas	738,000	1,107,000	1,845,000	18,000	16,000	773,000
Georgia	3,199,000	4,798,000	7,997,000	77,000	70,000	3,351,000
Idaho	246,000	369,000	615,000	6,000	5,000	438,000
Kentucky	3,199,000	4,798,000	7,997,000	77,000	70,000	3,351,000
Louisiana	1,722,000	2,584,000	4,306,000	42,000	38,000	1,804,000
Mississippi	1,476,000	2,215,000	3,691,000	36,000	32,000	1,547,000
Missouri	1,230,000	1,846,000	3,076,000	30,000	27,000	1,289,000
New Mexico	492,000	738,000	1,230,000	12,000	11,000	516,000
North Dakota	492,000	738,000	1,230,000	12,000	11,000	516,000
Puerto Rico	2,952,000	4,429,000	7,381,000	71,000	65,000	3,093,000
South Dakota	1,476,000	2,215,000	3,691,000	36,000	32,000	1,547,000
Tennessee	492,000	738,000	1,230,000	12,000	11,000	516,000
Texas	4,429,000	6,644,000	11,073,000	105,000	97,000	4,637,000
Utah	246,000	369,000	615,000	6,000	5,000	438,000
Virginia	738,000	1,107,000	1,845,000	18,000	16,000	773,000
West Virginia	492,000	738,000	1,230,000	12,000	11,000	516,000
State total	24,603,000	36,909,000	61,512,000	594,000	539,000	26,137,000
Reserve	1,297,000	1,941,000	3,238,000	31,000	28,000	2,558,000
National total	25,900,000	38,850,000	64,750,000	625,000	567,000	28,695,000

Minimum state funding levels are established in sections 502, 504 and 515, based upon national averages, as follows:

Section 502—Sufficient funds to obligate at least 10 initial loans of $54,000 each.

Section 504—Sufficient funds to obligate at least 1 initial loan of $5,000.

Section 504—Sufficient funds to obligate at least 1 initial grant of $4,000.

Section 515—Sufficient funds to obligate at least 1 12-unit project of $36,500 per unit cost.

Section 514 funds of $815,000 and section 524 funds of $30,000, are available on a first-come, first-served basis.

800 units of new construction RA are available for section 515 requests.

The RHTSA reserve will be available on an as needed basis for SFH programs. For MFH, the reserve will be available only for patch-outs until April 1, 1993.

Pooling of unused RHTSA funds and RA is tentatively scheduled for July 2, 1993, and may be changed administratively, based upon fund usage.

All unused RHTSA funds and RA are subject to year-end pooling, tentatively scheduled for August 13, 1993.

100 COUNTIES ELIGIBLE IN FY 1993 FOR RHTSA FUNDS IMMEDIATELY AND AT POOLING

State	County name
Alabama	Dallas.
Alabama	Russell.
Arizona	Apache.
Arizona	Coconino.
Arkansas	Lee.
Arkansas	Lincoln.
Arkansas	Woodruff.
Georgia	Appling.
Georgia	Baker.
Georgia	Dooly.
Georgia	Echols.
Georgia	Emanuel.
Georgia	Jefferson.
Georgia	McIntosh.
Georgia	Miller.
Georgia	Pulaski.
Georgia	Sumter.
Georgia	Taliaferro.
Georgia	Treutlen.
Georgia	Wheeler.
Idaho	Madison.
Kentucky	Bell.
Kentucky	Breathitt.
Kentucky	Casey.
Kentucky	Green.
Kentucky	Harlan.
Kentucky	Knott.
Kentucky	Knox.
Kentucky	Leslie.
Kentucky	Lewis.
Kentucky	Martin.
Kentucky	Monroe.
Kentucky	Perry.
Kentucky	Whitley.
Louisiana	Bienville.
Louisiana	Catahoula.
Louisiana	Claiborne.
Louisiana	Iberville.
Louisiana	Morehouse.
Louisiana	Natchitoches.
Louisiana	Richland.
Mississippi	Carroll.
Mississippi	Claiborne.
Mississippi	Greene.
Mississippi	Issaquena.
Mississippi	Oktibbeha.
Mississippi	Washington.
Missouri	Douglas.
Missouri	Oregon.
Missouri	Ozark.
Missouri	Reynolds.

100 COUNTIES ELIGIBLE IN FY 1993 FOR RHTSA FUNDS IMMEDIATELY AND AT POOLING—Continued

State	County name
Missouri	Wayne.
New Mexico	Mora.
New Mexico	San Juan.
North Dakota	Rolette.
North Dakota	Sioux.
Puerto Rico	Adjuntas.
Puerto Rico	Aguadilla.
Puerto Rico	Barranquitas.
Puerto Rico	Coamo.
Puerto Rico	Fajardo.
Puerto Rico	Guayama.
Puerto Rico	Humacao.
Puerto Rico	Jayuya.
Puerto Rico	Juana Diaz.
Puerto Rico	Rio Grande.
Puerto Rico	San Sebastian.
Puerto Rico	Utuado.
South Dakota	Charles Mix.
South Dakota	Corson.
South Dakota	Dewey.
South Dakota	Jackson.
South Dakota	Mellette.
South Dakota	Shannon.
Tennessee	Campbell.
Tennessee	Grainger.
Texas	Brooks.
Texas	Cochran.
Texas	Crosby.
Texas	Dickens.
Texas	Edwards.
Texas	Floyd.
Texas	Gonzales.
Texas	Hudspeth.
Texas	Jim Wells.
Texas	Karnes.
Texas	Kenedy.
Texas	La Salle.
Texas	Maverick.
Texas	Presidio.
Texas	Real.
Texas	Reeves.
Texas	Webb.
Texas	Zavala.
Utah	San Juan.
Virginia	Accomack.
Virginia	Lee.
Virginia	Northampton.
West Virginia	McDowell.
West Virginia	Mingo.

47 COUNTIES ELIGIBLE IN FY 1993 FOR RHTSA POOLED FUNDS ONLY

State	County Name
Alabama	Clay.
Arkansas	Columbia.
Arkansas	Cross.
Arkansas	Jefferson.
Arkansas	Union.
Colorado	Dolores.
Florida	Liberty.
Georgia	Bulloch.
Georgia	Irwin.
Georgia	Jasper.
Georgia	Laurens.
Georgia	Thomas.
Illinois	Alexander.
Kentucky	Garrard.
Kentucky	Madison.
Louisiana	Acadia.
Louisiana	Assumption.
Louisiana	Sabine.
Mississippi	Clarke.
Missouri	Bollinger.
Missouri	Mercer.
Missouri	Scotland.

47 COUNTIES ELIGIBLE IN FY 1993 FOR RHTSA POOLED FUNDS ONLY—Continued

State	County Name
Missouri	Washington.
Montana	Blaine.
New Mexico	Catron.
North Carolina	Perquimans.
North Carolina	Sampson.
North Carolina	Washington.
North Dakota	Benson.
Texas	Bailey.
Texas	Bee.
Texas	Dawson.
Texas	Dewitt.
Texas	Gaines.
Texas	Glasscock.
Texas	Hale.
Texas	Jeff Davis.
Texas	Kleberg.
Texas	Leon.
Texas	Lynn.
Texas	Madison.
Texas	Newton.
Texas	Parmer.
Texas	San Augustine.
Texas	Terry.
Texas	Walker.
West Virginia	Monroe.

Dated: February 11, 1993.

Sandra Weisman,

Acting Administrator, Farmers Home Administration.

[FR Doc. 93-3788 Filed 2-16-93; 8:45 am]

BILLING CODE 3410-07-M

Forest Service

West Fork Papoose Timber Sale, Clearwater National Forest, Idaho County, Idaho; Intent To Prepare an Environmental Impact Statement

AGENCY: Forest Service, USDA.

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

SUMMARY: The Forest Service will analyze and disclose the environmental impacts of a proposal to harvest timber, regenerate harvested timber stands, rehabilitate sediment existing sediment sources, reconstruct existing roads, and construct new roads in a portion of the West Fork Papoose Creek drainage on the Powell Ranger District. An environmental impact statement (EIS) will be prepared which will document the analysis. This EIS will tier to the Clearwater National Forest Land and Resource Management Plan Final EIS of September 1987, which provides overall guidance in achieving the desired condition for the area. The primary purpose and need of the proposed action is to implement land management direction for the West Fork Papoose Creek drainage. The goal is to develop a viable timber sale proposal that is compatible with current resource management objectives.

DATES: Comments concerning the scope of the analysis should be received by May 10, 1993 to receive timely consideration in the preparation of the Draft EIS. The Draft EIS will be filed with the Environmental Protection Agency by May 30, 1993. The Final EIS and Record of Decision are expected in September of 1993.

ADDRESSES: Send written comments to the responsible official, Margaret J. Gorski, District Ranger, Powell Ranger District, Powell Ranger Station, Lolo, Montana 59847.

FOR FURTHER INFORMATION CONTACT: Stewart Hoyt, West Fork Papoose Analysis Interdisciplinary Team Leader, or Margaret J. Gorski, District Ranger, Powell Ranger District, Clearwater National Forest, (208) 942–3113.

SUPPLEMENTARY INFORMATION: The analysis area in which the proposed management activities would occur consists of approximately 7,000 acres of National Forest land in the west fork and main stem of the Papoose Creek drainage on Powell Ranger District. The study area includes all or portions of Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 23, 24, 25, and 36, T37N, R13E; Sections 5, and 6 of T37N, R14E; Sections 35 and 36 of T38N, R13E; and Sections 31 and 32 T38N, R14E, Boise Meridian, Idaho County, Idaho.

The Land and Resource Management Plan for the Clearwater National Forest provides the overall guidance for management activities in the potentially affected area through its goals, objectives, standards, guidelines and management area direction. In the West Fork Papoose analysis area, five Forest Plan Management Areas are found. The areas of proposed timber harvest, regeneration and associated road construction and reconstruction activities are located in Management Area E1, which emphasizes optimum sustained timber production.

To date, considerable scoping and analysis has been done in regard to the proposed action. In March 1991 the staff of the Powell Ranger District began an Integrated Resource Analysis (IRA) of the west fork of Papoose Creek (Silvicultural compartment 617) to identify the existing and desired conditions. During November of 1991, a letter of management intent was sent to the staff of the Clearwater National Forest, State agencies, the Nez Perce Tribal Executive Committee, and other known local interest groups and individuals informing the public of the analysis, and seeking comment. In December 1991, an Interdisciplinary Team (IDT) was assigned to complete the analysis after receiving a number of comments during the initial scoping phase. Again in March of 1992 another letter was sent to the Clearwater National Forest, State agencies, the Nez Perce Indian Tribe, and other known local interest groups and individuals informing them of the issues that were being used to develop alternatives and asking for additional comments and. potential alternatives for the IDT to consider. The key issues identified by the Interdisciplinary Team are:

1. Fisheries and Watershed—Proposed logging and road construction may increase sediment levels in the west fork and mainstem of Papoose Creek (currently below Forest Plan standards) affecting the salmon and other sensitive species fisheries.
2. Old Growth—Proposed logging and road construction may reduce the level of old growth habitat in the analysis area and further fragment corridors linking areas of old growth habitat.
3. Wildlife—Timber harvesting and road construction may create new openings, decreasing the available suitable habitat needed for wildlife.
4. Threatened, Endangered and Sensitive Species—Timber harvesting and road construction may affect the habitat of Threatened, Endangered and Sensitive species.
5. Silviculture/Timber Management—The majority of the timber stands in the analysis area have reached biological maturity and are currently affected by insects and pathogens.

In response to the identified issues and concerns, the IDT has so far described five management alternatives. One of these is the "no-action" alternative in which timber harvest, timber stand regeneration, and road construction/reconstruction activities would not be implemented. Other alternatives will examine various levels and locations of timber harvest, timber stand regeneration, and road construction/reconstruction activity. Various mixes of timber and non-timber resource values of each alternative will also be examined.

Under the alternatives that the Interdisciplinary Team has described to this point, timber harvest ranges from 1.0 to 3.0 million board feet (MMBF), with harvest affecting from 86 to 306 acres. To access proposed harvest units up to ¼ mile of new road construction and 3 miles of existing road reconditioning would be required.

The Forest Service is not seeking further information and comments from Federal, State, local agencies, and other individuals or organizations who are interested in or affected by the proposed action. This additional input will be used in preparing the Draft EIS (DEIS).

The process will include:

1. Identification of potential issues.
2. Identification of issues to be analyzed in depth.
3. Elimination of insignificant issues.
4. Identification of additional reasonable alternatives.
5. Identification of potential environmental effects of the alternatives.
6. Determination of potential cooperating agencies.

The EIS will disclose the environmental effects of alternative ways of implementing the Forest Plan. The Forest Service will analyze and document the direct, indirect, and cumulative effects of the alternatives. In addition, the EIS will disclose site specific mitigation measures and their expected effectiveness.

Public participation will be especially important at several points in the analysis. People are encouraged to visit with Forest Service officials at any time during the analysis and prior to the decision. A final EIS is expected to be filed in September 1993. Two key time periods have been identified for receipt of formal comments on the analysis:

1. Scoping period (now through May 10, 1993).
2. Review of the Draft EIS in June, 1993.

The U.S. Fish and Wildlife Service, Department of Interior, will be informally consulted throughout the analysis. To meet the requirements of the Endangered Species Act, the U.S. Fish and Wildlife Service will review the EIS and Biological Assessment and, if necessary, render a formal Biological Opinion of the effects on Threatened and Endangered species, including the grizzly bear and gray wolf.

The DEIS is expected to be filed with the Environmental Protection Agency (EPA) and available for public review by May 30, 1993. At that time, the EPA will publish a Notice of Availability of the DEIS in the **Federal Register.** After a 45-day public comment period, the comments received will be analyzed and considered by the Forest Service in the final Environmental Impact Statement (FEIS). The FEIS is scheduled to be completed by September, 1993. The Forest Service will respond in the FEIS to the comments received on the DEIS. The responsible official is the Forest Supervisor of the Clearwater National Forest, Forest Supervisor's Office, 12730 Highway 12, Orofino, ID 83544. 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 published the notice of availability in the **Federal Register.**

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements 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. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *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: February 8, 1993.

Margaret J. Gorski,

District Ranger, Powell Ranger District, Clearwater National Forest.

[FR Doc. 93-3549 Filed 2-16-93; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35)

Agency: International Trade Administration.

Title: Certified Trade Missions: End of Event, Mission Organizer and Quality Assurance Surveys.

Form Numbers: Agency—ITA-4121P, ITA-4122P, and ITA-4123P. OMB—0625—

Type of Request: New Collection.

Burden: 1,260 respondents; 310 reporting hours.

Avge Hours Per Response: 10 minutes.

Needs and Uses: The International Trade Administration's U.S. and Foreign Commercial Service (US&FCS) offers trade mission guidance and assistance to federal, state and local development agencies, chambers of commerce, industry trade associations, other export-oriented groups. These trade missions open doors to government and business leaders in promising export markets around the world. The program office has no direct contact with individual mission participants. The End of Event Survey is therefore designed to ensure and document the satisfaction of participants immediately following the event. It allows them to comment on the effectiveness with which the US&FCS and show organizer served their overseas marketing objectives in the short term. It will also provide essential information to determine the effectiveness of the mission organizer. The Mission Organizer Survey is designed to ensure the satisfaction of organizers who have been granted status by the U.S. Department of Commerce. This survey will allow organizers to comment on the effectiveness with which the program office and the overseas posts enhanced the success of their mission. The Quality Assurance Survey is designed to ensure the satisfaction of participants and to assess and obtain the tangible results of the mission six months after the event takes place. It allows the participants to comment on the effectiveness with which the organizer, and the program, served their overseas marketing objectives. All of the information gathered from these three surveys will be used by US&FCS for program evaluation and strategic planning.

Affected Public: State or local governments; businesses or other for-profit; Federal agencies or employees; non-profit institutions; and small businesses or organizations.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Gary Waxman, (202) 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 482-3271, Department of Commerce, room 5327, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Gary Waxman, OMB Desk Officer, room 3208 New Executive Office Building, Washington, DC 20503.

Dated: February 10, 1993.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 93-3563 Filed 2-16-93; 8:45 am]

BILLING CODE 3510-CW-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of Economic Analysis

Title: Transactions of U.S. Affiliate, Except A U.S. Banking Affiliate, with Foreign Parent (BE-605); and Transactions of U.S. Banking Affiliate with Foreign Parent (BE-605 Bank)

Form Number: Agency—BE-605/605 Bank; OMB-0608-0009

Type of Request: Revision of a currently approved collection

Burden: 3,800 respondents; 4 responses each per year; 15,200 reporting hours

Average Hours Per Response: 1 hour

Needs and Uses: The survey collects quarterly sample data on transactions and positions between foreign-owned U.S. business enterprises and their foreign parents. Universe estimates are developed from the reported sample data. The data are needed for compiling the U.S. balance of payments accounts, the international investment position of the United States, and the national income and product accounts. The data are also needed to measure the amount of foreign direct investment in the United States, monitor changes in such investment, assess its impact on

the U.S. and foreign economies, and, based upon this assessment, make informed policy decisions regarding foreign direct investment in the United States.

Affected Public: Businesses or other for-profit institutions.

Frequency: Quarterly.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Paul Bugg, room 3228, (202) 395-3093.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 482-3271, Department of Commerce, Room H5310, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Paul Bugg, OMB Desk Officer, room 3228, New Executive Office Building, Washington, DC 20503.

Dated: February 10, 1993.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 93-3564 Filed 2-16-93; 8:45 am]

BILLING CODE 3510-CW-M

International Trade Administration

[A-588-602]

Carbon Steel Butt-Weld Pipe Fittings From Japan Intent To Revoke Antidumping Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of Intent to revoke Antidumping Duty Order.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the antidumping duty order on carbon steel butt-weld pipe fittings from Japan. Interested parties who object to this revocation must submit their comments in writing no later than February 28, 1993.

EFFECTIVE DATE: February 17, 1993.

FOR FURTHER INFORMATION CONTACT: John Kugelman, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 482-3601.

SUPPLEMENTARY INFORMATION:

Background

On February 10, 1987, the Department of Commerce published an antidumping duty order on carbon steel butt-weld pipe fittings from Japan (52 FR 4167). The Department has not received a request to conduct an administrative review of this order for the most recent four consecutive annual anniversary months.

The Department may revoke an antidumping duty order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by § 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this antidumping duty order.

Opportunity to Object

No later than February 28, 1993, interested parties, as defined in § 353.2(k) of the Department's regulations, may object to the Department's intent to revoke this antidumping duty order.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B-099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties do not request an administrative review in accordance with the Department's notice of opportunity to request administrative review, or object to the Department's intent to revoke by February 28, 1993, we shall conclude that the order is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 353.25(d)(4)(i).

Dated: February 5, 1993.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 93-3570 Filed 2-16-93; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-017]

Clear Plate and Float Glass From Japan; Court Decision and Termination of Suspension of Liquidation

AGENCY: Import Administration/International Trade Administration, Department of Commerce.

ACTION: Notice of court decision and termination of suspension of liquidation.

On January 13, 1992, the Department of Commerce (the Department) published in the **Federal Register** (57 FR 1253) a notice of "Court Decision and Suspension of Liquidation," stating that due to an adverse decision rendered by the Court of International Trade (the CIT), the Department would order the suspension of liquidation of the subject merchandise, effective December 23, 1991.

Thereafter, the adverse court decision was appealed to the Court of Appeals for the Federal Circuit (the CAFC). In the course of that proceeding PPG Industries, Inc., the petitioner, notified the CAFC that it was "no longer interested in maintaining the dumping order" or in the relief sought by this litigation. At the request of Asahi Glass Ltd., Central Glass Co. Ltd. and Nippon Sheet Glass Co., the respondents, the CAFC vacated the decision by the CIT and remanded the case to the CIT for dismissal of the complaint. On September 22, 1992, the CIT dismissed the complaint, thereby allowing the Department's 1981 revocation of the dumping finding to stand.

Therefore, the Department will order Customs to both cease suspension of liquidation, and liquidate without regard to antidumping duties any suspended entries of the subject merchandise from Japan, entered on or after December 23, 1991.

EFFECTIVE DATE: February 17, 1993.

FOR FURTHER INFORMATION CONTACT: Philip C. Marchal or Maureen A. Flannery, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; (202) 377-5505.

Dated: January 24, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93-3566 Filed 2-16-93; 8:45 am]

BILLING CODE 3510-DS-M

[A-357-808]

Postponement of Final Antidumping Duty Determination: Certain Cold-Rolled Carbon Steel Flat Products From Argentina

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Notice.

EFFECTIVE DATE: February 17, 1993.

FOR FURTHER INFORMATION CONTACT: Will Sjoberg or Linda Pasden, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-0413 or (202) 482-0194, respectively.

POSTPONEMENT OF FINAL DETERMINATION: Sociedad Mixta Siderurgia Argentina (SOMISA), the only respondent in this proceeding, represents a significant proportion of exports of certain cold-

rolled carbon steel flat products (cold-rolled steel) from Argentina to the United States. On January 28, 1993, SOMISA requested that the Department postpone the final determination until not later than 135 days after the date of publication of the preliminary determination, in accordance with section 735(a)(2) of the Tariff Act of 1930, as amended (the Act).

Pursuant to 19 CFR 353.20(b), if exporters who account for a significant proportion of exports of the merchandise under investigation request an extension subsequent to an affirmative preliminary determination, we are required, absent compelling reasons to the contrary, to grant the request. Such is the case with SOMISA in this proceeding. Accordingly, we are postponing our final determination as to whether sales of cold-rolled steel from Argentina has been made at less than fair value until not later than June 21, 1993.

This notice is published pursuant to section 735(d) of the Act and 19 CFR 353.20(b)(2).

Dated: February 9, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93-3565 Filed 2-16-93; 8:45 am]

BILLING CODE 3510-DS-P

[A-588-056]

Melamine From Japan; Intent To Revoke Antidumping Finding

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of intent to revoke antidumping finding.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the antidumping finding on melamine from Japan. Interested parties who object to this revocation must submit their comments in writing no later than February 28, 1993.

EFFECTIVE DATE: February 17, 1993.

FOR FURTHER INFORMATION CONTACT: John Kugelman, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 482-3601.

SUPPLEMENTARY INFORMATION:

Background

On February 2, 1977, the Department of the Treasury published an antidumping finding on melamine from Japan (42 FR 6366). The Department has not received a request to conduct an administrative review of this order for the most recent four consecutive annual anniversary months.

The Department may revoke an antidumping duty order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by § 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this antidumping finding.

Opportunity To Object

No later than February 28, 1993, interested parties, as defined in § 353.2(k) of the Department's regulations, may object to the Department's intent to revoke this antidumping finding.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B-099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties do not request an administrative review in accordance with the Department's notice of opportunity to request administrative review, or object to the Department's intent to revoke by February 28, 1993, we shall conclude that the finding is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 353.25(d)(4)(i).

Dated: February 5, 1993.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 93-3567 Filed 2-16-93; 8:45 am]

BILLING CODE 3510-DS-M

[A-583-508]

Porcelain-on-Steel Cooking Ware From Taiwan; Determination Not To Revoke Antidumping Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of determination not to revoke antidumping duty order.

SUMMARY: The Department of Commerce has determined not to revoke the antidumping duty order on porcelain-on-steel cooking ware from Taiwan because it continues to be of interest to an interested party.

EFFECTIVE DATE: February 17, 1993.

FOR FURTHER INFORMATION CONTACT: Dennis U. Askey or Melissa G. Skinner, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4114.

SUPPLEMENTARY INFORMATION:

Background

On December 9, 1992, the Department of Commerce (the Department) published in the **Federal Register** (57 FR 58181) its intent to revoke the antidumping duty order on porcelain-on-steel cooking ware from Taiwan (51 FR 43416, December 2, 1986). We invited interested parties to comment on our intent to revoke the order.

Scope of the Order

Imports covered by the order are shipments of porcelain-on-steel cooking ware, currently classifiable under the Harmonized Tariff Schedule item number 7323.94.00.

Determination Not To Revoke

The Department may revoke an order if the Secretary of Commerce concludes that the order is no longer of interest to interested parties as defined in 19 CFR 353.2(k). We had not received a request for an administrative review of this order for the last four consecutive annual anniversary months and, therefore, published a notice of intent to revoke pursuant to 19 CFR 353.25(d)(4)(i).

On December 29, 1992, the Copco Corporation, an importer of porcelain-on-steel tea kettles, requested in writing that the Department revoke the order. On December 30, 1992, the General Housewares Corporation, the petitioner, objected in writing to our intent to revoke the order. We received no further comments.

Based on the objection, the Department has concluded that the order continues to be of interest to an interested party. Therefore, we no longer intend to revoke the antidumping order on porcelain-on-steel cooking ware from Taiwan.

Dated: January 29, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93-3568 Filed 2-16-93; 8:45 am]

BILLING CODE 3510-DS-M

[A-580-803]

Certain Small Business Telephone Systems and Subassemblies Thereof From Korea; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration/International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request from the respondents, the Department of Commerce has conducted an administrative review of the antidumping duty order on certain small business telephone systems and subassemblies thereof (SBTS) from Korea. The review covers two manufacturers/exporters of this merchandise to the United States, Samsung Electronics Co., Ltd. and Goldstar Telecommunication Co., Ltd., and the period February 1, 1991 through January 31, 1992. The review indicates the existence of dumping margins for the period.

As a result of the review, the Department has preliminarily determined to assess antidumping duties equal to the difference between United States price and foreign market value.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: February 17, 1993.

FOR FURTHER INFORMATION CONTACT: Michael R. Rill or Joseph Hanley, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 482-4733.

SUPPLEMENTARY INFORMATION:

Background

On January 31, 1992, the Department of Commerce (the Department) published in the **Federal Register** a notice of "Opportunity to Request Administrative Review" (57 FR 3740). On February 28, 1992, respondents Samsung Electronics Co., Ltd. (Samsung) and Goldstar Telecommunication Co., Ltd. (Goldstar), requested an administrative review of the antidumping duty order published on February 7, 1990 (55 FR 4215). We initiated the review, covering the period February 1, 1991 through January 31, 1992, on March 16, 1992 (57 FR 9104).

Scope of the Review

The products covered by this review are certain small business telephone systems and subassemblies thereof, currently classifiable under Harmonized Tariff Schedule item numbers 8517.30.2000, 8517.30.2500, 8517.30.3000, 8517.10.0020, 8517.10.0040, 8517.10.0050, 8517.10.0070, 8517.10.0080, 8517.90.1000, 8517.90.1500, 8517.90.3000, 8518.30.1000, 8504.40.0004, 8504.40.0008, 8504.40.0010, 8517.81.0010, 8517.81.0020, 8517.90.4000, and 8504.40.0015.

Certain small business telephone systems and subassemblies thereof (SBTS) are telephone systems, whether complete or incomplete, assembled or unassembled, with intercom or internal calling capability and total non-blocking port capacities of between two and 256 ports, and discrete subassemblies designed for use in such systems. A subassembly is "designed" for use in a small business telephone system if it functions to its full capability only when operated as part of a small business telephone system. These subassemblies are defined as follows:

(1) Telephone sets and consoles, consisting of proprietary, corded telephone sets or consoles. A console has the ability to perform certain functions including: Answer all lines in the system; monitor the status of other phone sets; and transfer calls. The term "telephone sets and consoles" is defined to include any combination of two or more of the following items, when imported or shipped in the same container, with or without additional apparatus: housing; hand set; cord (line or hand set); power supply; telephone set circuit cards; console circuit cards.

(2) Control and switching equipment, whether denominated as a key service unit, control unit, or cabinet/switch. "Control and switching equipment" is defined to include the units described in the preceding sentence which consist of one or more circuit cards or modules (including backplane circuit cards) and one or more of the following items, when imported or shipped in the same container as the circuit cards or modules, with or without additional apparatus: connectors to accept circuit cards or modules; building wiring.

(3) Circuit cards and modules, including power supplies. These may be incorporated into control and switching equipment or telephone sets and consoles, or they may be imported or shipped separately. A power supply converts or divides input power of not more than 2400 watts into output power of not more than 1800 watts supplying DC power of approximately 5 volts, 24 volts, and 48 volts, as well as 90 volt AC ringing capability.

The following merchandise has been excluded from this order:

(1) Nonproprietary industry-standard ("tip/ring") telephone sets and other subassemblies that are not specifically designed for use in a covered system, even though a system may be adapted to use such nonproprietary equipment to provide some system functions;

(2) Telephone answering machines or facsimile machines integrated with telephone sets; and

(3) Adjunct software used on external data processing equipment.

Such or Similar Comparisons

Pursuant to section 771(16)(C) of the Tariff Act of 1930 (the Tariff Act), we established four categories of such or similar merchandise consisting of:

(a) Control and switching equipment;

(b) Circuit cards and modules;

(c) Telephone sets and consoles; and

(d) Complete small business telephone systems (systems).

Product comparisons were made using criteria which are ranked in order of importance. For control and switching equipment we used the following criteria: (1) Port capacity based on minimum operational configuration, (2) type of central microprocessor and (3) read-only memory (ROM) size. For circuit cards and modules we considered: (1) functions and (2) physical appearance. For telephone sets and consoles we considered: (1) Number of buttons (regardless of function) excluding dialpad and (2) number of individual visual indicators. For complete telephone systems, we made comparisons on the basis of the similarity of subassemblies, using the criteria described in the preceding sentences.

When there was no identical product in the home market with which to compare a product imported into the United States, the most similar product was compared on the basis of the characteristics described above. We made adjustments for differences in the physical characteristics of the merchandise in accordance with 19 CFR 353.57.

In order to determine whether there were sufficient sales of SBTS in the home market to serve as the basis for calculating foreign market value (FMV), we compared the volume of home market sales within each such or similar category to the volume of third country sales within each respective such or similar category, in accordance with section 773(a)(1) of the Tariff Act, and found that the home market was viable.

United States Price

In calculating United States price, the Department used exporter's sales price (ESP) for all sales made by Goldstar and purchase price (PP) for all sales made by Samsung, as defined in section 772 of the Tariff Act. We made adjustments, where applicable, for foreign inland freight, foreign brokerage and handling charges, ocean freight, marine insurance, U.S. duty, U.S. brokerage and handling, U.S. inland freight, imputed credit expenses, discounts, rebates, commissions, technical service expenses, direct advertising and warranty expenses, installation labor charges, uncollected or rebated duties and value added taxes, and indirect selling expenses (which include exchange commission expenses, postage expenses, inventory carrying costs, bad debt expenses, indirect advertising and warranty expenses and other indirect selling expenses). We also adjusted ESP for value added by further manufacturing, including an allocation of profit earned on U.S. sales.

Foreign Market Value

In accordance with section 773 of the Tariff Act, we calculated FMV based on home market sales prices or constructed value (CV), as appropriate. When sales in the home market were used, we calculated FMV based on packed, delivered prices to unrelated customers. We deducted home market packing costs from the FMV and added U.S. packing costs. We made adjustments, where appropriate, for inland freight, imputed credit, discounts, rebates, advertising, technical service expenses, and warranty expenses. For comparison to ESP sales, we adjusted FMV for indirect selling expenses in the home market to offset indirect selling expenses on ESP sales in the United States. We limited the indirect selling expense deduction from FMV by the amount of indirect selling expenses incurred in the United States.

We made a circumstance-of-sale adjustment to eliminate any difference in value-added taxes (VAT) between the U.S. and home market prices. We computed the VAT adjustment based on a U.S. price net of all expenses incurred in the United States and net of all movement charges.

Where appropriate, we made further adjustments to the home market price to account for differences in the physical characteristics of the merchandise, in accordance with 19 CFR 353.57.

For those products sold in the United States for which there were no sales of such or similar home market models, we calculated FMV based on CV in accordance with section 773(e) of the Tariff Act. The CV includes the cost of materials and fabrication for the exported merchandise, plus general expenses, profit, and packing. We used the statutory minimum amounts for general expenses and profit, except in those cases where actual general expenses or profit exceeded the statutory minimum amounts.

Preliminary Results of Review

As a result of this review, we preliminarily determine that the following margins exist for the period February 1, 1991 through January 31, 1992:

Manufacturer/Exporter	Margin (percent)
Samsung Electronics Co., Ltd.	1.39
Goldstar Telecommunication Co., Ltd.	1.94

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. Upon completion of this review, the Department will issue appraisement instructions concerning all respondents directly to the Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for each reviewed firm will be that firm's rate established in the final results of this administrative review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specified rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be 1.94 percent. This rate represents the highest rate for any firm with shipments in this administrative review, or the most recent administrative review in which shipments occurred, other than those firms receiving a rate based entirely on the best information available.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Interested parties may request disclosure within five days of the date of publication of this notice, and may request a hearing within 10 days of the date of publication. Any hearing, if requested, will be held as early as convenient for the parties but not later than 44 days after the date of publication or the first workday thereafter. Case briefs or other written comments from interested parties may be submitted not later than 30 days after the date of publication of this notice. Rebuttal briefs and rebuttal comments, limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any such written comments.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: January 29, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93-3569 Filed 2-16-93; 8:45 am]

BILLING CODE 3510-DS-M

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

BACKGROUND: Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party as defined in section 771(9) of the Tariff Act of 1930 may request, in accordance

with section 353.22 or 355.22 of the Commerce Regulations, that the Department of Commerce ("the Department") conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

OPPORTUNITY TO REQUEST A REVIEW: Not later than February 28, 1993, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in February for the following periods:

Antidumping duty proceedings	Period
Austria: Railway Tracking Maintenance Equipment (A-433-063)	02/01/92-01/31/93
Canada: Racing Plates (A-122-050)	02/01/92-01/31/93
Germany: Sodium Thiosulfate (A-428-807)	02/01/92-01/31/93
Japan: Benzyl Paraben (A-588-816)	02/01/92-01/31/93
Japan: Carbon Steel Butt-Weld Pipe Fittings (A-588-602)	02/01/92-01/31/93
Japan: Melamine (A-588-056)	02/01/92-01/31/93
Japan: Mechanical Transfer Presses (A-588-810)	02/01/92-01/31/93
The People's Republic of China: Heavy Forged Hand Held Tools, Finished or Unfinished, With or Without Handles (A-570-803)	02/01/92-01/31/93
The People's Republic of China: Natural Bristle Paint Brushes (A-580-501)	02/01/92-01/31/93
The People's Republic of China: Sodium Thiosulfate (A-570-805)	02/01/92-01/31/93
The Republic of Korea: Certain Small Business Telephone Systems and Subassemblies Thereof (A-580-803)	02/01/92-01/31/93
United Kingdom: Sodium Thiosulfate (A-412-805)	02/01/92-01/31/93
Suspension Agreements	
Venezuela: Gray Portland Cement and Clinker (A-307-803)	02/01/92-01/31/93
Countervailing Duty Proceedings	
Peru: Cotton Sheeting and Sateen (C-333-001)	02/01/92-01/31/92
Peru: Cotton Yarn (C-333-002)	02/01/92-01/31/92
Saudi Arabia: Carbon Steel Wire Rod (C-517-501)	02/01/92-01/31/92
Thailand: Malleable Iron Pipe Fittings (C-549-803)	02/01/92-01/31/92

In accordance with §§ 353.22(a) and 355.22(a) of the Commerce regulations, an interested party may request in writing that the Secretary conduct an administrative review of specified individual producers or resellers covered by an order, if the requesting person states why the person desires the Secretary to review those particular producers or resellers. If the interested party intends for the Secretary to review sales of merchandise by a reseller (or a producer if that producer also resells merchandise from other suppliers) which was produced in more than one country of origin, and each country of origin is subject to a separate order, then the interested party must state specifically which reseller(s) and which countries of origin for each reseller the request is intended to cover.

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B-099, U.S. Department of Commerce, Washington, DC 20230. Further, in accordance with § 353.31 or § 355.31 of the Commerce Regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of "Initiation of Antidumping (Countervailing) Duty Administrative Review", for requests received by February 28, 1993.

If the Department does not receive, by February 28, 1993, a request for review of entries covered by an order or finding listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute, but is published as a service to the international trading community.

Dated: February 8, 1993.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 93-3409 Filed 2-16-93; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Endangered Species; Permits

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

ACTION: Notice of receipt of application for scientific research permit (P503C).

Notice is hereby given that the Idaho Department of Fish and Game has applied in due form for a Permit to take endangered and threatened species as authorized by the Endangered Species Act of 1973 (16 U.S.C. 1531-1543) and the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR part 217-227).

The applicant requests authorization to conduct seven studies affecting juvenile and adult Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*), juvenile and adult Snake River fall chinook salmon (*O. tshawytscha*), and juvenile Snake River sockeye salmon (*O. nerka*). The studies include: (1) Irrigation diversion screening and evaluation, which may affect up to 190,000 juvenile spring/summer chinook salmon and 2,000 juvenile sockeye salmon; (2) Spring/summer chinook production monitoring and evaluation, involving potential harassment of 30,000 juvenile spring/summer chinook salmon and capture and handling of 100 juvenile spring/summer chinook salmon; (3) General fish population inventory, involving potential harassment of 4,900 juvenile spring/summer chinook salmon, 100 juvenile fall chinook salmon, and 1,000 adult spring/summer chinook salmon, and capture and handling of 2,000 juvenile spring/summer chinook salmon and 50 juvenile fall chinook salmon; (4) Spring/summer chinook supplementation research, involving potential harassment of 20,000 juvenile spring/summer chinook salmon, capture and handling of 820 adult spring/summer chinook salmon, PIT tagging 31,100 juvenile spring/summer chinook salmon, and a lethal take of 750 juvenile spring/summer chinook salmon; (5) Spring chinook natural production research, involving potential harassment of 10,000 juvenile spring/summer chinook salmon and PIT tagging 12,000 juvenile spring/summer chinook salmon; (6) Redfish Lake kokanee/sockeye research, including a lethal take of 2 juvenile sockeye salmon; and (7) Chinook fish health monitoring, involving 1,500 adult spring/summer chinook salmon and 600 adult fall chinook salmon that will be spawned out, dead or dying. These numbers of wild fish are requested annually for a duration of 4 years.

Written data or views, or requests for a public hearing on this application should be submitted to the Director, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Hwy., room 8268, Silver Spring, MD 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 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 National Marine Fisheries Service.

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 Hwy., 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).

Dated: February 10, 1993.

Samuel W. McKeen,

Program Management Officer.

[FR Doc. 93–3603 Filed 2–16–93; 8:45 am]

BILLING CODE 3510–22–M

Endangered Species

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

ACTION: Issuance of permit; Dr. Scott Eckert, Hubbs Sea World Research Institute, San Diego, California (P811).

SUMMARY: On August 27, 1992, notice was published in the **Federal Register** (57 FR 12293) that an application had been filed by Dr. Scott Eckert, Hubbs Sea World Research Institute, 1700 South Shores Road, San Diego, California 92109, for a permit to take up to five leatherbacks (*dermochelys coriacea*) annually for the purpose of measuring, tagging, taking of blood samples and tagging with VHF radio and/or satellite PTT transmitters. The objective of this research permit is to determine if leatherbacks can be captured and subsequently radio tracked in Monterey Bay and on subsequent migrations using both VHF and satellite telemetry. The results of this work are expected to yield important information on the local movements of leatherbacks within Monterey Bay, and on their migrations away from the Bay.

Notice is hereby given that on February 4, 1993, as authorized by the provisions of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and the NOAA, NMFS regulations governing endangered fish and wildlife permits (50 CFR parts 217–222), NMFS issued a permit for the above taking, subject to certain conditions set forth therein.

Issuance of this permit, as required by the ESA, is based on the finding 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 application; and (3) will be consistent with the purposes and policies set forth in section 2 of the ESA. This research permit was also issued in accordance with and is subject to parts 222 and 227 of title 50 CFR of the NMFS regulations governing endangered species permits.

The permit is available for review in the following offices: Office of Protected Resources, NMFS, NOAA, 1335 East-West Highway, SSMC#1, room 8268, Silver Spring, MD 20910, (301/713–2289); and Director, NMFS Southwest Region, 501 W. Ocean Boulevard, suite 4200, Long Beach, CA 90802–4213 (310/980–4046).

Dated: February 4, 1993.

Michael Tillman,

Director, Office of Protected Resources.

[FR Doc. 93–3604 Filed 2–16–93; 8:45 am]

BILLING CODE 3510–22–M

Travel and Tourism Administration

Travel and Tourism Advisory Board; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. (app. 1976) notice is hereby given that the Travel and Tourism Advisory Board of the U.S. Department of Commerce will meet on March 4, 1993 at 10 a.m. at the Grand Hyatt Hotel, 1000 H Street NW., Washington, DC 20001.

Established March 19, 1982, the Travel and Tourism Advisory Board consists of 15 members, representing the major segments of the travel and tourism industry and state tourism interests, and includes one member of a travel labor organization, a consumer advocate, an academician and a financial expert.

Members advise the Secretary of Commerce on matters pertinent to the Department's responsibilities to accomplish the purpose of the National Tourism Policy Act (Pub. L. 97–63), and provide guidance to the Assistant Secretary for Tourism Marketing in the preparation of annual marketing plans.

Agenda items are as follows:

I. Call to Order
II. Roll Call
III. Rural Tourism
IV. Visitor Entry Processing
V. Old Business
VI. New Business
VII. Miscellaneous
IX. Adjournment

A very limited number of seats will be available to observers from the public and the press. To assure adequate seating, individuals intending to attend should notify the Committee Control Officer in advance. The public will be permitted to file written statements with the Committee before or after the meeting. To the extent time is available, the presentation of oral statements is allowed.

Karen M. Cardran, Committee Control Officer, United States Travel and Tourism Administration, room 1860, U.S. Department of Commerce, Washington, DC 20230 (telephone: 202–482–1904) will respond to public requests for information about the meeting.

David L. Edgell, Sr.,

Acting Under Secretary of Commerce for Travel and Tourism.

[FR Doc. 93–3611 Filed 2–16–93; 8:45 am]

BILLING CODE 3510–11–M

COMMODITY FUTURES TRADING COMMISSION

Chicago Mercantile Exchange's Proposed Amendment to Rule 511

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule amendment.

SUMMARY: The Chicago Mercantile Exchange ("CME") has submitted pursuant to section 5a(12) of the Commodity Exchange Act ("Act"), a proposed rule amendment for Commission approval. The CME's proposed amendment to Rule 511 would allow clearing firms, under certain circumstances, to retain profits resulting from certain trades a member executes in excess of prescribed limits. Acting pursuant to the authority delegated by Commission Regulation 140.96, the Director of the Division of Trading and Markets has determined to publish the CME's proposed rule amendment for public comment. The Division believes that publication of the proposed amendment is in the public interest and will assist the Commission in considering the views of interested persons.

DATES: Comments must be received on or before March 19, 1993.

FOR FURTHER INFORMATION CONTACT:

Lois J. Gregory, Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION:

I. Description of Proposed Amendment

By letter dated January 20, 1993, the CME submitted a proposed amendment to Rule 511—Regulation of Approved Traders and Brokers, pursuant to section 5a(12) of the Act and Commission Regulation 1.41(b). Rule 511 prohibits a member from executing a contract using CME facilities unless he is then qualified to act by a clearing member. The Rule also prohibits a member from being qualified by more than one clearing member at any one time and governs the transfer of clearing member qualification and the placement of trades.

The proposed amendment would provide that if a member traded in excess of the limits prescribed by his qualifying clearing member, without sufficient funds in his account to have immediately margined the position, and such trades were profitable, the qualifying clearing member would be entitled to retain the profits derived from the excess trades, subject to a determination by the CME's Arbitration Committee respecting the appropriateness of the member's conduct.

CME states that as a result of the recent matter involving a large number of unauthorized transactions in U.S. Treasury Bond futures and options which occurred at the Chicago Board of Trade and the disabling effect of those transactions on a Chicago Board of Trade clearing firm responsible for clearing the trades, the CME's Regulatory Oversight Committee began a review of CME policies and rules to ascertain whether any changes would either help to prevent such an occurrence at the CME or lessen the impact of one that did occur. CME states that the purpose of the proposed amendment recommended by the Committee would be to remove the incentive for members to exceed their trading limits by providing that clearing firms could retain profits resulting from trading in excess of limits, subject to the decision of an arbitration committee.

II. Request for Comments

The Commission requests comments on any aspect of the CME's proposed rule amendment that members of the public believe may raise issues under the Act or Commission regulations. Copies of the CME Submission are available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Copies also may be obtained through the Office of the Secretariat at the above address or by telephoning (202) 254–6314.

Any person interested in submitting written data, views, or comments on the proposal should send comments to Jean A. Webb, Secretary Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, by the specified date.

Issued in Washington, DC, on February 10, 1993.

Alan L. Seifert,

Deputy Director, Division of Trading and Markets.

[FR Doc. 93–3676 Filed 2–16–93; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on FY 1994–99 Future Years Defense Plan (FYDP)

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on FY 1994–99 Future Years Defense Plan (FYDP) will meet in closed session on February 16, February 18, February 23, and February 25, 1993 at the Pentagon, Arlington, Virginia. For budgetary purposes, the Secretary of Defense has requested this work on a priority basis, therefore, the short notice.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Director, Defense Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will provide an independent assessment of the management and financial plans of the Department of Defense. The Task Force will review the overall health of the FY 1994–99 FYDP that was prepared by the Bush Administration. It will identify any major management challenges or serious underfunding problems.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92–463, as amended (5 U.S.C. App. II, 1988)), it has been determined that these DSB Task Force meetings, concern matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly these meetings will be closed to the public.

Dated: February 10, 1993.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–3656 Filed 2–16–93; 8:45 am]

BILLING CODE 3810–01–M

DACOWITS Spring Conference

AGENCY: Defense Advisory Committee on Women in the Services (DACOWITS), DOD.

ACTION: Notice of conference.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given of a forthcoming conference of the Defense Advisory Committee on Women in the Services (DACOWITS). The purpose of DACOWITS is to advise the Secretary of Defense on matters relating to women in the Services. The Committee meets semiannually.

DATES: April 18–21, 1993 (summarized agenda follows).

ADDRESSES: Fairview Park Marriott Hotel, 3111 Fairview Park Drive, Falls Church, Virginia, unless otherwise noted in agenda.

AGENDA: Sessions will be conducted daily and will be open to the public. The agenda will include the following:

Sunday, April 18, 1993, 7 a.m.–8 p.m.

Conference Registration (Former Members and Conference Participants); Official Opening Ceremony; Briefings: Women in Combat AirCraft; Women in the Coast Guard Study; Navy and Marine Corps Standing Committee on Military and Civilian Women (SCMCW) Recommendations; Assignment Policy for Women in the Navy Corps; No-host Working Breakfast (current DACOWITS members only); Get Acquainted Luncheon (current DACOWITS members, military representatives, advisors, and liaison officers only); Subcommittee sessions; and Social.

Monday, April 19, 1993, 8 a.m.–10 p.m.

Subcommittee sessions; and OSD Reception and Dinner (By Invitation Only).

Tuesday, April 20, 1993, 7 a.m –8 p.m.

Executive Committee Session and field trip to Andrews Air Force Base, Maryland.

(By Invitation Only).

Wednesday, April 21, 1993, 7:30 a.m.–11 a.m.

No-host Working Breakfast (current DACOWITS members only); Individual Review of Resolution; General Business Session; Installation Visit Reports; Presentations by members of the public.

FOR FURTHER INFORMATION CONTACT: Major Branda M. Weidner, Assistant Director, DACOWITS and Military Women Matters, OASD (Force Management and Personnel), 4000 Defense Pentagon, room 3D769, Washington, DC 20301–4000; telephone (703) 697–2122.

SUPPLEMENTARY INFORMATION: The following rules and regulations will govern the participation by members of the public at the conference.

(1) Members of the public will not be permitted to attend official OSD Luncheon, Field Trip, or OSD Reception and Dinner.

(2) All business sessions will be open to the public.

(3) Interested persons may submit a written statement for consideration by the Committee and/or make an oral presentation of such during the conference.

(4) Persons desiring to make an oral presentation or submit a written statement to the Committee must notify the point of contact listed above no later than March 12.

(5) Length and number of oral presentations to be made will depend on the number of requests received from members of the public.

(6) Oral presentations by members of the public will be permitted only on Wednesday, April 21, before the full Committee.

(7) Each person desiring to make an oral presentation must provide the DACOWITS office 1 copy of the presentation by March 26, and make available 175 copies of any material that is intended for distribution at the conference.

(8) Persons submitting a written statement for inclusion in the minutes of the conference must submit to the DACOWITS staff one copy either before or by the close of the conference.

(9) Other new items from members of the public may be presented in writing to any DACOWITS member for transmittal to the DACOWITS Chair or Director, DACOWITS and Military Women Matters, to consider.

(10) Members of the public will not be permitted to enter into oral discussion conducted by the Committee members at any of the sessions; however, they will be permitted to reply to questions directed to them by the members of the Committee.

(11) Members of the public will be permitted to orally question the scheduled speakers if recognized by the Chair and if time allows after the official participants have asked questions and/or made comments.

12) Questions from the public will not be accepted during the Subcommittee Sessions, the Executive Committee Session, or the General Business Session. Sessions will be conducted daily and will be open to the public.

Dated: February 10, 1993.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–3673 Filed 2–16–93; 8:45 am]

BILLING CODE 3810–01–M

Department of the Air Force

USAF Scientific Advisory Board Meeting

The USAF Scientific Advisory Board of the Current State of the Air Force Panel will meet on 10 Mar 1993 from 8 a.m. to 5 p.m. at Scott AFB, IL.

The purpose of this meeting is to receive briefings, hold discussions and begin report writing on projects related to Information Architecture. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 93–3551 Filed 2–16–93; 8:45 am]

BILLING CODE 3910–01–M

USAF Scientific Advisory Board Meeting

The USAF Scientific Advisory Board of the Current State of the Air Force Panel will meet on 11–12 Mar 1993 from 8 a.m. to 5 p.m. at Peterson AFB, Colorado Springs, CO.

The purpose of this meeting is to receive briefings, hold discussions and begin report writing on projects related to Information Architecture. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 93–3552 Filed 2–16–93, 8:45 am]

BILLING CODE 3910–01–M

USAF Scientific Advisory Board Meeting

The USAF Scientific Advisory Board's AFOTEC Advisory Group will meet on 23–24 March 1993, at HQ AFOTEC, Kirtland AFB, NM, 8 a.m. to 5 p.m.

The purpose of this meeting is to receive briefings and gather information for Advisory Group deliberations.

The meeting will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4811.

Patsy J. Conner,

Air Force Federal Register Liaison Officer

[FR Doc. 93–3553 Filed 2–16–93; 8:45 am]

BILLING CODE 3910–01–M

USAF Scientific Advisory Board Meeting

The USAF Scientific Advisory Board of the Information Architectures That Enhance Operational Capability In Peacetime and Wartime Committee will meet on 31 Mar 1993 from 8 a.m. to 5 p.m. at the ANSWER Corporation, Arlington, VA.

The purpose of this meeting is to receive briefings, hold discussions and begin report writing on projects related to Information Architecture. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 93–3554 Filed 2–16–93, 8:45 am]

BILLING CODE 3910–01–M

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board of the Strawman Architecture Panel will meet on 11–12 Mar 1993 from 8 a.m. to 5 p.m. at ANSER Corporation, Arlington, VA.

The purpose of this meeting is to receive briefings, hold discussions and begin report writing on projects related to Information Architecture. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States

Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 93–3671 Filed 2–16–93; 8:45 am]

BILLING CODE 3910–01–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Management Service, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before March 19, 1993.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Cary Green, Department of Education, 400 Maryland Avenue, SW., room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Cary Green (202) 708–5174.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Management Service, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Cary Green at the address specified above.

Dated: February 10, 1993.

Cary Green,

Director, Information Resources Management Service.

Office of Postsecondary Education

Type of Review: Reinstatement
Title: Application for New and Noncontinuation Grants Under the Educational Opportunity Centers Program
Frequency: Annually
Affected Public: State or local governments; non-profit institutions; small businesses or organizations
Reporting Burden:
Responses: 63
Burden Hours: 945
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: This form will be used by State Educational Agencies to apply for funding under the Educational Opportunity Centers Program. The Department will use the information to make grants.

Type of Review: New
Title: Programs To Encourage Minority Students To Become Teachers
Frequency: Annually
Affected Public: Non-profit institutions
Reporting Burden:
Responses: 150
Burden Hours: 4,800
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: This program was designed to improve recruitment and training in education for minorities. It was also designed to increase the number of minority teachers, and to identify and encourage students to prepare for careers in elementary and secondary schools. The Department will use the information to select institutions that will receive grants.

Type of Review: Revision
Title: Fiscal Operations Report and Application in the Federal Perkins Loan, Federal Supplemental Educational Opportunity Grant, and Federal Work-Study Programs.
Frequency: Annually
Affected Public: State or local governments; non-profit institutions
Reporting Burden:
Responses: 5100
Burden Hours: 95,162
Recordkeeping Burden:
Recordkeepers: 5100
Burden Hours: 408
Abstract: This application data will be used to compute the amount of funds needed by each institution during the 1994–95 Award Year. The fiscal operations report data will be used to assess program effectiveness, account for funds expended during the 1992–93 Award Year, and as part of the institutional funding process.

Type of Review: Revision
Title: Campus Based Reallocation Form
Frequency: Annually
Affected Public: State or local governments; Businesses or other for-profit; Non-profit institutions
Reporting Burden:
Responses: 2,000
Burden Hours: 608
Recordkeeping Burden:
Recordkeepers: 2,000
Burden Hours: 100
Abstract: This form will be used by institutions of higher education to report anticipated 1992–1993 unspent funds for the campus-based programs. These unspent funds can be redistributed by the Department as supplemental 1993–1994 awards to qualifying institutions were unmet needs.

[FR Doc. 93–3592 Filed 2–16–93; 8:45 am]

BILLING CODE 4000–01–M

[CFDA NO.: 84.162]

Emergency Immigrant Education Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1993

Purpose of Program: This program provides financial assistance for supplementary educational services and costs for eligible immigrant children enrolled in elementary and secondary public and nonpublic schools. The program supports the National Education Goals by helping immigrant children reach high levels of academic achievement and, ultimately, graduate from high school, obtain productive employment, and exercise the rights and responsibilities of citizenship.

Eligible Applicants: State educational agencies (SEAs).

Deadline for Transmittal of Applications: May 14, 1993.

Deadline for Intergovernmental review: July 13, 1993.

Applications Available: March 23, 1993.

Available Funds: $29.5 million.

Project Period: Up to 12 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 76, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 581.

Programmatic Information: An SEA may apply for a grant if it meets the eligibility requirements specified in 34 CFR 581.2. An eligible SEA must provide a count, taken during April 1993, of the number of immigrant children enrolled in public and nonpublic schools in accordance with the requirements specified in 34 CFR 581.11. The term "immigrant children" means children who were not born in any State and who have been attending schools in any one or more States for less than three complete academic years.

The Education Department is required to reduce a State's grant award under this program by the amount of Federal funds that the State receives in FY 1993 for the same purpose as the Emergency Immigrant Education Program (EIEP) funds. However, the reduction must be made only to the extent that such other Federal funds are made available specifically because of the refugee, parolee, asylee, or other immigrant status of the individuals served. Therefore, in its EIEP application, a State must provide information regarding any other Federal assistance it requested for FY 1993 that is for the same purpose as the EIEP funds (*i.e.*, supplementary educational services and costs for eligible immigrant children).

For Applications or Information Contact. Harpreet K. Sandhu, U.S. Department of Education, 400 Maryland Avenue, SW., room 5086, Mary E. Switzer Building, Washington, DC 20202–6641. Telephone: (202) 205–9808. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 20 U.S.C. 3121–3130.

Dated: February 8, 1993.

Rene Gonzalez,

Acting Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 93–3590 Filed 2–16–93; 8:45 am]

BILLING CODE 4000–01–M

Submission of Data by State Educational Agencies

AGENCY: Department of Education.

ACTION: Notice of dates for submission of State revenue and expenditure reports for fiscal year 1992 and of revisions to those reports.

SUMMARY: The Secretary of Education announces a date for the submission by State educational agencies (SEAs) of preliminary expenditure and revenue data and average daily attendance statistics for fiscal year (FY) 1992 and establishes a deadline for any revisions to that information. The setting of these dates is necessary to ensure timely distribution of Federal funds. The data will be published by the Department's National Center for Education Statistics (NCES) and will be used by the Secretary in the calculation of allocations for FY 1994 appropriated funds.

DATES: The suggested date for the submission of preliminary data is March 15, 1993. The mandatory deadline for the submission of final data is September 7, 1993.

ADDRESSES: SEAs are urged to mail or hand deliver ED Form 2447 (The National Public Education Financial Survey—Fiscal Year 1992) by the first date specified in this notice. SEAs must mail or hand deliver final data and any revisions to preliminary data on or before the mandatory deadline date to—U.S. Department of Education, Office of Educational Research and Improvement, National Center for Education Statistics, Attention: GSAB—Fiscal Survey, 555 New Jersey Avenue NW., Washington, DC 20208–5651.

An SEA may hand deliver any revisions to room 410 of the address above by 4 p.m. (Washington, DC time) on or before the mandatory deadline date.

If an SEA's submission is received by NCES after the mandatory deadline date, in order for the submission to be accepted, the SEA must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

If the SEA mails ED Form 2447 through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an SEA should check with its local post office.

FOR FURTHER INFORMATION CONTACT: Dr. William J. Fowler, Jr., at the address specified above or by telephone: (202) 219–1921.

SUPPLEMENTARY INFORMATION: Under the authority of section 406(g) of the General Education Provisions Act, as amended (20 U.S.C. 1221e–1(g)), which authorizes NCES to gather data from States on the financing of elementary and secondary education, NCES collects data annually from SEAs through ED Form 2447. The report from SEAs includes attendance, revenue, and expenditure data from which NCES determines the average State per pupil expenditure (SPPE) for elementary and secondary education.

In addition to providing useful statistical information, the Secretary uses SPPE data directly in calculating allocations for certain formula grant programs, including chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (chapter 1), Impact Aid, and Indian Education. Other programs such as title VII of the Stewart B. McKinney Homeless Assistance Act, the Eisenhower Mathematics and Science Education program, and the Drug Free Schools and Community Act make use of SPPE data indirectly because their formulas are based, in whole or in part, on State Chapter 1 allocations.

In December 1992 NCES mailed to SEAs ED Form 2447 with instructions and requested that SEAs submit initial data to the Department by March 15, 1993. If an SEA does not submit initial FY 1991 data on ED Form 2447 on or about March 15, 1993, it should inform NCES, in writing, of the delay and the date by which it will submit FY 1992 data. Submissions by SEAs to NCES are edited by NCES and returned to each SEA for verification. NCES acknowledges that data submitted prior to September 7, 1993, may be preliminary and are subject to revision by an SEA not later than September 7, 1993.

To ensure timely distribution of Federal education funds based on the best, most accurate data available, NCES establishes, for allocation purposes, a final date by which ED Form 2447 must be submitted. However, if an SEA submits revised data after the final deadline that results in a lower SPPE figure, its allocations may be adjusted downward or the Department may request the SEA to return funds. SEAs should be aware that all of these data are subject to audit and that, if any inaccuracies are discovered in the audit process, the Department may seek recovery of overpayments for the applicable programs.

Authority: 20 U.S.C. 1221e–1(g).

Dated: February 3, 1993.

Emerson J. Elliott,

Acting Assistant Secretary for Educational Research and Improvement.

[FR Doc. 93–3591 Filed 2–16–93; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Inertial Confinement Fusion Advisory Committee Defense Programs; Partially Closed Meeting

Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Inertial Confinement Fusion Advisory Committee/Defense Programs.

Date and Time: Monday, March 8, 1993, 3 p.m.–5:50 p.m.—Open; Monday, March 8, 1993, 5:50 p.m.–7:45 p.m.—Closed; Monday, March 8, 1993, 7:45 p.m.–9:30 p.m.—Open; Tuesday, March 9, 1993, 8 a.m.–4 p.m.—Open; Tuesday, March 9, 1993, 4 p.m.–7 p.m.—Closed; Wednesday, March 10, 1993, 8 a.m.–1 p.m.—Closed.

Place: Sandia National Laboratories, Albuquerque, New Mexico Technical Area IV, Building 962, room 1402.

Contact: Marshall M. Sluyter, Designated Federal Officer, Office of Inertial Confinement Fusion (DP–28), Office of Defense Programs, Washington, DC 20585. Telephone: (301) 903–3345.

Purpose of the Committee: To provide advice and guidance to the Assistant Secretary for Defense Programs on both technical and management aspects of the Inertial Confinement Fusion program.

Purpose of the Meeting: To evaluate the progress of the Light Ion Inertial Confinement Fusion program at Sandia National Laboratories in Albuquerque, New Mexico, and to advise DOE on whether the Particle Beam Fusion Accelerator II should be upgraded to higher energies.

Tentative Agenda

March 8, 1993

3 p.m.—Introductions and discussion of unfinished business from previous Advisory Committee meeting.
5:15 p.m.—Context for Light Ion Review and Summary of Progress.
6:45 p.m.—Closed meeting.
8:15 p.m.—Tour of Selected Pulsed Power Facilities.

March 9, 1993

8:30 a.m.—Ion bean divergence.
1:45 p.m.—Power Coupling, Beam Generation, and Focusing.
2:50 p.m.—Closed meeting.

March 10, 1993

8 a.m.—Public comment period (oral presentations are limited to 10 minutes).
8:40 a.m.—Closed meeting.
2 p.m.—Wrap Up Discussion.

Public Participation: On March 8, 1993, from 3 p.m. to 6:45 p.m., and from 8:15 p.m. to 9:45 p.m., and on March 9, 1993, from 8:30 a.m. to 2:50 p.m., and on March 10, 1993 from 8 a.m. to 8:40 a.m. and from 2 p.m. to adjournment the meeting is open to the public. The Chairman of the Committee is empowered to guide the meeting in a manner that will, in the Chairman's judgment, facilitate the orderly conduct of business.

Persons wishing to attend the open meeting must contact Robert Jones at (301) 903–4916 by March 3, 1993, to arrange for visitor passes to the meeting room at Sandia.

Any member of the public who wishes to make an oral statement pertaining to agenda items should contact Robert Jones at the phone number given above. Requests must be received before 3 p.m. (eastern standard time) Wednesday, March 3, 1993. Reasonable provisions will be made to include the presentation during the public comment period. Oral presenters are requested to provide 25 copies of their statements at the time of their presentations.

Written statements pertaining to agenda items may also be submitted prior to the meeting. Written statements must be received by the Designated Federal Officer at the address shown above before 3 p.m. (eastern standard time) Wednesday, March 3, 1993, to assure they are considered by the Committee during the meeting.

Closed Meeting: Pursuant to section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (title 5, United States Code, app. 2), section 7234(b), title 42, United States Code, and section 552b(c)(1), title 5, United States Code, the portion of the meeting from 6:45 p.m. to 8:15 p.m. on March 8, 1993, and the portion of the meeting from 2:50 p.m. to adjournment on March 9, 1993, and 8:40 a.m. to 2 p.m. on March 10, 1993, will be closed to the public in the interest of national security.

Minutes: Minutes of the open portion of the meeting will be available for public review and copying approximately 30 days following the meeting at the Freedom of Information Public Reading Room, room 1E–190, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, between the hours of 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on February 11, 1993.

Marcia L. Morris,

Deputy Advisory Committee Management Officer.

[FR Doc. 93–3695 Filed 2–16–93; 8:45 am]

BILLING CODE 6450–01–M

Relocation of the DOE Chicago Field Office Public Document Reading Room to the University of Illinois at Chicago

AGENCY: U.S. Department of Energy.

ACTION: Relocation of the public document reading room.

SUMMARY: The U.S. Department of Energy (DOE) Chicago Field Office (CH) announces that, pursuant to DOE Order 1700.1 "Freedom of Information Program," as of March 8, 1993, the Public Document Reading Room for DOE/CH is being moved to: Document Department, University Library, University of Illinois at Chicago, 801 South Morgan Street, Chicago, IL 60607, Attention: Karen Graves, Telephone: (312) 996–2738.

Regular operating hours of the facility will be: Monday–Friday 8 a.m. to 8 p.m.; Saturday 10 a.m. to 5 p.m.

Freedom of Information Officer for DOE Chicago Field Office: Linda Rohde, DOE Chicago Field Office, 9800 South Cass Avenue, Argonne, IL 60439, Attention: Office of Chief Counsel, Telephone: (708) 252–2041.

FOR FURTHER INFORMATION CONTACT: Gary Pitchford, DOE Chicago Field Office, Office of Communications, 9800 South Cass Avenue, Argonne, IL 60439, Telephone: (708) 252–2013.

Issued in Chicago, Illinois, on February 5, 1993.

Johnnie D. Greenwood,

Director, Contracts Division.

[FR Doc. 93–3694 Filed 2–16–93; 8:45 am]

BILLING CODE 6450–01–M

Office of Energy Research

Energy Research Financial Assistance Program Notice 93–12: Human Genome Program—Technological Advances; Grant Applications

AGENCY: Department of Energy (DOE).

ACTION: Notice inviting grant applications.

SUMMARY: The Office of Health and Environmental Research (OHER) of the Office of Energy Research (ER), U.S. Department of Energy (DOE) hereby announces its interest in receiving applications in support of the Human Genome Program. This Program is a coordinated, multidisciplinary, goal oriented, research effort aimed at developing creative, innovative resources and technologies which will lead to a detailed understanding of the human genome at the molecular level. Several research goals are encompassed in this notice, with collaborative, multidisciplinary efforts specifically encouraged. Research will be supported: (1) For development and implementation of mapping resources, cross connecting distinct DNA clone libraries, mapping strategies and automated mapping instrumentation; (2) for advanced DNA sequencing technologies, specifically, innovative instrumentation and automated systems that offer the potential for rapid, cost-effective, large-scale sequencing; and (3) to develop software for use in

chromosome mapping and DNA sequencing, and data analysis. Such work may include information retrieval, user interfaces including interfaces compatible with Genome Data Base (GDB), algorithms, software engineering, and data management. Also desired are improved computational resources for analyzing DNA sequences, including identification of homologies, regulatory sites, and protein coding regions.

DATES: Formal applications submitted in response to this notice must be received by 4:30 p.m., e.d.t., July 15, 1993, to be accepted for merit review in September 1993, and to permit timely consideration for award in Fiscal Year 1994.

ADDRESSES: Formal applications referencing Program Notice 93–12 should be forwarded to: U.S. Department of Energy, Office of Energy Research, Acquisition and Assistance Management Division, ER–64, Washington, DC 20585, ATTN: Program Notice 93–12. The following address must be used when submitting applications by U.S. Postal Service Express Mail or any commercial mail delivery service, or when handcarried by the applicant. U.S. Department of Energy, Acquisition and Assistance Management Division, ER–64, 19901 Germantown Road, Germantown, MD 20874.

FOR FURTHER INFORMATION CONTACT: Dr. David A. Smith, Office of Health and Environmental Research, ER–72 (GTN), Office of Energy Research, U.S. Department of Energy, Washington, DC 20585, (301) 903–6488.

SUPPLEMENTARY INFORMATION: Potential applicants are strongly encouraged to submit a brief preapplication in accordance with 10 CFR 600.10(d)(2), which consists of two to three pages of narrative describing the research project objectives and methods of accomplishment. These will be reviewed relative to the scope and research needs of the DOE's Human Genome Program. Preapplications referencing Program Notice 93–12 should be received by April 1, 1993, and sent to Dr. David A. Smith, Office of Health and Environmental Research, ER–72 (GTN), Washington, DC 20585. Telephone and FAX numbers are required parts of the preapplication. A response to the preapplications discussing the potential program relevance of a formal application generally will be communicated within 30 days of receipt.

It is anticipated that approximately $5,000,000 will be available for grant awards during FY 1994, contingent upon availability of appropriated funds. Multiple year funding of grant awards is expected, and is also contingent upon availability of funds. Previous awards have ranged from $79,000 per year up to $1,000,000 per year with terms from 1 to 3 years. Most awards are in the $200,000 to $400,000 per year range for 3 years. Similar award sizes are anticipated for new grants. Information about development and submission of applications, eligibility, limitations, evaluation, selection process, and other policies and procedures may be found in the ER Special Research Grants Application Kit and Guide and 10 CFR part 605. The ER, as part of its grant regulations, requires at 10 CFR 605.11(b) that a grantee funded by ER and performing research involving recombinant DNA molecules and/or organisms and viruses containing recombinant DNA molecules shall comply with the National Institutes of Health "Guidelines for Research Involving Recombinant DNA Molecules" (51 FR 16958, May 7, 1986), or such later revision of those guidelines as may be published in the **Federal Register**.

The dissemination of materials and research data in a timely manner is essential for progress towards the goals of the DOE Human Genome Program. The OHER requires the timely sharing of resources and data. Applicants should, in their applications, discuss their plans for disseminating research data and materials which may include, where appropriate, putting cell lines, probes, sequence data, etc., into public repositories. Once OHER and the applicant have agreed upon a distribution plan, it will become part of the award conditions. Funds to defray the costs of disseminating materials or submitting data to repositories are allowable; however, such requests must be adequately justified. Applicants should also provide timelines projecting progress toward achieving proposed goals.

The application kit and guide is available from the U.S. Department of Energy, Office of Health and Environmental Research, Office of Energy Research, ER–72, Washington, DC 20585 Telephone requests may be made by calling (301) 903–6488.

The Catalog of Federal Domestic Assistance Number for this program is 81.049.

Issued in Washingon, DC, on February 4, 1993.

D.D. Mayhew,

Director, Office of Management, Office of Energy Research.

[FR Doc. 93–3690 Filed 2–16–93; 8:45 am]

BILLING CODE 6450–01–M

Energy Research Financial Assistance Program Notice 93–13: Human Genome Program—Ethical, Legal, and Social Issues; Grant Applications

AGENCY: Department of Energy (DOE).

ACTION: Notice inviting grant applications.

SUMMARY: The Office of Health and Environmental Research (OHER) of the Office of Energy Research (ER), U.S. Department of Energy (DOE), hereby announces its interest in receiving applications in support of the Ethical, Legal, and Social Issues (ELSI) activities of the Human Genome Program (HGP). This Program is coordinated, multidisciplinary research effort aimed at developing creative, innovative resources and technologies that will lead to a detailed understanding of the human genome at the molecular level. This particular research notice encompasses research grants that address ethical, legal, and social issues that may arise from the use of information and knowledge resulting from the HGP. The DOE especially encourages the submission of applications to conduct multidisciplinary, empirical research on privacy issues from the creation, use, maintenance, and disclosure of genetic information. This may include (but is not limited to) issues of ownership and control of genetic information, the protection of the privacy of genetic information, and the role(s) of high performance computers in information management relevant to genetic data. Applications should demonstrate knowledge of the relevant literature, and should include detailed plans for the gathering and analysis of factual information and the exploration of issues associated with the ethical, legal, and social implications of the knowledge gained from the HGP. All applications should include, where appropriate, detailed discussion of human subjects protection issues; e.g., storage of, manipulation of, and access to data. Where survey techniques are proposed, provisions to ensure the inclusion of women, minorities, and potentially disabled individuals must be described, unless specific exclusions are scientifically necessary and justified in detail. All proposed research applications should address the issue of efficient dissemination of results to the widest appropriate audience.

The DOE is also soliciting applications for the preparation and dissemination of educational materials in any appropriate medium that will enhance public understanding of both the scientific aspects and the ethical,

legal, and social aspects of the HGP. In addition, the DOE is encouraging applications for the support of conferences focusing on specific issues or areas of concern related to the ethical, legal, and social implications of the HGP. Educational and conference applications should also demonstrate awareness of the relevant literature, and include detailed plans for the accomplishment of project goals, including, where appropriate, video productions. In the case of educational activities, the DOE strongly recommends inclusion of assessments of effectiveness of the proposed activites. In the case of all conferences, a fairly detailed and complete roster of committed speakers is necessary. At the completion of the conference, a summary or report is required. Educational and conference applications must also demonstrate awareness of the need to reach the widest appropriate audience.

DATES: Formal applications submitted in response to this notice must be received by 4:30 p.m., e.d.t., July 15, 1993, to be accepted for merit review in September 1993 and to permit timely consideration for award in Fiscal Year 1994.

ADDRESSES: Formal applications referencing Program Notice 93–13 should be forwarded to: U.S. Department of Energy, Acquisition and Assistance Management Division, ER–64, Washington, DC 20585, ATTN: Program Notice 93–13. The following address must be used when submitting applications by U.S. Postal Service Express Mail or any commercial mail delivery service, or when handcarried by the applicant: U.S. Department of Energy, Acquisition and Assistance Management Division, ER–64, 19901 Germantown Road, Germantown, MD 20874.

FOR FURTHER INFORMATION CONTACT: Dr. Daniel W. Drell, Office of Health and Environmental Research, ER–72 (GTN), Office of Energy Research, U.S. Department of Energy, Washington, DC 20585, (301) 903–6488.

SUPPLEMENTARY INFORMATION: Potential applicants are strongly encouraged to submit a preapplication in accordance with 10 CFR 600.10(d)(2), which consists of two to three pages of narrative describing research objectives, methods of accomplishment, measures of accomplishment including anticipated products. These will be reviewed relative to the scope and the research needs of the DOE's Human Genome Program ELSI activities. Preapplications referencing Program Notice 93–13 should be received by April 1, 1993, and sent to Dr. Daniel W. Drell, Office of Health and Environmental Research, ER–72 (GTN), U.S. Department of Energy, Washington, DC 20585. Telephone and FAX numbers are required parts of the preapplication. A response to the preapplication discussing the potential program relevance of a formal application will be communicated by May 15, 1993.

The dissemination of materials and research data in a timely manner is essential for progress towards the goals of the DOE Human Genome Program. The OHER requires the timely sharing of resources and data. Applicants should, in their applications, discuss their plans for disseminating research data and information, educational and training materials, and conference and meeting results. Funds to defray the costs of disseminating materials and results are allowable; however, such requests must be adequately justified. It is anticipated that approximately $1,100,000 will be available for grant awards during FY 1994, contingent upon availability of appropriated funds. Multiple year funding of grant awards is also contingent upon availability of funds. Previous awards have ranged from $5,000 per year to $400,000 per year with terms from 1 to 3 years. Similar award sizes are anticipated for new grants. Information about development and submission of applications, eligibility, limitations, evaluation, selection process, and other policies and procedures may be found in the ER Special Research Grants Application Kit and Guide and 10 CFR part 605. The application kit and guide is available from the U.S. Department of Energy, Office of Health and Environmental Research, Office of Energy Research, ER–72, Washington, DC 20585. Telephone requests may be made by calling (301) 903–6488.

The Catalog of Federal Domestic Assistance number for this program is 81.049.

Issued in Washington, DC, on February 4, 1993.

D. D. Mayhew,

Director, Office of Management, Office of Energy Research.

[FR Doc. 93–3691 Filed 2–16–93; 8:45 am]

BILLING CODE 6540–01–M

Federal Energy Regulatory Commission

[Docket No. QF93–29–000]

Auburndale Power Partners, Limited Partnership; Notice of Amendment to Filing

February 10, 1993.

On February 5, 1993, Auburndale Power Partners, Limited Partnership tendered for filing supplemental information.

The supplemental information clarifies certain technical aspects of the application. No determination has been made that the submittal constitutes a complete filing.

Any person desiring to be heard or objecting to the granting of qualifying status should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed by February 26, 1993, and must be served on the applicant. 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary

[FR Doc. 93–3631 Filed 2–16–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. PL93–2–001]

Prior Notice and Filing Requirements Under Part II of the Federal Power Act; Initial Post-Technical Conference Order on the Filing of Expired Agreements

February 10, 1993.

Before Commissioners: Elizabeth Anne Moler, Chair; Charles A. Trabandt, Jerry J. Langdon, Martin L. Allday, and Branko Terzic.

In this order, we announce that public utilities will not be required to file with the Commission agreements under which jurisdictional service terminated prior to the August 2, 1991, issuance of Central Maine Power Company, 56 FERC ¶ 61,200, reh'g denied, 57 FERC ¶ 61,083 (1991) (Central Maine), and as to which a complaint has not been filed as of the date of this order.

Background

On December 9, 1992, the Commission issued an order in this proceeding scheduling a technical conference for January 28, 1993, and requesting comments on a number of related issues. 61 FERC ¶ 61,171 (1992). Those issues concerned the obligation of public utilities under section 205 of the Federal Power Act (FPA), 16 U.S.C. 824(d) (1988), and the Commission's implementing regulations, 18 CFR part 35 (1992), to file rates and charges for jurisdictional service, and all contracts and agreements relating to such service, at least 60 days in advance of the commencement of jurisdictional service. The Commission emphasized that it was aware of considerable uncertainty throughout the industry concerning the Commission's enforcement of the prior notice and filing requirement and, in particular, its application of the remedial policy first articulated in Central Maine.

Among the issues raised in the written comments was whether utilities should be required to file expired agreements. Most commenters agreed that no legitimate regulatory purpose could be served by requiring the filing of inactive agreements and by imposing the severe sanction of refunds for their late filing. They argued that if jurisdictional service already has terminated and the customer has not protested, any benefit of a current filing requirement is far outweighed by the burdens and expenses associated with a required search for historical documents evidencing some form of jurisdictional service. They also agreed that the language of the Central Maine orders—focusing on "current" service and "existing" agreements—reasonably led them to believe that they had no obligation to file expired agreements prior to the October 7, 1991 close of the Central Maine amnesty window. One group of commenters, however, consisting of a number of municipal electric systems in Vermont,[1] argued just the opposite—that the Commission should not excuse the late filing of agreements that, because of utility neglect, had terminated or been superseded prior to filing. In their opinion, utilities should not be rewarded for conduct that precluded meaningful Commission review of the justness and reasonableness of jurisdictional rates prior to the commencement, or during the pendency of, jurisdictional service.

Many of the participants in the January 28, 1993 technical conference also expressed concern regarding the spectre of potential refund liability for unfiled, expired agreements for jurisdictional service. Some focused on the practical impossibility, and the immense burden and expense, of searching records and interviewing past and present personnel in an effort to uncover every scrap of paper that arguably may evidence a historical agreement for jurisdictional service. Others expressed great concern about the magnitude of potential refunds for the late filing of historical agreements for service transacted during the past half-century. One participant (New York State Electric & Gas Corporation) explained the obligation of utilities to disclose even remotely possible refunds in financial statements and disclosures and the need for immediate Commission action to remove this refund cloud.

Discussion

After reviewing the written comments filed in, and the oral testimony presented in, this proceeding, we find that it would not be in the public interest to require the filing of agreements that expired prior to the August 2, 1991, issuance of Central Maine.[2] We do not believe that any significant regulatory purpose would be furthered by the utility obligation to file, and the Commission obligation to review, agreements involving consensual jurisdictional transactions that commenced and expired prior to August 2, 1991, unless the failure to file has been brought to our attention as of the date of issuance of this order. Our ability to go back in time to review the justness and reasonableness of the rates, terms, and conditions of service that has terminated necessarily is limited. See PacificCorp Electric Operations, 60 FERC ¶ 61,292 at 62,039 (1992), reh'g pending. Moreover, we do not believe it is in the public interest to subject public utilities to the financial uncertainty created by the potentially large refund liability associated with unfiled agreements that may date as far back as 1935.

Our action should not be construed that we countenance the late filing (or non-filing) of rates, charges, and related agreements for jurisdictional service. Public utilities have an obligation under section 205 of the FPA to file at least 60 days in advance of the commencement of jurisdictional service. See Central Hudson Gas & Electric Corp., 60 FERC ¶ 61,106, reh'g denied, 61 FERC ¶ 61,089 (1992) (clarifying circumstances under which the Commission will find good cause for waiver of the prior notice and filing requirement). We wish to encourage, not discourage, compliance with this important statutory obligation.

We conclude that the resources of the utilities, the public and this Commission can better be devoted t agreements under which utilities currently are providing service and to future compliance with the statute than to working over past transactions.

With respect to the concern of the Vermont Cities that customers will be subject to the intransigence of a selling utility with unequal bargaining strength,[3] we note that customers may file a complaint or make a call to the Commission's Enforcement "Hotline" ((202) 208–1390) alerting the Commission to the commencement of jurisdictional service under unfiled and unreviewed rates and related agreements.

We take this initial and limited action now to help remove whatever cloud of uncertainty lingers with respect to refund exposure for the failure to file agreements under which jurisdictional service terminated prior to August 2, 1991. We do not act now on the numerous other issues raised in the comments and the testimony presented in this proceeding. We intend to act in the near future concerning those issues, as well as related issues presented for our consideration in pending dockets.[4]

However, all agreements for jurisdictional service that were ongoing as of August 2, 1991 must be filed for Commission review.

The Commission orders.

(A) Unless a complaint is pending as of the date of issuance of this order, challenging a utility's failure to file, agreements under which jurisdictional service terminated prior to August 2, 1991, need not be filed with the Commission, as discussed in the body of this order.

[1] This group consists of Barton Village, Inc., the Village of Enosburg Falls Water & Light Department, the Village of Orleans, and the Village of Swanton, Vermont (collectively, Vermont Cities).

[2] The one exception concerns agreements as to which a complaint has been filed as of the date of issuance of this order, challenging the utility's failure to file.

[3] In this regard, we note that the American Public Power Association, which represents approximately 2000 publicly-owned utilities, filed comments in this proceeding urging the Commission to focus its enforcement efforts on a prospective basis to existing tariffs and agreements and to limit the utility obligation to search its records only to non-terminated agreements.

[4] Accordingly, we will issue a future order acting on Central Maine's pending requests for relief (in Docket Nos. ER91–457–004, ER92–286–002, ER92–484–001, ER92–512–001, ER92–817–001, and ER93–130–000).

(B) The Secretary will promptly publish a copy of this order in the **Federal Register.**

By the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 93-3630 Filed 2-16-93; 8:45 am]

BILLING CODE 6717-01-M

Application Filed With the Commission

February 9, 1993.

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection.

a. *Type of Application:* Transfer of License.

b. *Project No.:* 5276-002.

c. *Date Filed:* January 13, 1993.

d. *Applicant:* Niagara Mohawk Power Corporation.

e. *Name of Project:* Hudson Falls Project.

f. *Location:* On the Hudson River in the Village of Hudson Falls and the Towns of Moreau and Kingsbury, Saratoga and Washington Counties, New York.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:*

Niagara Mohawk Power Corporation, Attn: John W. Keib, 300 Erie Boulevard West, Syracuse, NY 13202

Winston & Strawn, Attn: William J. Madden, Jr., 1400 L Street NW., Washington, DC 20005

Northern Electric Power Co., L.P., Attn: John M. Forester, Civic Center Plaza, suite 100, Five Warren Street, Glen Falls, NY 12801

Reid & Priest, Attn: Jonathan W. Gottlieb, Esq., 701 Pennsylvania Avenue NW., Suite 800 Washington, DC 20004.

i. *FERC Contact:* Etta Foster, (202) 219-2679.

j. *Comment Date:* March 8, 1993.

k. *Description of Proposed Action:* Niagara Mohawk Power Corporation proposes to transfer the Hudson Falls Project, No. 5276, to Northern Electric Power Co., L.P. and Niagara Mohawk Power Corporation jointly.

l. *This notice also consists of the following standard paragraphs:* B & C.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

B. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS," "RECOMMENDATIONS FOR TERMS AND CONDITIONS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATIONS," "PROTEST" or "MOTION TO INTERVENE," as applicable, and the project number of the particular application to which the filing is in response. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. An additional copy must be sent to: The Director, Office of Hydropower Licensing, Division of Project Compliance and Administration, Federal Energy Regulatory Commission, ATTN: HL-21, room 1148 UCP, at the above address. A notice of intent, competing application, or motion to intervene must also be served upon each representative of the applicant specified in the particular application.

Lois D. Cashell,

Secretary.

[FR Doc. 93-3574 Filed 2-16-93; 8:45 am]

BILLING CODE 6717-01-M

Application Filed With the Commission

February 9, 1993.

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection.

a. *Type of Application:* Transfer of License.

b. *Project No.:* 5461-002.

c. *Date Filed:* January 13, 1993.

d. *Applicant:* Niagara Mohawk Power Corporation.

e. *Name of Project:* South Glens Falls Project.

f. *Location:* On the Hudson River near the Towns of Moreau and Queensbury, the City of Glens Falls, Warren and Saratoga Counties, New York.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:*

Niagara Mohawk Power Corporation, Attn: John W. Keib, 300 Erie Boulevard West, Syracuse, NY 13202

Winston & Strawn, Attn: William J. Madden, Jr., 1400 L Street NW., Washington, DC 20005

South Glens Falls Limited Partnership, Attn: John M. Forester, Civic Center Plaza, Suite 100, Five Warren Street, Glen Falls, NY 12801

Reid & Priest, Jonathan W. Gottlieb, Esq., 701 Pennsylvania Avenue NW., Suite 800, Washington, DC 20004.

i. *FERC Contact:* Etta Foster (202) 219-2679.

j. *Comment Date:* March 8, 1993.

k. *Description of Proposed Action:* Niagara Mohawk Power Corporation proposes to transfer the Hudson Falls Project, No. 5461, to South Glens Falls Limited Partnership and Niagara Mohawk Power Corporation jointly.

l. *This notice also consists of the following standard paragraphs:* B & C.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS," "RECOMMENDATIONS FOR TERMS AND CONDITIONS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATIONS," "PROTEST" or "MOTION TO INTERVENE," as applicable, and the project number of the particular application to which the filing is in response. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to: The Director, Office of Hydropower Licensing, Division of Project Compliance and Administration, Federal Energy Regulatory Commission, ATTN: HL-21, room 1148 UCP, at the above address. A notice of intent, competing application, or motion to

intervene must also be served upon each representative of the applicant specified in the particular application.

Lois D. Cashell,

Secretary.

[FR Doc. 93-3575 Filed 2-16-93; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 2187-002, et al.]

Hydroelectric Applications; Public Service Company of Colorado, et al.

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1. *a. Type of Application:* Subsequent License.

b. Project No.: 2187-002.

c. Date filed: December 30, 1991.

d. Applicant: Public Service Company of Colorado.

e. Name of Project: Georgetown Hydroelectric.

f. Location: On South Clear Creek in Clear Creek County, Colorado, partially within Arapaho National Forest and on U.S. lands administered by the Bureau of Land Management.

g. Filed Pursuant to: Federal Power Act, 16 USC 791(a)-825(r).

h. Applicant Contact: Mr. Timothy J. Flanagan, Kelly, Stansfield & O'Donnell, 1225-17th Street, suite 2500, Denver, CO 80202-5533, (303) 825-3534.

i. FERC Contact: James Hunter at (202) 219-2839.

j. Deadline Date: Initial Comments March 23, 1993; Reply Comments May 7, 1993.

k. Status of Environmental Analysis: This application is ready for environmental analysis at this time—see attached paragraph D10.

l. Description of Project: Licensed project works consist of: (1) The 10-foot-high, 196-foot-long Murray Dam impounding the 9-acre Murray Lake Reservoir; (2) the 8-foot-high, 330-foot-long Silver Dollar Dam impounding the 17-acre Silver Dollar Lake Reservoir; (3) the 19-foot-high, 150-foot-long Clear Lake Dam impounding the 26-acre Clear Lake Reservoir; (4) the diversion on Leavenworth Creek, the 3,947-foot-long, 22-inch to 12-inch-diameter Green Lake pipeline, the 11-acre Green Lake, impounded by the 8-foot-high, 150-foot-long Green Lake Dam, and the 5-inch-diameter, 600-foot-long pipeline to South Clear Creek; (5) the 26-foot-high, 115-foot-long Georgetown Forebay Dam impounding the 3-acre Forebay Reservoir; (6) a 26 to 34-inch-diameter, 5,410-foot-long steel penstock; (7) a powerhouse containing two 720-kW generating units; and (8) a substation connecting directly to the applicant's distribution system. The average annual generation is 5.91 GWh. The applicant does not include items (1), (2), and (4) in the project it proposes for relicense.

m. Purpose of Project: Power generated at the project is delivered to customers within the applicant's service area.

n. This notice also consists of the following standard paragraphs: A4 and D10.

o. Available Locations of Application: A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208-1371. A copy is also available for inspection and reproduction at the Public Service Company of Colorado's office at 1225-17th Street, Denver, Colorado, (303) 329-1578.

2. *a. Type of Application:* New Major License.

b. Project No: 2287-003.

c. Date filed: December 26, 1991.

d. Applicant: Public Service Company of New Hampshire.

e. Name of Project: J. Brodie Smith.

f. Location: On the Androscoggin River near Berlin in Coos County, New Hampshire.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r)..

h. Applicant Contact: Mr. James J. Kearns, 1000 Elm Street, P.O. Box 330, Manchester, NH 03105.

i. FERC Contact: Ms. Julie Bernt, (202) 219-2814.

j. Comment Date: Initial Comments March 16, 1993 Reply Comments April 30, 1993.

k. Status of Environmental Analysis: This application is ready for environmental analysis at this time—see attached paragraph D9.

l. Description of Project: The licensed project would consist of the following existing facilities: (1) A 24-foot-high masonry and concrete dam; (2) two spillways, one 170 feet long and the other 256 feet long; (3) a reservoir with a surface area of 8 acres at surface elevation 1,009.7 feet USGS and a storage area of 60 acre-feet; (3) an 18-foot-diameter, 1,450-foot-long steel penstock; (4) a 1.15-million-gallon steel surge tank; (5) an 18-foot-diameter, 200-foot-long penstock; (6) a powerhouse containing one generating unit with a rated capacity of 13 MW; (7) a 1,500-foot-long transmission line; and, (8) appurtenant facilities. The applicant is proposing no changes to the project. The average annual net energy generation is 104,261 MWh. The applicant owns all the existing project facilities.

The existing project would also be subject to Federal takeover under sections 14 and 15 of the Federal Power Act.

m. Purpose of Project: Project power sold be utilized by the applicant for sale to its customers.

n. This notice also consists of the following standard paragraphs: A4 and D9.

o. Available Location of Application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208-1371. A copy is also available for inspection and reproduction at Public Service Company of New Hampshire, 1000 Elm Street, Manchester, NH 03105, or by calling (603) 669-4000.

3. *a. Type of Application:* Surrender of License.

b. Project No: P-3706-016.

c. Date Filed: November 19, 1992.

d. Applicant: American Hydro Power Co.

e. Name of Project: Mussers Dam.

f. Location: On Middle Creek in Snyder County, Pennsylvania.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Licensee Contacts:

Mr. Allan S. Miller, American Hydro Power Co., 33 Rock Hill Road, Bala Cynwyd, PA 19004-2010, (215) 668-8143.

Ms. Barbara Jost, Wilkinson, Barker, Knauer & Quinn, 1735 New York Avenue, NW., Washington, DC 20006, (202) 783-4141.

i. FERC Contact: Dean C. Wight, (202) 219-2675.

j. Comment Date: March 23, 1993.

k. Description of Proposal: The licensee proposes to surrender the project license. Pursuant to Commission order of September 3, 1992, the licensee has removed the unsafe project dam and decommissioned the project. Decommissioning was completed during November, 1992. The licensee states that it has diligently worked to satisfy the other requirements of the order of September 3, 1992, which were intended to mitigate the effects of dam removal on soil erosion, wildlife, recreation, and cultural resources.

l. This notice also consists of the following standard paragraphs: B, C, and D2.

4. *a. Type of Application:* Minor License.

b. Project No.: 10684–000.

c. Date Filed: November 1, 1988.

d. Applicant: Lansing Board of Water and Light.

e. Name of Project: Moores Park Dam.

f. Location: On the Grand River in the City of Lansing, County of Ingham, Michigan.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Joe Pandy, Jr., P.O. Box 13007, Lansing, MI 48901, (517) 371–6710.

i. FERC Contact: Charles T. Raabe, (202) 219–2811.

j. Deadline Date: Initial Comments March 16, 1993; Reply Comments April 30, 1993.

k. Status of Environmental Analysis: This application is ready for environmental analysis at this time—see attached standard paragraph D10.

l. Description of Project: The existing project consists of: (1) A 190-foot-long, 21-foot-high reinforced-concrete gravity-type dam having three 20-foot-long tainter gates and having a 117-foot-long overflow-type spillway surmounted by wooden flashboards; (2) a reservoir having a 240-acre surface area and a 2,000 acre-foot storage capacity at normal water surface elevation 833.5 feet; (3) an integral powerhouse at the left (north) abutment containing two 540-kW generating units each operated under a 15-foot head and a flow of 600 cfs; (4) a 200-foot-long, 4,160-volt underground transmission line and a 4,160/13,200-volt transformer; and (5) appurtenant facilities.

The existing hydroelectric facilities were constructed in 1908. No change to the current run-of-river operation is proposed. The average annual electrical generation has approximated 2,210,000 Kwh. The primary function of the facility is to provide cooling water and house service power for the nearby Eckert Station-a coal-fired power plant.

m. Purpose of Project: The purpose of the project is to generate electric energy for sale to applicant's customers.

n. This notice also consists of the following standard paragraphs: A4 and D10.

o. Available Location of Application: A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Lansing Board of Water & Light, 123 W. Ottawa Street, Lansing, Michigan 48901, (517) 371–6000.

5. *a. Type of Application:* Minor License.

b. Project No.: 11345–001.

c. Date filed: December 21, 1992.

d. Applicant: GREIA Hydro Corporation.

e. Name of Project: Greene Mill Dam.

f. Location: On the Shell Rock River, in the Town of Greene, Butler County Iowa.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Thomas J. Wilkinson, Jr., 300 American Building, Cedar Rapids, IA 52401, (319) 366–4990.

i. FERC Contact: Charles T. Raabe (dt), (202) 219–2811.

j. Comment Date: Initial Comments March 16, 1993.

k. Description of Project: The proposed project would consist of: (1) An existing 290-foot-long, 11-foot-high concrete dam; (2) a reservoir having an 85-acre surface area and a 385-acre-foot storage capacity at normal water surface elevation 946 feet MSL; (3) a reconstructed powerhouse containing one 150-kW generating unit and one 250-kW generating unit for a total installed capacity of 400-kW operated at a 9-foot head; (4) a 25-foot-long, 13.8-kV transmission line; and (5) appurtenant facilities. The dam is owned by the Butler County Conservation Board. Applicant estimates that the average annual generation would be 3,128,880 kWh. Power would be sold to the utility company serving the area.

l. With this notice, we are initiating consultation with the State Historic Preservation Officer (SHPO), as required by section 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR, at § 800.4.

m. Pursuant to § 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, SHPO, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merits, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the filing date and serve a copy of the request on the applicant.

6. *a. Type of Application:* Preliminary Permit.

b. Project No.: 11371–000.

c. Date filed: December 28, 1992.

d. Applicant: Peak Power Corporation.

e. Name of Project: Eldorado Modular Pumped Storage Project.

f. Location: Partially within the North McCullough Wilderness Study Area, on lands administered by the Bureau of Land Management, in the McCullough Mountains, approximately 14 miles south of Las Vegas, in Clark County, Nevada. R61E, T24S; R61E, T25S; R62E, T25S.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Rick S. Koebbe, Peak Power Corporation, 10 Lombard Street, suite 410, San Francisco, CA 94111, (415) 362–0887.

i. FERC Contact: Mr. Michael Strzelecki, (202) 219–2827.

j. Comment Date: March 24, 1993.

k. Description of Project: The proposed pumped storage project would consist of: (1) A 120-foot-high dam and 44-acre upper reservoir; (2) a 12.5-foot-diameter, 6,830-foot-long penstock and tunnel connecting the upper reservoir with a lower reservoir; (3) an 80-foot-high dam and 50-acre lower reservoir; (4) a powerhouse with a total installed capacity of 200 MW; (5) a 4.5-mile-long transmission line interconnecting with an existing Nevada Power Company transmission line; and (6) appurtenant facilities.

No new access roads will be needed to conduct the studies. The approximate cost of the studies would be $1,000,000.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

Standard Paragraphs:

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b)(1) and (9 and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit with be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, room 1027, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D9. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to § 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. (March 16, 1993 for Project No. 2287–003). All reply comments must be filed with the Commission within 105 days from the date of this notice. (April 30, 1993 for Project No. 2287–003).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 1027, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

D10. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to § 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. (March 16, 1993 for Project No. 10684–000 and March 23, 1993 for Project No. 2187–002.) All reply comments must be filed with the Commission within 105 days from the date of this notice. (April 30, 1993 for Project No. 10684–000 and May 7, 1993 for Project No. 2187–002.)

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply

with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, room 1027, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

Dated: February 11, 1993.

Lois D. Cashell,

Secretary.

[FR Doc. 93-3632 Filed 2-16-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD93-04114T Louisiana-18]

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

February 10, 1993.

Take notice that on February 4, 1993, the Office of Conservation of the Department of Natural Resources for the State of Louisiana (Louisiana) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Haynesville Formation, underlying a portion of the North Shongaloo-Red Rock Field, Webster Parish, Louisiana, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The area of application covers portions of sections 5 and 6, Township 23 North, Range 9 West.

The notice of determination also contains Louisiana's findings that the referenced part of the Haynesville 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. 93-3633 Filed 2-16-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RM87-17-000]

Natural Gas Data Collection System; Notice of Availability of Revised Software, Filing Instructions and Record Formats, and User/Operations Manual for Natural Gas Rate Application Filings

Issued February 9, 1993.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of availability of revised electronic filing instructions and record formats, software, and User/Operations Manual for Natural Gas Rate Application filings.

SUMMARY: Revised software for data entry, edit-checking and printing of the hardcopy for natural gas rate filings is now available. This software has been developed for Commission use and to assist the pipeline companies in complying with the electronic submission requirements for rate filings in accordance with Order Nos. 493 (53 FR 15025 (Apr. 27, 1988)), 493-A (53 FR 30027 (Aug. 10, 1988)), 493-B (53 FR 49652 (Dec. 9, 1988)), 493-C (53 FR 21197 (May 17, 1989)) and 493-D issued February 3, 1993.

Both PC executable and mainframe source code versions of the software are available at this time. The hardcopy print software processes all 'FILE1' records including Schedule/Record ID's RA29 through RA39 (Statement G) which had been omitted from the previous release of hardcopy print software. The revised edit-checking and data entry software are being issued to correct deficiencies that users reported with the previous release.

Revised filing instructions and record formats and an updated User/Operations Manual covering the PC and mainframe versions of the rate filing software are also available at this time. The revisions to the record formats and instructions for preparing and submitting electronic rate filings to the Commission are summarized in appendix A. A listing of the revisions to the edit-checks detailed in the User/Operations Manual is provided in appendix B.

The revised filing instructions and record formats will be effective on March 22, 1993. All rate applications filed with the Commission on or after March 22, 1993, must be in conformance with the revised Rate Filings Instructions and Record Formats which are being made available at this time.

DATES: The revised PC and mainframe software, electronic filing instructions and record formats, and the User/Operations Manual for rate application filings are available on February 9, 1993.

ADDRESSES: Requests for the revised filing instructions and record formats, the User/Operations Manual, and the PC software packages should be directed to the Reference and Information Center, Federal Energy Regulatory Commission, 941 North Capitol Street NE., room 3308, Washington, DC 20426, (202) 208-1371.

FOR FURTHER INFORMATION CONTACT: For general information, contact Bill Anderson at (202) 208-2211. For information related to the execution of the software, contact Craig Hill at (202) 208-2026.

SUPPLEMENTARY INFORMATION: The PC version of the rate filing software consists of three modules: Data entry, edit-check, and hardcopy print. The PC software can be run on an IBM-compatible PC with at least 640K RAM and DOS 3.0 or later version. A mainframe version of the edit-check and hardcopy print modules is also available. The revised Filing Instructions and Record Formats for Rate Filings, the User/Operations Manual, and the three software modules are available on 3.5" (1.44MB) or 5.25" (1.2MB) double sided, high density diskette. The filing instructions and the User/Operations Manual are available in WordPerfect 5.1 and ASCII format as separate packages.

Each software module has been tested by staff. If problems occur relating to the software, the Commission staff encourages users to provide written comments as to the exact nature of the problem and submit them to Craig Hill, room 6006-D, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

The PC software modules, the filing instructions and record formats, and the User/Operations Manual are available from the Commission's copy contractor, LaDorn Energy Information Services ((202) 898-1151 or (800) 676-FERC), located in room 3106, 941 North Capitol Street, NE., Washington, DC 20426. The software and written documentation is available without charge. However, there is a fee of approximately $7.00 per 3.5" or 5.25" diskette for the copying

service provided by the Commission's copy contractor. The revised Record Formats and Instruction Manual and the User/Operations Manual are also available in hardcopy format at a cost of 30 cents per page.

The mainframe source code for the edit-check and hardcopy print software is available on 3.5" or 5.25" diskette by contacting Craig Hill at (202) 208–2026.

This notice is available through the Commission Issuance Posting System (CIPS), an electronic bulletin board service that provides access to formal documents issued by the Commission. CIPs is available at no charge to the user and may be accessed on a 24-hour basis using a personal computer with a modem. Your communications software should be set at full duplex, no parity, eight data bits and one stop bit. To access CIPS at 300, 1200 or 2400 baud dial (202) 208–1397. For access at 9600 baud, dial (202) 208–1781. FERC is using U.S. Robotics HST Dual Standard modems. If you have any problems in obtaining a copy of this notice through CIPS, please call (202) 208–2474. The notice will be available on CIPS for 30 days from the date of issuance of the notice.

In addition to publishing the text of this notice in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this notice during normal business hours in the Reference and Information Center (room 3308) at the Commission's headquarters, 941 North Capitol Street NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

APPENDIX A.—REVISIONS TO THE INSTRUCTIONS RELATING TO THE RATE FILING RECORD FORMATS

Old manual page No.	New manual page No.	Sch. ID/record No.	Statement/schedule	Description of change
4	4	.....	.....	Revised the General Instructions No. 3 (C).
4	5	.....	.....	Added new freeform text parameters (17, 20 and 24 CPI and 8 LPI) for portrait orientation page formatting can only be used for tabular display of data.
29	32	RA/08	C–4	Revised the comments for Items 106 and 107.
38	41	RA/13	E–3	Added a new Item 192a to the record.
39–40	42–43	RA/14	E–3	Revised the instructions for the 'Note:' at the top of page 39; revised the instructions for Item 195 on page 39; added a New Item 210a on page 40 to the record.
77	83			
216	224	RA/29		
		RB/13	G(29)	Added a new Item 475a to both records.
			N–10	
78	84			
219	227	RA/30		
		RB/14	G(30)	Revised the codes for Item 481 for both records
			N–10	
126	132			
211	218	RA/52		
		RB/10	H(4)	Added a Note at the top of the page for Instructions to enter FICA and Total Payroll Taxes; Revised the comment for Item 842, code=05. Changes apply to both records
			N–8	
131	137	RA/54	I–4	Established an f(8,4) format for Items 886, 887 and 888.
183	190	RA/78	M	Revised the Paragraph letters for Note 14.
267	280	.....	.....	Added two new codes to Exhibit H; F(5)–3(A) and F(5)–3(B).

APPENDIX B.—REVISIONS TO THE EDIT CHECKS CONTAINED IN THE USER/OPERATIONS MANUAL FOR RATE FILINGS (APPENDIX D)

Old manual page No.	New manual page No.	Sch. ID/record No.	Statement/schedule	Description of change
D–14	D–14	RA/04	C	Revised edit for Item 54.
		RB/01		
D–15	D–15	RA/04	C	Revised edit for Items 55 and 56.
		RB/01		
D–41	D–41	RA/12	E–2	Revised edit for Item 173.
D–42	D–42	RA/12	E–2	Deleted edit for Item 182.
D–44	D–44	RA/14	E–3	Added a new edit for Item 197; Revised error message for Item 198.
D–44 thru D–48 ...	D–44 thru D–48 ...	RA/14	E–3	Revised edit and error messages for Items 199 through 210.
D–74	D–74	RA/30	G	Revised edit for Item 481.
		RB/14		
D–109	D–109	RA/50	H(3)	Revised edit and error message for Item 819.
		RB/08		
D–109 thru D–110	D–109 thru D–110	RA/50	H(3)	Revised edit and edit messages for Item 821.
		RB/08		
D–110	D–110	RA/50	H(3)	Revised second edit for Item 832.
		RB/08		
D–111	D–111	RA/50	H(3)	Revised edit for Item 833.
		RB/08		

PACKAGE DESCRIPTIONS FOR THE PC VERSION OF THE RATE FILING SOFTWARE

Package	Description
Package A	PC Data Entry Executable Code 6 diskettes: released February, 1993.
Package B	PC Edit-checking Executable Code 5 diskettes: released February, 1993.
Package C	PC Hardcopy Print Executable Code 5 diskettes: released February, 1993.
Package D	(WP5.1): Record Formats Manual, User/Operations Manual, and the Notice of Availability of PC Rate Filing Software 2 diskette: released February, 1993.
Package E	(ASCII): Record Formats Manual, User/Operations Manual, and the Notice of Availability of PC Rate Filing Software 2 diskette: released February, 1993.

[FR Doc. 93-3576 Filed 2-16-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER93-26-000]

American REF-Fuel Co. of Essex County; Notice of Filing

February 10, 1993.

Take notice that on February 5, 1993, American-REF-Fuel Company of Essex County, owner of an electric generating facility located in Newark, New Jersey, submitted for filing, pursuant to Rule 207 of the Commission's Rules of Practice and Procedure, 18 CFR 385.207, an Amendment to an initial rate schedule, filed October 16, 1992, for sales to Jersey Central Power & Light Company.

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 18 CFR 385.214). All such motions or protests should be filed on or before February 22, 1993. 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. 93-3577 Filed 2-16-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RS92-2-000]

ANR Storage Co.; Notice of Conference

February 10, 1993.

Take notice that a conference will be convened on February 25, 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.

The purpose of this conference is to address the filing by ANR Storage Company to comply with Order No. 636.

All interested persons are invited to attend. However, attendance at the conference will not confer party status.

Lois D. Cashell,

Secretary.

[FR Doc. 93-3634 Filed 2-16-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RS92-3-000]

Arkla Energy Resources; Notice of Conference

February 10, 1993.

Take notice that on Wednesday, February 24 and, if necessary, Thursday, February 25, 1993, a conference will be convened in the above-captioned restructuring proceeding. The conference will be held pursuant to the Commission's order issued January 29, 1993 in this docket. Parties should be prepared to discuss the matters specifically identified to be discussed at the conference in that order. Other matters may be discussed as necessary to facilitate AERCo's revised compliance filing.

The conference will be held in a hearing or conference room of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426. The conference will begin at 10 a.m. on February 24, 1993. All interested parties are invited to attend. Attendance at the conference will not confer party status.

For additional information, interested persons can call Richard White at (202) 208-0491 or Robert Steinberg at (202) 208-1032.

Lois D. Cashell,

Secretary.

[FR Doc. 93-3635 Filed 2-16-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RS92-26-000]

United Gas Pipe Line Co.; Notice of Conference

February 10, 1993.

Take notice that on March 4, 1993, the Commission staff will convene a conference concerning United Gas Pipe Line Company's revised Order No. 636 compliance filing. United has requested said conference in order for all parties to discuss proposed modifications to its November 2, 1992, compliance filing. The purpose of the conference will be to provide staff and all parties an opportunity to comment on the proposed revisions.

Convening this conference is contingent upon United submitting for staff and all parties to review a revised compliance plan on February 24, 1993.

The conference will be held at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Hearing Room (to be determined), Washington, DC. The conference will begin at 10 a.m. on March 4, 1993. All parties are invited to attend. Attendance at the conference will not confer party status. For additional information, interested parties can call Ingrid Olson at (202) 208-2015 or William C. Lansinger, Jr. at (202) 208-2082.

Lois D. Cashell,

Secretary.

[FR Doc. 93-3636 Filed 2-16-93; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals During the Issuance of Decisions and Orders; Week of January 25 Through January 29, 1993

During the week of January 25 through January 29, 1993, the decisions and orders summarized below were issued with respect to applications for relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

David DeKok, 1/29/93, LFA-0258

David DeKok, a freelance author, filed an Appeal from a denial by the DOE's Idaho Operations Office (Idaho) of a Request for Information that he had filed under the Freedom of Information Act. In considering the Appeal, the DOE found that Idaho had not conducted an adequate search for documents in response to DeKok's request. The DOE also found that Idaho could not require Mr. DeKok to pay search fees in connection with this particular request, because the DOE had previously found Mr. DeKok to be a "representative of the news media" in a related proceeding. The Appeal was therefore granted in part.

Marlene R. Flor, 1/29/93, LFA–0261

Marlene R. Flor filed an Appeal from a partial denial by the DOE Field Office, Albuquerque (DOE/AL) of a request for information submitted under the Freedom of Information Act (FOIA) and the Privacy Act. Ms. Flor, an employee of DOE/AL, requested a copy of the contents of her personnel security file (PSF). The DOE/AL released certain documents but withheld other material which was not referred to in the determination letter issued to Ms. Flor. After Ms. Flor filed the Appeal, the DOE/AL informed the OHA that Ms. Flor has received notice of the suspension of her DOE security clearance and that she has since requested a hearing regarding the suspension. The DOE/AL also stated that certain documents in Ms. Flor's PSF were being withheld pending her formal response to allegations set forth in a letter notifying her of the suspension, but that Ms. Flor would be provided an oppportunity prior to her hearing to obtain these documents. The DOE/AL explained to the OHA that its determination letter did not address these documents because the appellant had only requested "DOE-releasable" documents and that therefore the documents deemed not releasable by the DOE fell outside the scope of Ms. Flor's request. In considering the Appeal, the DOE found that because Ms. Flor had clearly requested a copy of the contents of her PSF, the documents withheld were within the scope of her request. Accordingly, the matter was remanded to DOE/AL with instructions to issue a new determination either releasing the documents withheld or explaining the reasons for withholding any of the information contained in the documents, with reference to the exemptions in both the FOIA and Privacy Acts authorizing the withholding.

Request for Exception

Chapman Oil, 1/28/93, Lee–0037

Chapman Oil (Chapman) filed an Application for Exception from the provisions of the Energy Information Administration (EIA) reporting requirements, in which the firm sought relief from filing form EIA–782B, entitled "Reseller/Retailer's Monthly Petroleum Product Sales Report." In considering the request, the DOE found that the firm did not meet the standards for exception relief because it was not experiencing serious hardship or gross inequity as a result of the EIA reporting requirements. Accordingly, exception relief was denied.

Refund Application

Shell Oil Company/Gencarelli Oil Co., Inc., 1/26/93, RF315–10212

The DOE issued a Decision and Order denying an Application for Refund filed in the Shell Oil Company special refund proceeding on behalf of Gencarelli Oil Co., Inc. (GOC). The applicant, Robert Emmet, Jr., requested a refund based upon purchases by GOC of 18,258,848 gallons of Shell products. In considering the request, the OHA found that Mr. Emmet had already received a refund based upon the GOC'S purchases, and no additional refund was justified. The Application was denied.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Alside, Inc. et al	RF272–77186	01/29/93
Atlantic Richfield Company/Alex' West Sahara Arco et al	RF304–13385	01/27/93
Atlantic Richfield Company/Bob's Truckstop	RF304–13533	01/29/93
Atantic Richfield Company/Charlie's Arco	RF304–12957	01/26/93
Atlantic Richfield Company/Donald G. Winslow	RF304–13530	01/26/93
Atlantic Richfield Company/Edward Cimino	RF304–13531	01/26/93
Atlantic Richfield Company/Rigby's Arco et al	RF304–13368	01/26/93
Atlantic Richfield Company/Transub, Inc	RF304–13532	01/26/93
Bangor Area School District	RF272–81626	01/28/93
Bentonville School District et al	RF272–78853	01/29/93
Berrien County Road Commission	RF272–81510	01/27/93
Bolivar R–1 Schools	RF272–82493	01/29/93
City of Austell	RF272–82936	01/28/93
East Washington School Corp. et al	RF272–81409	01/28/93
Elkhorn Area School District et al	RF272–80734	01/26/93
F&M Co-op Gas & Oil Co. Co-operative Grain & Supplyco	RF272–75869	01/27/93
	RF272–75905	
Gulf Oil Corporation/Al Clark's Gulf et al	RF300–13443	01/26/93
Gulf Oil Corporation/Antigo Electric and Gas Co. et al	RF300–13121	01/29/93
Gulf Oil Corporation/Burnside Gulf et al	RF300–171245	01/29/93
Gulf Oil Corporation/Chrysler Corp	RF300–20474	01/29/93
Gulf Oil Corporation/Four Seasons Mart et al	RF300–17526	01/28/93
Gulf Oil Corporation/Haines Gulf et al	RF300–17137	01/25/93
Gulf Oil Corporation/Wilson Singleton Gulf	RF300–17076	01/29/93
Liberty Local School District	RF272–82977	01/28/93
Mahtomedi Public Schools	RF272–81681	01/29/93
Shell Oil Company/Jim Parris Shell Service et al	RF315–351	01/26/93
Texaco Inc./Country Stores	RF321–19567	01/29/93
Texaco Inc./Macon Bandag, Inc. et al	RF321–17477	01/28/93
Texaco Inc./Mrs. Erma Dunlap et al	RF321–13037	01/27/93
The Kroger Co	RF272–92096	01/26/93
O&G Industries, Inc	RF272–93822	
Town of Allenstown	RF272–83332	01/27/93
Town of Rye	RF272–83475	
Town of South Tuscon	RF272–83571	
City of Maple Grove	RF272–83582	
Town of Monroe Board of Education	RF272–81555	01/27/93
Unit Corp	RF272–16229	01/27/93

Unit Corp	RF272-16229	
Penrod Drilling Company	RF272-56208	
Penrod Drilling Company	RF272-56208	
United Township High School District #30	RF272-81556	01/28/93

Dismissals

The following submissions were dismissed:

Name	Case No.
Alfred Paul	RF304-13053
Andy M. Stoughton	RF321-16822
Atlantic Disposal Service, Inc	RF304-13481
Cornelius W. Ames, Jr. Service Station.	RF304-13054
Dan's Arco	RF304-13338
G.P.S. Enterprises, Inc	RF304-13476
Golden Guernsey Dairy Co	RF321-15057
Karry Texaco	RF321-13998
Lockridge Construction	RF300-17232
Lunsford Oil Co., Inc	RF300-15976
Murr's Grocery	RF300-13434
Ram Fuel Corp	RF300-16774
Ram Fuel Corp	RF300-16775
Schoolcraft and Outer Drive Gulf	RF300-17037
Schoolcraft and Telegraph Gulf	RF300-17038
Swifty's Food Store	RF300-18743
Wesco Petroleum Corp	RF304-3288
York Truck Rental, Inc	RF300-17822

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published looseleaf reporter system.

Dated: February 10, 1993.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 93-3693 Filed 2-16-93; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of proposed implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy announces proposed procedures for the disbursement of $302,541.89 (plus accrued interest) that Whitaker Oil Company remitted to the DOE pursuant to an Agreed Judgment entered into by the DOE and Whitaker. The OHA has tentatively determined the funds will be distributed in accordance with the DOE's special refund procedures, 10 CFR part 205, subpart V.

DATES: Comments must be filed in duplicate on or before March 19, 1993.

ADDRESSES: Comments should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All comments should conspicuously display a reference to Case Number LEF-0052.

FOR FURTHER INFORMATION CONTACT:

Richard W. Dugan, Associate Director, Stacy M. Crowell, Staff Analyst, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-2860 (Dugan); (202) 586-4921 (Crowell).

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy (DOE), 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The proposed Decision and Order sets forth the procedures that the DOE has tentatively formulated to distribute monies that have been remitted by Whitaker Oil Company to the DOE to settle possible pricing violations with respect to its sale of diesel fuel, kerosene, toluene, and xylene. The DOE is currently holding $302,541.89 in an interest-bearing escrow account pending distribution.

Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized. Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of the publication of this notice in the **Federal Register**, and should be sent to the address set forth at the beginning of this notice. All comments received will be available for public inspection between the hours of 1 p.m. and 5 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in room 1E-234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: February 10, 1993.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 93-3692 Filed 2-16-93; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-50753A; FRL-4187-2]

Receipt of an Application for an Experimental Use Permit for a Transgenic Plant Pesticide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On October 22, 1992, EPA received an application from the Monsanto Company for an EPA Experimental Use Permit (EUP) for a transgenic plant pesticide. On January 12, 1993, Monsanto submitted a request to amend their original EUP application. This is the second EUP application under the Federal Insecticide, Fungicide, and Rodenticide Act for testing with a plant that has been genetically-altered to produce a pesticide. The Agency has determined that this application may be of regional and national significance. Therefore, the Agency is soliciting public comments on this application.

DATES: Written comments must be received on or before March 19, 1993.

ADDRESSES: Comments, in triplicate, should bear the docket control number OPP-50753A and be submitted to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 1128, Crystal Mall #2, 1921 Jefferson Davis Highway, Crystal City, VA 22202.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. Written comments will be available for public inspection in Rm. 1128 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Phillip O. Hutton, Product

Manager (PM) 18, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 213, Crystal Mall #2, 1921 Jefferson Davis Highway, Crystal City, VA 22202, (703) 305–7690.

SUPPLEMENTARY INFORMATION: On October 22, 1992, an application for an EUP was received from Monsanto Company, 700 Chesterfield Village Parkway, St. Louis, Missouri 63198. The application was assigned EPA File Symbol 524–EUP–TO. Monsanto proposes to test the Colorado Potato Beetle (CPB) control protein, delta-endotoxin, derived from the soil microbe *Bacillus thuringiensis* subspecies *tenebrionis* (B.t.t.), as expressed in plants and tubers of several lines of potato cultivars. According to the application, CPB control protein, B.t.t. delta-endotoxin, will be present at no more than .01% of the total weight of the potato plants or tubers. Some of the potato cultivar lines will contain only the B.t.t. gene for mediating CPB resistance. Other potato cultivar lines have been modified to contain the B.t.t. gene and genes mediating CPB and Potato Virus Y (PVY) or Potato Leaf Roll Virus (PLRV) resistance.

Monsanto's January 12, 1993 amendment removes Hawaii as a test site. As a consequence, the overall acreage for this EUP is reduced from 88.5 acres to 87 acres. Withdrawing Hawaii as a test site will reduce the anticipated forty and one-half acres of CPB resistant plants to be planted to 39 acres; the 48 acres of CPB resistant potato tubers to be planted is unaltered. A maximum of 15,000 plants or tubers will be planted per acre, each weighing approximately 5.6 grams per plant and 60 grams per tuber. The total plant material, at planting, will contain a maximum of 129.3 grams B.t.t. protein, with levels rising to a maximum of 34.6 kilograms of B.t.t. protein at harvest.

Individual test sites range from one-fifth to 15 acres in size; however, the majority will be under 1 acre. Proposed test sites are located in the following 13 states: Colorado, Idaho, Maine, Maryland, Michigan, Montana, New York, North Dakota, Ohio, Oregon, Pennsylvania, Washington, and Wisconsin. Upon completion of testing, some potato plants and tubers will be collected and saved for future research, analyses, or plantings. All other plant material will be destroyed. Because no plants or tubers will be used for food or feed, no tolerances for this EUP are requested. The application proposes that the permit be issued for 1 year, beginning March 1, 1993, and ending March 30, 1994.

Monsanto has amended its labeling to state the following:

This package contains Colorado potato beetle resistant potato plants containing a *Bacillus thuringiensis* subspecies *tenebrionis* protein. Contains potato variety containing vector PV-STBTO____. For use only at an application site of a cooperator and in accordance with the terms and conditions of the Experimental Use Permit. This labeling must be in the possession of the user at the time of planting of the potato plants. Not for sale to any person other than a participant or cooperator of the EPA-approved Experimental Use Program. CAUTION: Keep Out of Reach of Children. Active Ingredient: *Bacillus thuringiensis* subspecies *tenebrionis* IR-22 protein toxin as produced in potato and the genetic material necessary for the production of this protein:...0.01%. On the second label the active ingredient is represented as, Active Ingredient: *Bacillus thuringiensis* subspecies *tenebrionis* IR-23 protein toxin as produced in potato and the genetic material necessary for the production of this protein:...0.01%. It is a violation of Federal law to use these plants in any manner inconsistent with this labeling. These plants contain *Bacillus thuringiensis* subspecies *tenebrionis* insecticidal protein and may only be used according to the protocols as included in the approved EUP program for evaluation of the control of the following insect:
Colorado Potato Beetle/*Leptinotarsa decemlineata*

Cooperators must have a copy of each applicable protocol prior to initiating any research with these plants. Plants should be planted at a maximum of 15,000 plants per acre depending on the site variety. Do not contaminate water, food or feed by storage and/or disposal. Store in cool dry place inaccessible to children. Any plants not used in these experiments must be returned to Monsanto or disposed of as specified in the field protocols. All plant material that is not saved for further research, analyses, or future plantings must be destroyed as specified in the field protocols. None of the plants or plant material may be sold or allowed to enter into commerce. Do not reuse bag. Discard in trash. Ensure that the bag is completely empty of plants before disposing in the trash.

Proposed EUP Program

The proposed EUP program will include the following five experiments designed to evaluate the performance of the expressed protein against the CPB: efficacy and agronomic evaluations; performance confirmation; population dynamics and resistance management. In addition, seed increase trials will be conducted in order to produce seed for future plantings. In keeping with acceptable agronomic practices for each region, fertilizer, herbicides, and fungicides will be used, if needed, to improve soil nutrient levels, and to control weeds and diseases. If CPB populations exceed economic threshold levels, additional insecticides will be applied in accordance with local integrated pest management (IPM) practices to meet the objectives of the experiment. Any conventional pesticides used in this EUP program will be applied according to each pesticide's application rate as specified on its label.

Upon review of the Monsanto application, any comments received in response to this notice and any other relevant information, EPA will decide whether to issue or deny the EUP. If issued, EPA will set conditions under which the experiments are to be conducted. Any issuance of an EUP by the Agency will be announced in the **Federal Register**.

A copy of the Monsanto EUP application deleted of all CBI is available for public inspection in the Public Docket Office at the address listed under the **ADDRESSES** unit.

Dated: January 29, 1993.

Lawrence E. Culleen,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 93–3594 Filed 2–16–93; 8:45 am]

BILLING CODE 6560–50–F

[OPP–50754; FRL–4180–8]

Experimental Use Permit; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correction.

SUMMARY: This document corrects an Experimental Use Permit (EUP), 524–EUP–73, published in the **Federal Register** of May 21, 1992 (57 FR 21653), to Monsanto Company. On page 21655, column 2, 2d full paragraph, line 18, the vector agent, the Ti plasmid, was incorrectly stated as "vector Pv-Cobko__" it should have read "vector Pv-Ghbko__."

FOR FURTHER INFORMATION CONTACT: By mail: Phillip O. Hutton, Product Manager (PM) 18, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 213, Crystal Mall 2, 1921 Jefferson Davis Highway, Crystal City, VA 22202, (703) 305–7690.

Dated: February 3, 1993.

Lawrence E. Culleen,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 93-3595 Filed 2-16-93; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1980, Public Law 96-511. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 632-6934.

Federal Communications Commission

OMB Control No.: 3060-0495.

Title: Regulation of International Common Carrier Services, CC Docket No. 91-360.

Expiration Date: 11/30/95.

Description: In the Report and Order in CC Docket No. 91-360, Regulation of International Common Carrier Services, adopted October 8, 1992, the Commission modified current FCC policy that treats "foreign-owned" U.S. common carriers as dominant in their provision of all international services to all foreign markets in favor of a policy that regulates U.S. international carriers, whether U.S. or foreign-owned, as dominant only on those routes where foreign affiliates have the ability to discriminate against nonaffiliated U.S. international carriers in the provision of access to bottleneck services and facilities. Rule § 63.01(r) requires all applicants seeking authority to provide international communications service under 47 U.S.C. 214 to submit information to permit the FCC to determine their proper regulatory status under the modified policy. Applicants are also required to submit certain information that will enable the Commission to expedite grant of their applications under streamlined grant procedures adopted in the Report and Order. The Report and Order also requires that any certificated carriers that is, or that becomes, affiliated with a foreign carrier notify the Commission within a specified timeframe of the acquisition of such interest and submit certain information and certifications with the notification. This information will assist the Commission in determining whether a change in regulatory status is warranted as a result of the foreign affiliation reported by the carrier.

OMB Control No.: 3060-0298.

Title: Tariffs (Other Than Tariff Review Plan)—part 61, Transport Rate Structure and Pricing, CC Docket No. 91-213 and Expanded Interconnection with Local Telephone Company Facilities, CC Docket 91-141.

Expiration Date: 10/31/94.

Description: In the Report and Order in CC Docket No. 91-213, Transport Rate Structure and Pricing, adopted September 17, 1992, the Commission adopted interim rate structure and pricing rules to govern local exchange carriers (LEC) charges for two years. The current equal charge rule prices all transport charges on a per-minute basis, resulting in significant overordering of LEC transport facilities. Furthermore, the equal charge rule is not sustainable in a competitive access environment, since competitive access providers can price similar services on a flat-rate basis. The interim rate structure and pricing approach adopted in the Report and Order is an improvement over the equal charge rule because it promotes more efficient use of LEC networks. Implementation of the interim transport plan will require changes in the LEC's current access rate structure and pricing rules. The LECs are required to file tariffs for initial transport rates. The information will be used by the Commission to ensure that the tariff rates to be paid by interexchange carriers for transport services are just, reasonable, and nondiscriminatory.

In the Report and Order in the Expanded Interconnection with Local Telephone Company Facilities proceeding, CC Docket No. 91-141, the Commission required Tier 1 LECs, except for Puerto Rico Telephone Company, to provide expanded opportunities for third-party interconnections with their interstate special access facilities. Tier 1 LECs are required to file tariffs for expanded interconnection for DS1 and DS3 services. The tariffs will be filed on 90 days public notice. Tier 1 LECs are required to file tariffs for expanded interconnection for other special access services upon request. The LECs must file tariffs covering both physical and collocation, including floor space charges, and, in specified circumstances, virtual collocation arrangements and make them generally available.

OMB Control No.: 3060-0526.

Title: Density Pricing Zone Plans, Expanded Interconnection with Local Telephone Company Facilities—CC Docket No. 91-141

Expiration Date: 11/30/95.

Description: In the Report and Order in CC Docket No. 91-141, Expanded Interconnection with Local Telephone Company Facilities, the Commission requires Tier 1 LECs to provide expanded opportunities for third-party interconnection with their interstate special access facilities. The LECs will be permitted to establish a number of rate zones within study areas in which expanded interconnection in operational. These LECs must file and obtain approval of their pricing plans which will be used by FCC staff to ensure that the tariff rates are just, reasonable, and nondiscriminatory pursuant to the Communications Act of 1934, as amended.

OMB Control No.: 3060-0206.

Title: Domestic Public Fixed Radio Services—Part 21.

Expiration Date: 09/30/94.

Description: Part 21 contains the technical and legal requirements for radio stations operating in the Domestic Public Fixed Radio Services. General requirements under part 21 are contained in subparts B, C and D. Miscellaneous requirements are found in subpart E. Special requirements for each service are provided in subparts G, I, J, and K. Special requirements for development authorizations are provided in subpart F. The information requested under part 21 is used by the Commission staff in carrying out its duties as set forth in sections 308 and 309 of the Communications Act of 1934, as amended, to determine the technical, legal and other qualifications of applicants to operate a station in the domestic fixed service. The information is also used to determine whether grant of an application will serve the public interest, convenience and necessity. The staff also uses this information to ensure that applicants and licensees comply with the ownership and transfer restrictions imposed by Section 310 of the Act.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93-3562 Filed 2-16-93; 8:45 am]

BILLING CODE 6712-01-M

[PR Docket No. 92-274; DA 93-115]

Private Land Mobile Radio Services; Western Pennsylvania Public Safety Plan

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Chief, Private Radio Bureau and the Chief Engineer released this Order accepting the Public Safety Radio Plan for Western Pennsylvania (Region 36). As a result of accepting the Plan for Region 36, licensing of the 821–824/866–869 MHz band in that region may begin immediately.

EFFECTIVE DATE: February 5, 1993.

FOR FURTHER INFORMATION CONTACT:

Betty Woolford, Private Radio Bureau, Policy and Planning Branch, (202) 632–6497.

SUPPLEMENTARY INFORMATION:

In the matter of Western Pennsylvania Public Safety Plan.

Order

Adopted: February 1, 1993.
Released: February 5, 1993.

By the Chief, Private Radio Bureau and the Chief Engineer:

1. On October 5, 1992, Region 36 (Western Pennsylvania) submitted its Public Safety Plan to the Commission for review. The Plan sets forth the guidelines to be followed in allotting spectrum to meet current and future mobile communications requirements of the public safety and special emergency entities operating in the Western Pennsylvania area.

2. The Western Pennsylvania Plan was placed on Public Notice for comments due on December 28, 1992 (57 FR 55532, November 25, 1992). The Commission received no comments in this proceeding.

3. We have reviewed the Plan submitted for Western Pennsylvania and find that it conforms with the National Public Safety Plan. The plan includes all the necessary elements specified in the Report and Order in Gen. Docket No. 87–112, 3 FCC Rcd 905 (1987), and satisfactorily provides for the current and projected mobile communications requirements of the public safety and special emergency entities in the Western Pennsylvania area.

4. Therefore, we accept the Western Pennsylvania Public Safety Radio Plan. Furthermore, licensing of the 821–824/866–869 MHz band in the Western Pennsylvania area may commence immediately.

Federal Communications Commission.

Ralph A. Haller,

Chief, Private Radio Bureau.

[FR Doc. 93–3316 Filed 2–16–93; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Maryland Port Administration, et al.; Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 800 North Capitol Street NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–200620–001.

Title: Maryland Port Administration/Hale Container Line, Inc. Terminal Agreement.

Parties:

Maryland Port Administration,
Hale Container Line, Inc. ("Hale").

Synopsis: This modification extends the current lease, which expires on February 13, 1993, to September 30, 1994; permits an additional extension not exceeding 6 months; and increases the charge for each loaded container carried by Hale's liner barge service.

Dated: February 10, 1993.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 93–3584 Filed 2–16–93; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License Revocations

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR part 510.

License Number: 2873
Name: Bernard J. McHale dba Bernard J. McHale Co.
Address: 2401 Lourance Blvd., Greensboro, NC 27407
Date Revoked: January 22, 1993
Reason: Surrendered license voluntarily.

License Number: 1185
Name: Seaway Forwarding Corporation and Danzas Seaway, Division of Seaway Forwarding Corporation
Address: 6900 Engle Rd., Ste. 11, Cleveland, OH 44130
Date Revoked: January 28, 1993
Reason: Failed to furnish a valid surety bond.

License Number: 1026–R
Name: John V. Carr & Son Corp. (NY)
Address: 1600 West Lafayette, Detroit, MI 48216
Date Revoked: February 3, 1993
Reason: Surrendered license voluntarily.

License Number: 986
Name: Albatross Shipping Company
Address: 2404 Government, Ocean Springs, MS 39564
Date Revoked: February 3, 1993
Reason: Failed to furnish a valid surety bond.

Bryant L. VanBrakle,

Director, Bureau of Tariffs, Certification and Licensing.

[FR Doc. 93–3613 Filed 2–16–93; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Anita Herren, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 9, 1993.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. Anita Herren, Haskell, Texas, to acquire an additional 3.52 percent for a total of 10.66 percent; Robert W. Herren Marital Trust, Haskell, Texas, to acquire an additional 3.85 percent for a total of 11.68 percent; and Robert W. Herren

Residuary Trust, Haskell, Texas, to acquire an additional 7.95 percent for a total of 24.06 percent of the voting shares of Haskell Bancshares, Inc., Haskell, Texas, and thereby indirectly acquire Haskell National Bank, Haskell, Texas.

Board of Governors of the Federal Reserve System, February 10, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–3638 Filed 2–16–93; 8:45 am]

BILLING CODE 6210–01–F

Iowa National Bancshares Corp.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has 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.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 12, 1993.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Iowa National Bancshares Corp., Waterloo, Iowa; to acquire MidAmerica Financial Corporation, Waterloo, Iowa, and thereby engage in operating a savings association pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 10, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–3639 Filed 2–16–93; 8:45 am]

BILLING CODE 6210–01–F

Lincoln Trail Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 12, 1993.

A. Federal Reserve Bank of Chicago

(David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Lincoln Trail Bancshares, Inc., Taylorville, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Palmer State Bank, Taylorville, Illinois.

2. Valley Financial Corp., Caro, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of Community Bank, Caro, Michigan, formerly known as Akron State Bank, Caro, Michigan.

Board of Governors of the Federal Reserve System, February 10, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–3640 Filed 2–16–93; 8:45 am]

BILLING CODE 6210–01–M

FEDERAL TRADE COMMISSION

[Dkt. 9240]

American Family Publishers; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, a New Jersey-based seller of magazine subscriptions from misrepresenting that an attorney is actively and substantially involved in the collection of any debt, and that legal action with respect to any alleged debt is about to be, or will be, initiated. Respondent also is prohibited from failing to instruct any debt collector it retains, engages or employs to comply fully with all the provisions of the Fair Debt Collection Practices Act.

DATES: Complaint issued April 16, 1990. Order issued January 21, 1993.[1]

FOR FURTHER INFORMATION CONTACT: David Medine or Roger Fitzpatrick, FTC/S–4429, Washington, DC 20580. (202) 326–3224 or 326–3172.

SUPPLEMENTARY INFORMATION: On Tuesday, July 21, 1992, there was published in the **Federal Register**, 57 FR 32220, a proposed consent agreement with analysis In the Matter of American Family Publishers, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,

Secretary.

[FR Doc. 93-3680 Filed 2-16-93; 8:45 am]

BILLING CODE 6750-01-M

[Dkt. C-3413]

Citicorp Credit Services, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent Order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a New York-based processor of credit-card transactions to determine each month whether the chargeback rate for each of its merchants exceeds a certain percentage of all credit-card transactions for two of the preceding three months. The respondent is required to stop processing the credit-card sales of merchants with excessive chargeback rates or determine whether each merchant's chargebacks are the result of fraudulent, deceptive or unfair activity relating to the sale, advertising, promotion, or distribution of goods or services to consumers, and if so, to stop processing credit-card transactions for the merchant at the point.

DATES: Complaint and Order issued January 29, 1993.[1]

FOR FURTHER INFORMATION CONTACT: David Medine, FTC/S-4429, Washington, DC 20580. (202) 326-3224.

SUPPLEMENTARY INFORMATION: On Wednesday, November 25, 1992, there was published in the **Federal Register** 57 FR 55534, a proposed consent agreement with analysis In the Matter of Citicorp Credit Services, Inc., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,

Secretary.

[FR Doc. 93-3678 Filed 2-16-93; 8:45 am]

BILLING CODE 6750-01-M

[Dkt. C-3414]

General Electric Co.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, a New York-based manufacturer of lighting products from misrepresenting the relative light output or wattage of the bulbs, and from representing without certain qualifications relative energy cost savings or any environmental benefit for its bulbs.

DATES: Complaint and Order issued January 29, 1993.[1]

FOR FURTHER INFORMATION CONTACT: Joel Winston, FTC/S-4002, Washington, DC 20580. (202) 326-3153 or Phoebe Morse, Boston Regional Office, Federal Trade Commission, 10 Causeway Street, room 1184, Boston, MA 02222-1073. (617) 565-7240.

SUPPLEMENTARY INFORMATION: On Wednesday, November 25, 1992, there was published in the **Federal Register**, 57 FR 55537, a proposed consent agreement with analysis In the Matter of General Electric Company, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,

Secretary.

[FR Doc. 93-3679 Filed 2-16-93; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue NW., Washington, DC 20580.

[Dkt. C-3412]

The Isaly Klondike Co.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, a Florida-based, frozen dessert bar corporation from misrepresenting the amount of fat, any other nutrient or ingredient, or calories in any of its frozen food products in the future. In addition, the order prohibits the respondent from misrepresenting the effect of any frozen food product on serum cholesterol levels or the risk of heart disease through the use of terms such as "low in cholesterol" or in any other manner.

DATES: Complaint and Order issued January 28, 1993.[1]

FOR FURTHER INFORMATION CONTACT: Robert Cheek, FTC/S-4002, Washington, DC 20580. (202) 326-3045.

SUPPLEMENTARY INFORMATION: On Tuesday, April 21, 1992, there was published in the **Federal Register**, 57 FR 14577, a proposed consent agreement with analysis In the Matter of the Isaly Klondike Company, for the purpose of soliciting pubic comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52)

Donald S. Clark,

Secretary.

[FR Doc. 93-3677 Filed 2-16-93; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580.

GENERAL SERVICES ADMINISTRATION

Small Business Competitiveness Demonstration Program; Plan for Substitution of Categories in Targeted Industry Categories

AGENCY: Office of Small Disadvantaged Business Utilization, GSA.

ACTION: Notice.

SUMMARY: This notice informs the public of GSA's action to delete two of its original Targeted Industry Categories under the Small Business Competitiveness Demonstration Program and to substitute two new categories. This action is in coordination with Public Law 102–366, which extended the Small Business Competitiveness Demonstration Program for an additional four years.

ADDRESSES: Comments should be addressed to James H. Higgs, General Services Administration, Office of Small and Disadvantaged Business Utilization, room 6024, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Mr. James H. Higgs, (202) 501–1155.

SUPPLEMENTARY INFORMATION: Title VII of the "Business Opportunity Development Reform Act of 1988", Public Law 100–656, established the Small Business Competitiveness Demonstration Program. Under that program, in May 1989, GSA targeted ten industries for the expansion of Federal contracting opportunities for small businesses where opportunities historically had been low despite sufficient numbers of small business contractors in the economy. Public Law 102–366 extended the Small Business Competitiveness Demonstration Program through December 31, 1996, and allowed agencies to substitute new targeted industries for any of the original industry categories targeted for the Program in which proposed goals were not attained. In two of GSA's targeted industries there has been little or no small business participation. Therefore a substitution of targeted industries is being made. The categories identified by Product Service Code PSC R707 (Contract Procurement and Acquisition Support Services) and PSC 6840 (Pest Control Agents and Disinfectants) are replaced by PSC R607 (Word Processing and Typing Services) and PSC S206 (Guard Services).

GSA's Plan To Expand Small Business Participation in 10 Industry Categories

GSA has 12 Business Service Centers located in major metropolitan cities, which were established to assist and promote small businesses, as well as other concerns interested in doing business with GSA and other Government agencies. GSA plans to increase small business participation in the 10 industry categories selected through its outreach efforts, which include the following:

—Participating in procurement conferences, seminars, workshops, etc. sponsored by various members of congress, state and local Governments, Chamber of Commerce and trade organizations.

—Working closely with the Small Business Administration, Minority Business Development Agency, Department of Defense and the remaining agencies participating in the Demonstration Program.

—Counseling business persons interested in doing business with GSA and other Government agencies.

Dated: February 4, 1993.

Mirinda Jackson,

Acting Director, Office of Small and Disadvantaged Business Utilization.

[FR Doc. 93–3675 Filed 2–16–93; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 76G-0346]

Olin Chemicals Corp.; Withdrawal of GRAS Affirmation Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of a petition from Olin Chemicals Corp., requesting that the agency affirm that calcium hypochlorite as a source of 25 parts per million (ppm) available chlorine for use as a sanitizing agent in the treating or washing of fish is generally recognized as safe (GRAS).

FOR FURTHER INFORMATION CONTACT: Andrew D. Laumbach, Center for Food Safety and Applied Nutrition (HFS–217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9519.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 5, 1976 (41 FR 43940), FDA published a notice announcing that a petition (GRASP 3G0024) had been filed by Olin Chemicals Corp., 120 Lone Ridge Rd., Stamford, CT 06904. The petition asked that the agency affirm that calcium hypochlorite as a source of 25 ppm available chlorine for use as a sanitizing agent in the treating or washing of fish is GRAS.

On June 10, 1977, FDA asked the firm for additional data to support the petition. The last correspondence from the petitioner was a letter dated December 28, 1977. This letter did not respond to the agency's request for additional information to affirm that the petitioned use of calcium hypochlorite is GRAS. Moreover, the petitioner has submitted no further information or data to the agency.

On October 6, 1992, the agency sent a letter to the firm again requesting the additional data and asking for a statement of the firm's intent with regard to the petition. FDA's letter stated that if the requested information could not be submitted within 30 days of the date of the letter, then the petition should be withdrawn. Otherwise, the agency would proceed to publish a notice in the **Federal Register** to withdraw or deny the petition. More than 60 days have passed since the letter was sent, and the firm has not responded. Therefore, the agency is announcing that it considers this petition to be withdrawn by the firm, without prejudice to a future filing, in accordance with 21 CFR 171.7(b).

Dated: January 27, 1993.

Jerry Burke,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 93–3558 Filed 2–16–93; 8:45 am]

BILLING CODE 4160–01–F

Health Resources and Services Administration

"Low Income Levels" for Health Professions and Nursing Programs

The Health Resources and Services Administration (HRSA) is updating income levels used to identify a "low income family" for the purpose of providing training for individuals from disadvantaged backgrounds under various health professions and nursing programs included in titles VII and VIII of the Public Health Service Act (the Act).

The Department periodically publishes in the **Federal Register** low income levels used by the Public Health Service for grants and cooperative agreements to institutions providing training for individuals from disadvantaged backgrounds. A "low income level" is one of the factors taken into consideration to determine if an individual qualifies as a disadvantaged student for purposes of health professions and nursing programs.

The programs under the Act that use "low income levels" as one of the factors in determining disadvantaged backgrounds include the Health Careers Opportunity Program, section 740 (previously section 787), the Program of Financial Assistance for Disadvantaged Health Professions Students, section 740(a)(2)(F) (previously section 787(b)), and Nursing Education Opportunities for Individuals from Disadvantaged Backgrounds, section 827. Loans to Disadvantaged Students, section 724 (previously section 740(c)), Scholarships for Health Professions Students from Disadvantaged Backgrounds, section 737 (previously section 760), Disadvantaged Health Professions Faculty Loan Repayment and Fellowships Program, section 738 (previously section 761) were added to title VII by the Disadvantaged Minority Health Improvement Act of 1990 (Pub. L. 101–527) and are also using the low income levels. Other factors used in determining "disadvantaged backgrounds" are included in individual program regulations and guidelines.

Health Careers Opportunity Program (HCOP), Section 740

Awards grants to accredited schools of medicine, osteopathic medicine, public health, dentistry, veterinary medicine, optometry, pharmacy, allied health, podiatric medicine, chiropractic and public or nonprofit private schools which offer graduate programs in clinical psychology, and other public or private nonprofit health or educational entities to assist individuals from disadvantaged backgrounds to enter and graduate from health professions schools.

Financial Assistance for Disadvantaged Health Professions Students (FADHPS), Section 740(a)(2)(F)

Awards grants to accredited schools of medicine, osteopathic medicine, and dentistry to provide financial assistance to individuals from disadvantaged backgrounds who are of exceptional financial need, to help pay for their health professions education. The provision of these scholarships shall be subject to section 795 relating to residency training and practice in primary health care.

Nursing Education Opportunities for Individuals From Disadvantaged Backgrounds, Section 827

Awards grants to accredited schools of nursing and other public or nonprofit private entities to meet costs of special projects to increase nursing education opportunities for individuals from disadvantaged backgrounds.

Loans to Disadvantaged Students, Section 724

Awards are made to certain accredited schools of medicine, osteopathic medicine, dentistry, optometry, pharmacy, podiatric medicine, and veterinary medicine for financially needy students from disadvantaged backgrounds.

Scholarships for Health Professions Students From Disadvantaged Backgrounds, Section 737

Awards grants to schools of medicine, nursing, osteopathic medicine, dentistry, pharmacy, podiatric medicine, optometry, veterinary medicine, allied health, or public health, or schools that offer graduate programs in clinical psychology for the purpose of assisting such schools in providing scholarships to individuals from disadvantaged backgrounds who enrolled (or are accepted for enrollment) as full-time students.

Disadvantaged Health Professions Faculty Loan Repayment and Fellowship Program, Section 738

Awards grants to repay the health professions education loans of disadvantaged health professionals who have agreed to serve for at least 2 years as a faculty member of a school of medicine, nursing, osteopathic medicine, dentistry, pharmacy, podiatric medicine, optometry, veterinary medicine, public health, or a school that offers a graduate program in clinical psychology. Section 738 allows loan repayment only for an individual who has not been a member of the faculty of any school at any time during the 18-month period preceding the date on which the Secretary receives the request of the individual for repayment contract (i.e., "new" faculty).

The following income figures were taken from low income levels published by the U.S. Bureau of the Census, using an index adopted by a Federal Interagency Committee for use in a variety of Federal programs. That index includes multiplication by a factor of 1.3 for adaptation to health professions and nursing programs which support training for individuals from disadvantaged backgrounds. The income figures have been updated to reflect increases in the Consumer Price Index through December 31, 1992.

Size of parents family [1]	Income level [2]
1	$9,419
2	12,202
3	14,523
4	18,596
5	21,930
6 or more	24,648

[1] Includes only dependents listed on Federal income tax forms.

[2] Rounded to the nearest $100. Adjusted gross income for calendar year 1992.

Dated: February 9, 1993.

Robert G. Harmon,

Administrator.

[FR Doc. 93–3559 Filed 2–16–93; 8:45 am]

BILLING CODE 4160–15–M

Agency for Toxic Substances and Disease Registry

ATSDR-Community Public Health Assessment Workshop; Meeting

The Agency for Toxic Substances and Disease Registry (ATSDR) announces the following meeting.

Name: ATSDR-Community Public Health Assessment Workshop.

Times and Dates: 5 p.m.–7 p.m., March 24, 1993; 8 a.m.–5 p.m., March 25, 1993; 8 a.m.–12 noon, March 26, 1993.

Place: Catamaran Resort Hotel, 3999 Mission Boulevard, San Diego, California 92109 (619/488–1081).

Status: Open to the public for observation and participation, limited only by the space available. The meeting room accommodates approximately 200 people.

Matters To Be Considered: The meeting will convene a group of interested parties to discuss the ATSDR Public Health Assessment process. The ATSDR Public Health Assessment is the evaluation of data and information on the release of hazardous substances into the environment in order to assess any current or future impact on public health, develop health advisories or other recommendations, and identify studies or actions needed to evaluate and mitigate or prevent human health effects. The group will consider such areas as the Public Health Assessment definition and purpose, its scope and limitations, how it initiated, the roles of ATSDR staff, ATSDR-public interaction and community involvement, the steps and activities in a public health assessment, and possible follow-up health actions.

Contact Person for More Information: Chris Schmidt, Division of Health Assessment and Consultation, ATSDR (MS E32), 1600 Clifton Road NE., Atlanta, Georgia 30333, telephone 404/639–0631.

Dated: February 9, 1993.

Elvin Hilyer,

Associate Director for Policy Coordination.

[FR Doc. 93–3602 Filed 2–16–93; 8:45 am]

BILLING CODE 4160–70–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-93-3486; FR-3288-N-03]

Amendment to NOFA for Technical Assistance Planning Grants for Resident Groups, Community Groups, Community-Based Nonprofit Organizations (CBOs), and Resident Councils (RCs) Under the Low Income Housing Preservation and Resident Homeownership Act of 1990

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

ACTION: Amendment to notice of funding availability.

SUMMARY: This notice amends the NOFA published at 57 FR 40570 (September 3, 1992) and amended at 57 FR 56929 (December 1, 1992), to make the Phase II eligibility requirements under the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRHA) comparable to those under the Emergency Low Income Housing Preservation Act of 1987 (ELIHPA). Under ELIHPA, an applicant is eligible to apply for Phase II funds if an owner has filed an expression of interest in working with the applicant group, even if the owner has not formally put the project up for sale.

In contrast, by regulation a LIHPRHA owner must wait until after receiving from HUD valuation information derived from the appraisal process before the owner submits a Second Notice of Intent to place its project up for sale. However, the owner may know well before that time that it wishes to sell the project. Unless technical assistance is made available for the LIHPRHA priority purchasers targeted by this NOFA prior to the Second Notice of Intent, these potential purchasers may be disadvantaged technically when the project officially becomes available for sale. Availability of technical assistance also will up the sale process by allowing a grantee to begin exploring purchase options before an owner's filing of the Second Notice of Intent.

The application submission requirements have been amended accordingly, to incorporate both this amendment and the previous amendment to the NOFA.

FOR FURTHER INFORMATION CONTACT: Kevin J. East, Director, Preservation Division, Department of Housing and Urban Development, room 6284, 451 Seventh Street, NW., Washington, DC 20410; telephone (202) 708-2300. To provide service for persons who are hearing- or speech-impaired, this number may be reached via TDD by dialing the Federal Information Relay Service on 1-800-877-TDDY (1-800-877-8339) or 202-708-9300. (Except for the TDD number, telephone numbers are not toll free).

SUPPLEMENTARY INFORMATION: Accordingly, FR Doc. 92-21232, published at 57 FR 40570 (September 3, 1992) and amended at 57 FR 56929 (December 1, 1992), is further amended to:

(1) On page 40571, paragraph I.D.2 is revised to read as follows:

I. Purpose and Substantive Description

* * * * *

D. Phases to be Funded

* * * * *

(2) *Phase II—Expression of Interest and Development of Purchase Offer.* After the owner files a Second Notice of Intent to sell under LIHPRHA or evidences in writing a commitment to sell under ELIHPA, an eligible applicant that files an acceptable application may receive up to $50,000 to develop an expression of interest and submit a purchase offer. An applicant shall be considered eligible if it has completed all tasks required of a Phase I applicant and it meets the other requirements specified in Section I.E., Eligibility, of this NOFA. If an owner files an Initial Notice of Intent under LIHPRHA and the applicant is otherwise eligible for Phase II funding, the applicant shall be eligible to apply for Phase II funds before the owner files a Second Notice of Intent, if the owner also files an expression of interest in working with the applicant group towards a resident-supported purchase. In this case, up to 50% of the funds awarded for a Phase II grant under LIHPRHA may be disbursed before the owner's submission of a Second Notice of Intent to sell.

For those applicants who intend to develop a Resident Homeownership Plan, the Resident Council formed must work with a HUD-approved public agency or a public or private nonprofit organization to develop a viable and workable homeownership plan. The funds requested must be at reasonable levels and for a reasonable mix of activities, so that the applicant will complete all tasks necessary to qualify for Phase III funding. Funds may be used for:

* Submission of an expression of interest and the preparation of a bona fide offer;

* Architectural and engineering services, as necessary to supplement the capital needs assessment developed by HUD;

* Financial and legal services;

* Training for the board and members of the purchasing entity; and

* Related activities.

* * * * *

(2) On page 40573, paragraphs III.B(2)(a) and III.B(2)(b) are revised to read as follows:

III. Checklist of Application Submission Requirements

* * * * *

B. Submission Requirements

* * * * *

(2) *For LIHPRHA properties:*

(a) *Phase I*—For any application requesting only Phase I funding, either evidence that an Initial Notice of Intent to sell has been filed, or evidence that an Initial Notice of Intent to extend has been filed and that the owner has submitted an expression of interest in working with the applicant towards a resident-supported purchase of the property. For an application requesting both Phase I and Phase II funding, either evidence that a Second Notice of Intent to sell has been filed, or evidence that the owner has filed both an Initial Notice of Intent and an expression of interest in working with the applicant towards a resident-supported purchase of the property.

(b) *Phase II*—For an application requesting any Phase II funding, either evidence that an owner has filed a Second Notice of Intent to sell, or evidence that the owner has filed both an initial Notice of Intent and an expression of interest in working with the applicant towards a resident-supported purchase. The applicant also must demonstrate completion of prerequisite tasks and the ability to perform the Phase II work tasks. Work tasks must be clearly and reasonably stated and must be supported with reasonable cost estimates directly related to each task.

* * * * *

Authority: 12 U.S.C. 1715 *et seq.*, 42 U.S.C. 3535(d).

Dated: February 10, 1993.

James E. Schoenberger,

Associate General Deputy, Assistant Secretary of Housing.

[FR Doc. 93-3571 Filed 2-16-93; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Geological Survey

Freedom of Information Act, Affirmative Disclosure Provisions

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice.

This notice is published in accordance with the provisions of 5 U.S.C. 552 (a)(1) and (a)(2). It provides a brief history of the U.S. Geological Survey (USGS), identifies some primary responsibilities, describes the central and field organization, provides sources for obtaining specific information, and lists indexes on materials in which the public may have interest. This notice updates information previously published in the **Federal Register** by the Department of the Interior (51 FR 39430, October 28, 1986) regarding the USGS.

History

The USGS was established by the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), which provided for "the classification of public lands and the examination of the geological structure, mineral resources, and products of the national domain." The Act of September 5, 1962 (76 Stat. 427; 43 U.S.C. 31(b)), expanded this authorization to include such examinations outside the national domain. Topographic mapping and chemical and physical research were recognized as an essential part of the investigations and studies authorized by the Act of March 3, 1879, and specific provision was made for them by Congress in the Act of October 2, 1888 (25 Stat. 505, 526).

Provision was made in 1894 for gaging the streams and determining the water supply of the United States (28 Stat. 398). Authorizations for publication, sale, and distribution of material prepared by the USGS are contained in several statutes (43 U.S.C. 41–45; 44 U.S.C. 260–262).

Under the Organic Act of 1879 (43 U.S.C. 31(a)) and the Disaster Relief Act of 1974 (Pub. L. 93–288), the USGS has general and broad authority to investigate earthquake, volcano and landslide hazards, to notify appropriate Federal, State, and local authorities of these hazards, and, whenever possible, provide information for timely or effective warning of potential disasters. The Director of the USGS through the Secretary of the Interior has been delegated the responsibility to issue disaster warnings for earthquakes, volcanic eruptions, landslides, and other geologic catastrophes. In the 1980 reauthorization of the Earthquake Hazards Reduction Act of 1977 (Pub. L. 96–472), the Director of the USGS also was given the authority to issue an earthquake advisory or prediction as deemed necessary.

Primary Responsibilities

The U.S. Geological Survey's primary responsibilities are: Investigating and assessing the Nation's land, water, energy, and mineral resources; conducting research on global change; investigating natural hazards such as earthquakes, volcanoes, landslides, floods and droughts; and conducting the National Mapping Program. To attain these objectives, the USGS prepares maps and digital cartographic data; collects and interprets data on energy and mineral resources; conducts nationwide assessments of the quality, quantity, and use of the Nation's water resources; performs fundamental and applied research in the sciences and techniques involved; and publishes and disseminates the results of its investigations in thousands of new maps and reports each year.

General Course and Method by Which Functions Are Channeled)—Description of Organization

Activities of the U.S. Geological Survey are carried out through three major program divisions—National Mapping Division, Geologic Division, and the Water Resources Division, and two support divisions—the Administrative Division and the Information Systems Division. The Director and Associate Director provide supervision with the assistance of the following officials:

- Assistant Director for Engineering Geology
- Assistant Director for Programs
- Assistant Director for Research
- Assistant Director for Intergovernmental Affairs
- Public Affairs Officer
- Congressional Liaison Officer
- Assistant to the Director for Human Resources Management
- Bureau Equal Employment Manager

The headquarters (National Center, 12201 Sunrise Valley Drive, Reston, VA 22092) promulgates national policy and provides overall direction to the USGS regional offices (listed below) and about 200 field offices to accomplish the USGS mission.

Regional Offices of the USGS

Eastern Region—109 National Center, Reston, VA 22092; Phone, 703–648–4427.

States of Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin; and Virgin Islands.

Central Region—Box 25046, MS 911, Denver Federal Center, Denver CO 80225; Phone, 303–236–5438.

Arkansas, Colorado, Iowa, Kansas, Louisiana, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, Wyoming.

Western Region—345 Middlefield Road, MS 144, Menlo Park, CA; Phone, 415–329–4002.

States of Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, and Washington; Guam, Samoa, and other Pacific Islands.

For further information, contact the Public Affairs Officer, U.S. Geological Survey, Department of the Interior, 119 National Center, Reston, VA 22092. Phone, 703–648–4460.

Sources of Information

The public regulations of the USGS pertaining to administering programs authorized by the Water Resources Research Act of 1984 are published in title 30, chapter IV of the Code of Federal Regulations.

Reading Rooms

Facilities for examination of reports, maps, publications, the administrative staff manual (Survey Manual) of the USGS and a wide selection of general Earth Science information resources and historical documents are located at the U.S. Geological Survey's libraries at the National Center, 12201 Sunrise Valley Drive, Reston, VA 22092; Denver Federal Center, Bldg. 20, Box 25046, Denver, CO 80225; 345 Middlefield Road, Menlo Park, CA 94025; and 2255 North Gemini Drive, Flagstaff, AZ 86001; and from the U.S. Geological Survey's network of Earth Science Information Centers (see General Inquiries). Maps, aerial photographs, geodetic control data or index material and cartographic data in digital form may be examined at the following Earth Science Information Centers: Room 1C402, 507 National Center, 12201 Sunrise Valley Drive, Reston, VA 22092; Mid-Continent Mapping Center, 1400 Independence Road, Rolla, MO 65401; Stennis Space Center, Bldg. 3101, Bay St. Louis, MS 39529; Denver Federal Center, Bldg. 25, Box 25046, Denver, CO 80225; 345 Middlefield Road, Menlo

Park, CA 94025; 4230 University Drive, Anchorage, AK 99508–4664. Spacecraft and aircraft remote sensor data may be examined at the EROS Data Center, Sioux Falls, SD 57198, phone, 605–594–6151.

Contracts, Grants, and Cooperative Agreements

Write to the Administrative Division, Office of Procurement and Contracts, 205 National Center, 12201 Sunrise Valley Drive, Reston, VA 22092. Phone, 703–648–7373.

Products

The U.S. Geological Survey produces a wide range of products including maps, geographic data, and publications that range from microfilmed technical reports to CD–ROM discs to casebound books. Information about the U.S. Geological Survey's technical and scientific reports, maps, and CD–ROMs are described in the monthly listing "New Publications of the Geological Survey" which can be ordered from the U.S. Geological Survey's Branch of Distribution, Box 25286, Denver Federal Center, Denver, CO 80225. Phone, 303–236–7477.

In addition, an Earth Science Data Director (ESDD) developed by the U.S. Geological Survey, is a system for readily determining the availability of specific earth science and natural resource data. It offers computer access to a repository of information about earth science and natural resource data bases. To contribute information or become a user of ESDD, call the ESDD Project Manager at 703–648–7112, or write to: ESDD Project Manager, U.S. Geological Survey, 801 National Center, Reston, VA 22092.

Maps

Maps are sold by the Branch of Distribution, U.S. Geological Survey, Box 25286, Denver Federal Center, Denver, CO 80225, phone, 303–236–7477; as well as by the Earth Science Information Centers (see General Inquiries).

Information about the status of U.S. Geological Survey mapping in any State and availability of maps by other Federal and State agencies can be obtained from the Reston Earth Science Information Center, 507 National Center, Reston, VA 22092. Phone, 703–860–6045 or 800–USA–MAPS.

Geographic Data

Geographic data include satellite photographs and images, aerial photographs, and digital data in a variety of formats. Information for purchase of these data can be obtained from the Earth Science Information Centers (see General Inquiries).

Information about the variety and availability of geographic data produced by the U.S. Geological Survey can be obtained from the Earth Science Information Center, 507 National Center, Reston, VA 22092. Phone 703–860–6045 or 800–USA–MAPS.

Publications

Book Publications

Book publications, including Professional Papers, Bulletins, and Circulars are sold by the U.S. Geological Survey's Branch of Distribution, Denver Federal Center, Bldg. 810, Denver, CO 80225. Phone, 303–236–7476.

General Interest Publications

Single copies of a variety of non-technical leaflets, technical reports, books, and special interest publications on earth science subjects and U.S. Geological Survey activities are available to the public upon request from the U.S. Geological Survey, Branch of Distribution, Denver Federal Center, Bldg. 810, Box 25286, Denver, CO 80225, phone, 303–236–7477. General Interest Publications are described in the two leaflets: "General Interest Publications of the United States Geological Survey," and "Cartographic Handouts."

Open-File Reports

Open-file reports, in the form of microfiche and black-and-white paper copies, diskettes, and CD–ROMs, are sold by the U.S. Geological Survey, Open-File Reports, Earth Science Information Center-Lakewood, Box 25425, Lakewood, CO 80225. Phone 303–236–7476.

General Inquiries

A network of 11 Earth Science Information Centers responds to requests for earth science information that are made in person, by mail, or by telephone, and assists in the selection and ordering of all U.S. Geological Survey products:

4230 University Drive, Anchorage, AK 99508–4664. Phone 907–786–7011.
New Federal Bldg., 101 12th Ave., Box 12, Fairbanks, AK 99701. Phone 907–456–0244.
Room 3128, Bldg. 3, 345 Middlefield Rd., Menlo Park, CA 94025. Phone 415–329–4309.
Denver Federal Center, Box 25046, Denver, CO 80294. Phone 303–236–5829.
Department of the Interior Bldg., 1849 C St. NW., Wash., DC 20240. Phone 202–208–4047.
Bldg. 3101, Stennis Space Center, Bay St. Louis, MS 39529. Phone 601–688–3544.
1400 Independence Rd., MS 231, Rolla, MO 65401. Phone 314–341–0851.
8105 Federal Bldg., 125 S. State St., Salt Lake City, UT 84138. Phone 801–524–5652.
507 National Center, Room 1C402, Reston, VA 22092. Phone 703–648–6045.
678 U.S. Courthouse, W. 920 Riverside Ave., Spokane, WA 99201. Phone 509–456–2524.
EROS Data Center, Sioux Falls, SD 57198. Phone 605–594–6151.

Water Data and Information

Water data and information are provided by the National Water Information Clearinghouse (NWIC) which is a new and emerging program designed to manage and coordinate the exchange of water resources information with Federal, State, and local governmental agencies, academia, industry, and the general public. Important Clearinghouse activities include outreach and training, information/data dissemination, including water-data indexing and literature abstracting; educational programs; and data system modernization. Two Clearinghouse pilot centers are currently (FY 1993) operational in Reston, Virginia, and Sacramento, California. As an initial step towards the operation of the NWIC, the USGS has established a nationwide toll-free number, 1–800–426–9000, to provide easy access to users.

Information is also available from about 210 Water Resources Division district, sub-district, and field offices across the country. In addition, the Hydrologic Information Unit functions as the focal point for reporting current hydrologic conditions and extreme hydrologic events for the USGS.

News Media Services

The Public Affairs Office of the U.S. Geological Survey responds to news media inquiries, arranges interviews, and prepares news and feature releases and related visual material pertaining to USGS programs and activities for news media use. The headquarters office is located at 119 National Center, 12201 Sunrise Valley Drive, Reston, VA 22092. Phone 703–648–4460. News media service also is available in Menlo Park, CA, providing news media service for the eight far western states. Phone 415–329–4000.

Films

Sound/color 16mm earth sciences-related films are available for short-term loan to the general public. Film inquiries should be addressed to the Branch of Visual Services, U.S. Geological Survey, 790 National Center, 12201 Sunrise Valley Drive, Reston, VA 22092, Phone 703–648–4357.

Availability of Indexes

By notice in the **Federal Register** (41 FR 37633, September 7, 1976), the U.S. Geological Survey is exempt from the quarterly or more frequent publication and dissemination of indexes to its administrative staff manual. Notice of the availability of the index of the USGS administrative staff manual and other material is published in the **Federal Register's** "Availability of Agency Index Material."

Dated: February 8, 1993.

Dallas L. Peck,

Director.

[FR Doc. 93–3555 Filed 2–16–93; 8:45 am]

BILLING CODE 4310–31–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–3 (Sub-No. 107X)]

Missouri Pacific Railroad Co.—Abandonment Exemption—Near Abilene in Taylor County, TX

Missouri Pacific Railroad Company (MP) has filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abondonments* to abandon its 3-mile A&S Branch between milepost 4.00 and milepost 7.00 near Abilene, in Taylor County, TX.

MP has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7, 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to government agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on March 18, 1993, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues.[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29[3] must be filed by February 26, 1993. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by March 8, 1993, with Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any pleading filed with the Commission should be sent to MP's representatives: Joseph D. Anthofer and Jeanna L. Regier, 1416 Dodge St., room 830, Omaha, NE 68179.

If the notice contains false or misleading information, the exemption is void *ab initio.*

MP has filed an environmental report which addresses the abandonment's effects, if any, on the environmental and historic resources. The Section of Energy and Environment (SEE) will issue an environmental assessment (EA) by February 19, 1993. Interested persons may obtain a copy of the EA by writing to SEE (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEE, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA is available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: February 8, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–3659 Filed 2–16–93; 8:45 am]

BILLING CODE 7035–01–M

[1] A stay will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Commission's Section of Energy and Environment in its independent investigation) cannot be made before the effective date of the notice of exemption. See Exemption of Out-of Service Rail Lines, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use request as long as it retains jurisdiction to do so.

DEPARTMENT OF LABOR

Labor Advisory Committee for Trade; Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended), notice is hereby given of a meeting of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

DATE, TIME AND PLACE: March 10, 1993, 2 pm–4 pm, Rm. S–4215 A, B&C, Department of Labor Building, 200 Constitution Ave., NW., Washington, DC 20210.

PURPOSE: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552(c)(1). The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

FOR FURTHER INFORMATION CONTACT: Fernand Lavallee, Director, Trade Advisory Group, Phone: (202) 219–4752.

Signed at Washington, DC, this 9th day of February, 1993.

Jorge Perez-Lopez,

Acting Deputy Under Secretary International Affairs.

[FR Doc. 93–3689 Filed 2–16–93; 8:45 am]

BILLING CODE 4510–28–M

Employment and Training Administration

[TA–W–28,209]

Allied Signal; Bendix Friction Materials Division, Green Island, NY; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on January 19, 1993 in response to a worker petition which was filed on behalf of workers at Allied Signal, Bendix Friction Materials Division, Green Island, New York.

An active certification covering the petitioning group of workers remains in effect (TA–W–25,766). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 5th day of February.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–3687 Filed 2–16–93; 8:45 am]

BILLING CODE 4510–30–M

[TA-W-27, 932]

D&H Manufacturers, Inc. Muskegon, MI; Notice of Negative Determination Regarding Application for Reconsideration

By an application dated January 15, 1993, the petitioners requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on December 31, 1992 and published in the **Federal Register** on January 13, 1993 (58 FR 4186).

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 petitioners claim, among other things, that one of D&H Manufacturers' customers imported wire shelving at the expense of the workers at D&H Manufacturers.

The investigation finding show that the workers produced unfinished appliance shelving which was shipped to other corporate facilities for plating.

The Department's denial was based on the fact that the "contributed importantly" test of the Group Eligibility Requirements of the Trade Act was not met. All production formerly produced at the Muskegon plant was transferred to other domestic corporately related plants. Neither the Muskegon plant nor the plating plants imported wire shelving.

The investigation findings show that the Muskegon plant closed on October 14, 1992, because of a corporate consolidation to reduce expenses—freight expenses, high building lease, etc.

Other findings show that the customer allegedly importing wire shelving accounted for a negligible percentage of D & H Manufacturers' total sales in 1991 and 1992.

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 8th day of February 1993.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Service, Unemployment Insurance Service.

[FR Doc. 93-3686 Filed 2-16-93; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-28,098]

Marilyn Fashions, Inc., Windber, PA; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at Marilyn Fashions, Incorporated, Windber, Pennsylvania. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-28,098; Marilyn Fashions, Inc., Windber, Pennsylvania (February 5, 1993)

Signed at Washington, DC, this 8th day of February, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93-3688 Filed 2-16-93; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 93-016]

NASA Advisory Council (NAC), Space Systems and Technology Advisory Committee (SSTAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee.

DATES: March 4, 1993, 8:30 a.m. to 5 p.m.

ADDRESSES: National Aeronautics and Space Administration, Federal Building 10B, room 625, 600 Independence Avenue SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Catherine Smith, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-2367.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Planning for New Office of Advanced Concepts and Technology.
—Technology Plans and Program Emphasis.
—Review of Small Spacecraft Technology.
—Space Systems and Technology Advisory Committee and Commercial Programs Advisory Committee Operations.

Dated: February 10, 1993.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 93-3610 Filed 2-16-93; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL COMMISSION ON JUDICIAL DISCIPLINE AND REMOVAL

Meetings

AGENCY: National Commission on Judicial Discipline and Removal.

ACTION: Notice of public meeting.

SUMMARY: Notice is hereby given in the public interest and pursuant to the Federal Advisory Committee Act that a public meeting of the National Commission on Judicial Discipline and Removal will be held on February 25 and 26, 1993, in Washington DC. On February 25, the first session of the meeting will convene at 9:30 a.m and adjourn at approximately 12:30 p.m, and the second session of the meeting will convene at 1:30 p.m, and adjourn at approximately 5 p.m. On February 26, the third session of the meeting will convene at 9:30 a.m. and adjourn at 12:30 p.m, and the fourth session of the meeting will convene at 1:30 p.m. and adjourn at approximately 5 p.m. All four sessions of the meeting will be held in the Federal Judiciary Building's Main Conference Room, located on the Fourth Floor of the Federal Judiciary Building at One Columbus Circle, NE.

AUTHORITY: This public meeting will be the eighth one for the National Commission, a body composed of thirteen members appointed by the Speaker of the House, the President, the President *pro tem* of the Senate, the Chief Justice of the United States and the Conference of State Chief Justices. The National Commission, established

by Public Law 101–650 (title IV), is assigned three statutory duties. The first is to investigate and study the problems and issues involved in the tenure (including discipline and removal) of article III (appointed to serve for life) Federal judges. The second is to evaluate the advisability of proposing alternatives to current arrangements with respect to such problems and issues, including alternatives for the discipline and removal of Federal judges that would require constitutional amendments. Finally, the Commission is required to prepare and submit a report to the Congress, the Chief Justice, and the President setting forth a detailed statement of its findings and conclusions together with any recommendations for legislative and administrative actions as are considered appropriate. The due date for the Commission's final report is August 1, 1993. The Commission is not authorized to consider specific complaints against Federal judges.

Ordinarily the provisions of the Federal Advisory Committee Act are not applicable to legislative or judicial agencies. Nonetheless, since the Commission is composed of representatives of all three branches of the Federal government, a good faith commitment to open meetings is incorporated in the Commission's By-laws.

STATUS: All four sessions of the meeting will be open to the public. A portion of any session of the meeting may be held in executive session to consider administrative matters involving privacy interests.

MATTERS TO BE CONSIDERED: This meeting will be the first in a series of Commission meetings designed to consider proposed recommendations for legislative or administrative action previously presented in draft reports from consultants who have prepared research papers about specific topics assigned to them.

CONTACT PERSONS FOR FURTHER INFORMATION: Contact Michael J. Remington or William J. Weller at the National Commission on Judicial Discipline and Removal, suite 690, 2100 Pennsylvania Ave, NW., Washington, DC 20037–3202; or call (202) 254–8169

SUPPLEMENTARY INFORMATION: Minutes of the meeting will be available for public inspection during regular working hours at the Commission office approximately thirty (30) working days following the meeting.

William J. Weller,

Deputy Director.

[FR Doc. 93–3557 Filed 2–16–93; 8:45 am]

BILLING CODE 6820–DB–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Visual Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Visual Artists Public Projects Section) to the National Council on the Arts will be held on March 8–10, 1993 from 9 a.m.–7 p.m. and March 11 from 9:30 a.m.–5 p.m. in room 716 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 11 from 3:30 p.m.–5 p.m. The topics will be policy discussion and guidelines review.

The remaining portions of this meeting on March 8–10 from 9 a.m.–7 p.m. and March 11 from 9:30 a.m.–3:30 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: February 10, 1993.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 93–3572 Filed 2–16–93; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from January 23, 1993, through February 4, 1993. The last biweekly notice was published on February 3, 1993 (58 FR 6992).

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the 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 19, 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 for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the ppetition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the 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 before action is taken. 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 ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to (**Project Director**): petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be

granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room for the particular facility involved.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: December 22, 1992

Description of amendment request: The proposed amendment would provide more flexible qualification requirements for the Independent Safety Engineering Group (ISEG) members. Currently, ISEG is required by Technical Specification (TS) 6.2.3.2 to be composed of at least five engineers who have "a bachelor's degree in engineering or related science and at least 2 years professional level experience in his field, at least 1 year of which experience is in the nuclear field." The proposed change would allow each of the five members to have either:

(1) A bachelor's degree in engineering or related science and at least 2 years professional level experience in his field, at least 1 year of which experience shall be in the nuclear field, or

(2) At least 5 years of nuclear experience and hold or have held a Senior Reactor Operator's license, or

(3) At least 10 years of professional level experience in his field, at least 5 years of which experience shall be in the nuclear field.

However, the proposed change would also require that at least three of these positions meet (1) above.

Basis for proposed no significant hazards consideration determination: The licensee notes that TS 6.2.3.2 currently precludes from consideration as ISEG members highly trained and experienced personnel in, for example, the Operations or Operations Support Departments who do not possess a bachelor's degree even though much of ISEG's activities involve these areas. The licensee states that a more knowledgeable and experienced ISEG group would produce higher quality and useful results in accordance with NUREG-0737 Section I.B.1.2. Therefore, the licensee proposes that, in lieu of a bachelor's degree, two of the five members be allowed to have either (1) a current or previously held Senior Reactor Operator's license and 5 years of professional level experience in the nuclear field, or (2) at least 10 years of professional level experience in his field with at least 5 years of nuclear field experience.

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change will not significantly increase the probability or consequences of an accident previously evaluated because the change only addresses qualification requirements of an independent review group and has no change to any plant equipment or structures.

2. This change does not create the possibility of a new or different kind of accident from any accident previously evaluated. There would be no change to system configurations, plant equipment, or analysis as a result of this proposed amendment.

3. The proposed change will not involve a significant reduction in a margin of safety. The proposed revised Technical Specification will substitute appropriate qualification criteria for an Independent Review Group and thus will not alter any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50 92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830.

Attorney for licensee: Mr. Arthur H. Domby, Esquire, Troutman Sanders, NationsBank Plaza, Suite 5200, 600 Peachtree Street, NE., Atlanta, Georgia 30308-2210.

NRC Project Director: David B. Matthews

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No: 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of amendment request: October 16, 1992

Description of amendment request: The request consists of changes to the Clinton Power Station (CPS) Technical Specifications to support CPS compliance with the new requirements of 10 CFR part 20. The changes reflect implementation of the CPS Radiation Protection Program in accordance with 10 CFR 20.1101.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

(1) The proposed changes only consist of revisions to 10CFR20 references to recognize the new section numbers, definitions to ensure consistency with 10CFR20, and administrative controls for record keeping to maintain compliance with the new Part 20. Since these are editorial changes which do not impact the operation or design of any plant structures, systems or components, this proposed change cannot increase the probability or the consequences of any accident previously evaluated.

(2) The proposed changes are editorial only and do not affect the plant design or operation. As a result, this proposed change cannot create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The proposed changes are editorial in nature and do not affect the plant design or operation. The changes will not increase the amounts or change the types of effluents that may be released offsite, nor do they significantly increase individual or cumulative occupational radiation exposures. These changes only ensure compliance with revised 10CFR20. These changes do not alter any of the requirements or responsibilities for protection of the public and employees against radiation hazards. As a result, these changes cannot reduce a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727

Attorney for licensee: Sheldon Zabel, Esq., Schiff, Hardin and Waite, 7200 Sears Tower, 233 Wacker Drive, Chicago, Illinois 60606

NRC Project Director: James E. Dyer

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendments request: September 24, 1992

Description of amendments request: The proposed amendments would implement guidance contained in Generic Letter (GL) 91-08, "Removal of Component Lists from Technical Specifications," by removing Table 3.6-1 "Containment Isolation Valves" from Technical Specification (TS) 3.6.3.1. Additionally, the proposed amendments would incorporate footnotes currently associated with Table 3.6-1 into TS 3 6.3.1 and make additional editorial changes necessitated by the removal of this table.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

We have evaluated the proposed T/Ss changes and have determined that the changes will not involve a significant hazards consideration based on the criteria established in 10 CFR 50.92(c). Operation of the Cook Nuclear Plant in accordance with the proposed amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

Through the clarification of the T/Ss, safety may actually be enhanced. The proposed changes do not result in a change to the requirements governing the control of containment isolation valves, they do not affect plant operations. Consequently, they do not involve a significant increase in the probability or consequences of an accident previously evaluated in Chapter 14 of the Cook Nuclear Plant UFSAR.

Additionally, the proposed Technical Specification change was reviewed for adverse impact on the calculated core damage frequency and offsite consequences as determined by the Cook Nuclear Plant probabilistic risk assessment. Based on this review, there was no impact found on the calculated core damage frequency of 6.26 E-05/Reactor Year or on the offsite consequences analysis.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

The proposed changes are administrative in nature. They do not result in any physical alterations being made to the plant nor do they change the manner in which it is operated. In addition, they do not change the assumptions used in any safety analysis or the manner in which any safety-related system, structure of component performs its function. As such, the proposed changes do not create the possibility of a new of different kind of accident previously evaluated in Chapter 14 of the Cook Nuclear Plant UFSAR.

(3) Involve a significant reduction in a margin of safety

The proposed administrative changes do not involve a significant reduction in a margin of safety. The proposed changes do not alter or affect any safety analyses, nor do they alter the requirements for containment isolation valve operability currently in the T/Ss. The LCO and surveillance requirements will be retained in the revised T/Ss. Therefore, the proposed changes will not affect the meaning, application, or function of the T/S requirements. Adequate control of the content of the list of containment isolation valves is ensured by existing administrative procedures.

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 amendments request involves no significant hazards consideration.

Local Public Document Room location: Maude Preston Palenske Memorial

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW, Washington, DC 20037

NRC Project Director: L. B. Marsh

Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit 2, Oswego County, New York

Date of amendment request: December 30, 1992

Description of amendment request: The proposed Technical Specification (TS) changes would revise TS 3.4.3.1, "Reactor Coolant System Leakage Detection Systems," and TS 3.4.3.2, "Reactor Coolant System Operational Leakage." The proposed changes to TS 3.4.3.1 would detail the actions to be taken for inoperable leakage detection systems and allow use of a manual method for leakage detection. These changes would also correct a sampling frequency discrepancy between TSs 3.4.3.1 and 3.4.3.2. The proposed changes to TS 3.4.3.2 would limit the allowable increase in unidentified leakage within any 24-hour period in Mode 1 to 2 gpm. These changes would also increase the frequency of monitoring reactor coolant system leakage via the drywell drain tanks from once per 12 hours to once per 8 hours.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes will not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed operational limits and surveillance requirements for reactor coolant system leakage are more restrictive than the current leak detection Technical Specification requirements and will facilitate more rapid detection of leaks. Consequently, corrective action can be initiated before crack propagation is such that critical crack size is reached and a gross pipe failure occurs. Therefore, the probability of early identification of potential gross pipe failure is increased.

A failure of a leakage monitoring system is not an initiating event for any Nine Mile Point Unit 2 accident analyses. The proposed change to the leakage monitoring instrumentation allows for temporary replacement of the drywell floor drain tank fill rate instrumentation and the drywell equipment drain fill rate instrumentation with a manual method that is functionally equivalent to the electronically determined leak rate as described in the Nine Mile Point 2 USAR [Updated Safety Analysis Report]. The function of the leak rate monitor will be performed by control room operators. If the leak rate monitoring system and the drywell floor drain pumps are simultaneously inoperable for 24 hours, a normal shutdown is required. The 24-hour out-of service time will not significantly impair reactor coolant system leak detection since other diverse and redundant leak detection methods as described in Regulatory Guide 1.45 will be available to detect leakage. Since there is no decrease in the ability to detect leaks in the drywell, there is no increase in the probability of or in the consequences of an accident previously evaluated.

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed changes place new restrictions on operation of the plant with new limits for increases in unidentified leakage and decrease the surveillance interval for monitoring of containment leakage. This will enhance the plant's ability to detect throughwall cracks of the Reactor Coolant System and to take corrective actions taken sooner. There will be no physical changes to the plant as a result of this amendment. Since the proposed changes will only increase the ability to detect a throughwall crack in the Reactor Coolant System, no new or different accidents are created by this amendment.

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant reduction in margin of safety.

The proposed changes will not involve a significant reduction in the margin of safety for Nine Mile Point Unit 2. The proposed changes provide earlier detection of throughwall cracks in the Reactor Coolant System and they improve the current leak detection methods for Nine Mile Point Unit 2. The more restrictive Limiting Condition for Operation (LCO) for unidentified leakage and the more frequent surveillance requirements for Reactor Coolant System leakage monitoring will enhance detection of cracks such that the probability of reaching critical crack size is not increased. The 24-hour out-of-service time would not significantly decrease the ability to detect leakage because sufficient diverse and redundant means of detecting leaks as described in Section C.3 of Regulatory Guide 1.45 are available. Based on the above, the proposed changes will not result in a significant reduction in a margin of safety for Nine Mile Point Unit 2.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request

involves no significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005-3502.

NRC Project Director: Robert A. Capra

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment request. December 24, 1992 (Reference LAR 92-11)

Description of amendment request. The proposed amendments would revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant Unit Nos. 1 and 2 to remove references to the supplemental vital inverters and busses due to replacement of six 7.5 kVA (four vital and two supplemental vital) inverters with four 20 kVA inverters. The specific TS changes proposed are as follows:

(1) TS 3.8.2.1 items "h" and "k" would be deleted since they apply only to the supplemental vital inverters. The letter designation for the other items would be changed to reflect the deletions.

(2) The footnote for TS 3.8.2.1 would be deleted.

(3) TS 3.8.2.1, Action e, would be deleted since it applies to the supplemental vital inverters only.

(4) TS 3.8.2.2.b would be modified to delete reference to the supplemental vital instrument bus.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed new equipment will be installed in accordance with applicable design codes and standards to upgrade plant equipment, reliability, capacity and flexibility. The six 7.5 kVA inverters (45 kVA total) will be replaced with four new 20 kVA UPS units (80 kVA total) to increase load capacity and provide automatic load transfer functions. The addition of the new static transfer switches and dedicated bypass voltage regulating transformers will improve power availability in the unlikely event of a single equipment failure. These changes improve the onsite power distribution reliability and capability, and decrease the effects of a single equipment failure.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

Previous analysis assumed a loss of one division of onsite power distribution (one vital inverter and one supplemental inverter), therefore, the consolidation of the vital and supplemental inverters does not alter any basis for analysis. The new [uninterruptible power supply] UPS units improve the ability of the onsite power distribution system to fulfill their safety-related function to provide an uninterrupted supply of 120 volt A.C. required for plant safety. The new equipment will be qualified and installed in accordance with applicable codes and standards, and operated within the [limiting condition for operation] LCO requirements specified in the proposed TS.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

Previous analysis assumed a loss of one division of onsite power distribution (one vital inverter and one supplemental inverter), therefore, the consolidation of the vital and supplemental inverters does not alter any basis for analysis. The new UPS units improve the ability of the onsite power distribution system to fulfill their safety-related function to provide an uninterrupted supply of 120 volt A.C. required for plant safety. The new equipment will be qualified and installed in accordance with applicable codes and standards, and operated within the LCO requirements specified in the proposed TS.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Attorney for licensee: Christopher J. Warner, Esq., Pacific Gas & Electric Company, P.O. Box 7442, San Francisco, California 94120

NRC Project Director: Theodore R. Quay

Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: December 8, 1992

Description of amendment request: The amendment would revise the Technical Specifications (TSs) to reflect a proposed modification that would add an undervoltage scheme to the Diesel Generator E auxiliaries. Susquehanna Steam Electric Station (SSES), Units 1 and 2, have five diesel generators, designated A, B, C, D, and E.

The Diesel Generator E is a diesel generator which can be substituted for any of the Diesel Generators, A, B, C, or D, without violating independency of the redundant Class 1 E load groups. All of the auxiliaries required to support the operation of the Diesel Generator E are supplied from the Class 1E 480 V Motor Control Center (MCC) OB565. MCC OB565 is normally supplied offsite power from Startup Bus 20 through the 13.2kV-480V transformer OX556 and an automatic transfer switch OTAS556. An alternate offsite supply is from Startup Bus 10 through 13.2kV-480V transformer OX555 and switch OTAS556. The non-Class 1E Automatic Transfer Switch OATS556 transfers to the alternate offsite supply when the normal supply voltage is below 70 percent (336 VAC) for 3.0 seconds provided the alternate supply voltage is above 87.1 percent (418 VAC). If the transfer switch transfers to the alternate power supply, the switch automatically transfers back to the normal power supply if the normal supply voltage is above 87.1 percent for 5 minutes. All of the controls and voltage sensing for the automatic transfer switch are non-Class 1E.

In addition to the offsite power supplies from the automatic transfer switch OATS556, MCC OB565 can be supplied power from the Diesel Generator E 4.16kV-480V transformer OX565 provided the Diesel Generator E is operating. If the voltage on the MCC OB565 bus is sustained below 30 percent and the automatic transfer switch OATS556 operation has not corrected the bus voltage above 30 percent, the undervoltage protection scheme on the bus OB565 initiates a bus transfer after 5 seconds from the offsite power source of the transfer switch OATS556 to the onsite power source of the transformer OX565 if the Diesel Generator 1E is operating. If the Diesel Generator E is not operating, no transfer occurs.

The Diesel Generator E has two modes of operation. When aligned for standby automatic operation the Diesel Generator E is substituted for one of the other diesel generators and performs the same functions as the substituted diesel generator. When not aligned, the Diesel Generator E is operated through the Test Facility Transformer OX207 in order to perform surveillance testing.

The proposed modification is to install a new undervoltage protection scheme on the Diesel Generator E MCC OB565 bus as follows:

1. Replace the 30 percent undervoltage relays (ITE Type 27D) on MCC OB565 bus with similar degraded voltage relays (ABB Type 27N) having new setpoints of 65 percent voltage and time delay of 5 seconds.

2. Add degraded voltage relays (ABB Type 27N) on MCC OB565 bus having relay setpoints of 92 percent voltage and time delay of 7 seconds.

3. Add an alarm circuit from the new 92 percent degraded voltage relays to the existing bus undervoltage alarm circuit for MCC OB565.

The proposed changes to the TSs would add additional requirements to Tables 3.3.3-1, 3.3.3-2, 3.3.3-3, and 4.3.3-1 with respect to undervoltage protection upon loss of power to the emergency core cooling system actuation instrumentation to reflect the proposed modifications.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Chapters 6 and 15 of the FSAR, [Final Safety Analysis Report] the Design Assessment Report and the current Reload Analysis were reviewed to determine if the proposed action has an effect on the spectrum of postulated initiating events for which transients or anticipated operational occurrences and accident conditions were analyzed.

The addition of a new undervoltage protection scheme to the Diesel Generator E MCC 0B565 bus does not affect any of the postulated initiating events identified in Chapter 6 and 15 of the FSAR, the Design Assessment Report, or the current Reload Analysis. Thus, the proposed action does not increase the probability of occurrence of an accident.

The consequences of an accident is not changed by the proposed action. The addition of a new undervoltage protection scheme to the Diesel Generator E MCC OB565 bus assures that the Diesel Generator E auxiliaries can maintain the diesel generator in an operable status when aligned for standby automatic operation. The scheme also assures that the auxiliaries can support the Diesel Generator E operation when the diesel generator is a power source for those systems required to mitigate the consequences of an accident.

Thus, the addition of a new undervoltage protection scheme to the Diesel Generator E MCC OB565 bus does not increase the probability of occurrence or the consequences of an accident as previously evaluated in the FSAR.

2. The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

Chapters 6 and 15 of the FSAR, the Design Assessment Report and the current Reload Analysis were reviewed to determine if the proposed action had the potential of creating a postulated initiating event which was not within the spectrum of events for which transients or anticipated operational occurrences and accident conditions were analyzed. The review did not identify a postulated initiating event which would create the possibility for an accident of a different type.

3. The proposed change does not involve a significant reduction in a margin of safety.

The operability of the undervoltage protection scheme on the MCC OB565 bus is presently not governed explicitly by either Susquehanna SES Unit 1 Technical Specifications or Susquehanna SES Unit 2 Technical Specifications. The operability of the Class 1E 4.16 kV bus undervoltage protection scheme is governed by Technical Specification Section 3/4.3.3, entitled Emergency Core Cooling Actuation Instrumentation, with Tables 3.3.3-1, 3.3.3-2, and 3.3.3-3 establishing the required number of operable channels, the setpoints and response times. Since MCC OB565 is required to support operation of the Diesel Generator E when either aligned for standby automatic operation or not aligned but operating on the test facility, the bases which govern operability of the Class 1E 4.16kV bus undervoltage protection is also applicable to the MCC OB565 bus undervoltage protection. The bases for operability of the Class 1E 4.16 kV bus undervoltage protection is to ensure that the Emergency Core Cooling System Actuation Instrumentation can provide the initiating actions to mitigate the consequences of accidents that are beyond the ability of the operator to control. Tables 3.3.3-1, 3.3.3-2, and 3.3.3-3 form the bases to ensure the effectiveness of the instrumentation used to initiate the actions.

The proposed action adds to Section 3/4.3.3 the required number of operable channels and the conditions for operability (Table 3.3.3-1), the setpoints (Table 3.3.3-2) and the response times (Table 3.3.3-3) of the new undervoltage protection scheme on the MCC OB565 bus.

Thus, based upon a review of the Technical Specifications and the FSAR, the addition of a new undervoltage protection scheme for the Diesel Generator E MCC OB565 bus, establishes the margin of safety for the scheme which is consistent with margin of safety for the Class 1E 4.16 kV bus undervoltage protection as defined in the basis of the Technical Specifications.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, D.C. 20037

NRC Project Director: Charles L. Miller

Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: December 18, 1992, as supplemented January 28, 1993

Description of amendment request: The proposed amendment would change the Technical Specifications (TSs) to remove cycle-specific parameter limits in accordance with NRC Generic Letter (GL) 88-16, "Removal of Cycle-Specific Parameter Limits from Technical Specifications" issued October 4, 1988. The proposed changes would replace the values of cycle-specific parameter limits with a reference to the Core Operating Limits Report (COLR), which contains the values of those limits. In addition, the Core Operating Limits Report has been included in the Definitions Section of the TSs to note that it is the unit-specific document that provides these limits for the current operating reload cycle. Furthermore, the definition notes that the values of these cycle-specific parameter limits are to be determined in accordance with new Specification 6.9.3. This specification requires that the Core Operating Limits be determined for each reload cycle in accordance with the referenced NRC-approved methodology for these limits and consistent with the applicable limits of the safety analysis. Finally, this report and any mid-cycle revisions shall be provided to the NRC upon issuance. Generic Letter 88-16, dated October 4, 1988, from the NRC, provided guidance to licensees on requests for removal of the values of cycle-specific parameter limits from the TS. The licensee's proposed amendment is in response to this Generic Letter.

Basis for proposed no significant hazards consideration determination:

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. This request does not involve a significant increase in the probability or consequences of an accident previously evaluated.

These changes are administrative in nature and do not change, only relocate, the approved U1C7 [Unit 1 Cycle 7] and U2C6 [Unit 2 Cycle 6] cycle specific parameter limits to a separate controlled document (the COLR). The plant will continue to operate under these approved cycle specific parameter limits and in accordance with the proposed Administrative Controls of Section 6.9.3. These controls ensure that all proposed changes are based on NRC approved methods and consistent with all applicable limits in the approved safety analysis. Therefore, the proposed change does not significantly increase the probability or consequences of an accident previously evaluated.

2. This request does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Relocation of cycle specific parameter limits from the Technical Specifications to the Core Operating Limits Report is an administrative change and cannot affect the probability or consequences of analyzed events nor can it create a new event.

3. The proposed change does not involve a significant reduction in a margin of safety.

For the reasons described in 1 & 2 above, the proposed action only is transferring these limits from one document to another. No change to the approved U1C7 and U2C6 cycle specific parameter limits or the associated remedial actions/surveillance requirements is being proposed. In the future, proposed changes will only be implemented without prior NRC approval after they are confirmed to be based on NRC approved methods and consistent with all applicable limits in the approved safety analysis. This will ensure that a margin of safety will not be significantly impacted.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, D.C. 20037

NRC Project Director: Charles L. Miller

Philadelphia Electric Company, Docket Nos. 50-352 and 50-353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of amendment request: January 8, 1993

Description of amendment request: The amendment would revise the Technical Specifications (TS) contained in Appendix A to reduce the frequency of testing of certain fire detection instrumentation. The proposed changes substitute the pertinent fire detection requirements recommended by the 1990 Edition of the National Fire Protection Association (NFPA) Standard 72 E, in place of requirements specified in earlier editions of the NFPA Standard.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed TS changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed TS changes involve a change in the surveillance testing interval for certain fire detection instrumentation to make the test interval consistent with the current (i.e., 1990) edition of the applicable NFPA Standards. The proposed TS changes do not result in any physical changes to the plant nor do they impact any design or functional requirements of the plant systems. The proposed TS changes do not degrade the performance or increase the challenges of any safety-related system assumed to function in the accident analysis. Additionally, no accidents previously evaluated have as their initiators anything related to the change in frequency of surveillance testing. Also, the proposed TS changes do not affect the availability of equipment or systems required to mitigate the consequences of an accident because of the equipment redundancy required by the LGS Fire Protection Program and the fact that the conclusions of the LGS fire safe shutdown analyses remain unchanged. Furthermore, a review of the fire detection instrumentation surveillance test history determined that there is no evidence of any failures that would invalidate the above conclusions. Therefore, the proposed TS changes do not increase the probability or consequences of an accident previously evaluated.

2. The proposed TS changes do not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed TS changes involve a change in the surveillance testing interval for certain fire detection instrumentation to make the test interval consistent with the current (i.e., 1990) edition of the applicable NFPA Standards. The proposed TS changes do not introduce nor increase the number of failure mechanisms of a new or different type than those previously evaluated since no physical changes are being made to the facility, no design requirements are being changed, and the system design performance is not degraded. In addition, the frequency of testing is not an accident initiator. Also, the conclusions of the LGS fire safe shutdown analyses remain valid. Therefore, changing the frequency of testing does not create a new or different accident. Furthermore, a review of the fire detection instrumentation surveillance test history determined that there is no evidence of any failures that would invalidate the above conclusions. Therefore, the proposed TS changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed TS changes do not involve a significant reduction in a margin of safety.

Although the proposed TS change will result in an increase in the internal between surveillance tests, the increased interval is consistent with the guidance provided in the current edition of the applicable NFPA Standards. The proposed TS chagnes do not impact plant safety based on the redundancy of equipment required by the LGS Fire Protection Program and the fact that the conclusions of the LGS fire safe shutdown analyses remain unchanged. A review of the fire detection instrumentation surveillance test history determined that there is no evidence of any failures that would invalidate the above conclusions. Therefore, the proposed TS changes do not reduce the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Attorney for licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101

NRC Project Director: Charles L. Miller

Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: January 6, 1993

Description of amendment request: The licensee commenced operating on a 24-month fuel cycle, instead of the previous 18-month fuel cycle, with fuel cycle 9. Fuel cycle 9 started in August 1992. In order to accommodate operation on a 24-month cycle, the licensee requested a Technical Specifications (TS) amendment to incorporate the changes listed below:

(1) The licensee proposed changing the frequency of residual heat removal

(RHR) pump flow calibration (specified in TS Table 4.1-1) to accommodate operation on a 24-month cycle.

(2) The licensee proposed changing the frequency of boron injection tank return flow calibration (specified in TS Table 4.1-1) to accommodate operation on a 24-month cycle.

(3) The licensee proposed changing the frequency of RHR loop isolation valve automatic isolation and interlock testing (specified in TS Table 4.1-3) to accommodate operation on a 24-month cycle.

(4) The licensee proposed changing the frequency of RHR system leakage testing (specified in TS Section 4.4.I.4) to accommodate operation on a 24-month cycle.

(5) The licensee proposed changing the frequency of recirculation pump testing (specified in TS Section 4.5.B.1.a) to accommodate operation on a 24month cycle.

(6) The licensee proposed changing the frequency of accumulator check valve operability testing (specified in TS Section 4.5.B.2.b) to accommodate operation on a 24-month cycle.

(7) The licensee proposed changing the frequency of safety injection (SI)/RHR check valve gross leakage testing (specified in TS Section 4.5.B.2.c) to accommodate operation on a 24-month cycle.

These proposed changes follow the guidance provided in Generic Letter 91-04, "Changes in Technical Specification Surveillance Intervals to Accommodate a 24-Month Fuel Cycle," as applicable.

In addition, the licensee proposed changing the gross leakage surveillance requirements for certain SI/RHR system check valves (specified in TS Section 4.5.B.2.d) to implement requirements as set forth in Generic Letter 80-14, "LWR Primary Coolant System Pressure Isolation Valves," dated February 23, 1980, regarding testing of low pressure injection (LPI)/RHR check valves.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Consistent with the requirements of 10 CFR 50.92, the enclosed application is judged to involve no significant hazards based on the following information:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of any accident previously evaluated?

Response:

The proposed changes do not involve a significant increase in the probability or consequences of any accident previously analyzed. These changes propose extending the surveillance intervals for safety injection/residual heat removal systems testing. The proposed change to specification 4.5.B.2.d follows the guidance of NRC generic letter dated, February 23, 1980. [These proposed] changes do not involve any physical changes to the plant, nor do they alter the way any equipment functions. An evaluation of past equipment performance and other means of detecting system problems provides assurance that the longer surveillance intervals will not degrade system performance.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any previously evaluated?

Response:

The proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated. These changes propose extending the surveillance intervals for safety injection/residual heat removal testing. The proposed change to specification 4.5.B.2.d follows the guidance of NRC generic letter dated, February 23, 1980. [These proposed] changes do not involve any physical changes to the plant, nor do they alter the way any equipment functions. An evaluation of past equipment performance and other means of detecting system problems provides assurance that the longer surveillance intervals will not degrade system performance.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

Response:

The proposed changes do not involve a significant reduction in a margin of safety. These changes propose extending the surveillance intervals for safety injection/residual heat removal systems testing. The proposed change to specification 4.5.B.2.d follows the guidance of NRC generic letter dated, February 23, 1980. [These proposed] changes do not involve any physical changes to the plant, nor do they alter any equipment functions or system setpoints. An evaluation of past equipment performance and other means of detecting system problems provides assurance that the longer surveillance intervals will not degrade system performance.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Robert A. Capra

Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: January 11, 1993

Description of amendment request: The licensee requested a Technical Specifications amendment which proposed revising Section 3.3 (Engineered Safety Features) to reflect the current NRC staff position regarding alternate train testing of an emergency safety feature when one train of the safety feature is inoperable. In addition, the licensee proposed revising Section 3.7 (Auxiliary Electrical Systems) to allow an emergency diesel generator (EDG) to be out of service for preplanned maintenance or testing without requiring special testing of the remaining EDG. Special testing would be performed only if an EDG becomes inoperable for a reason other than planned maintenance or testing. The requested amendment would also correct administrative errors in Section 3.3.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Consistent with the requirements of 10 CFR 50.92, the enclosed application is judged to involve no significant hazards based on the following information:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response:

The proposed changes do not involve an increase in the probability or consequences of a previously analyzed accident. The changes eliminate alternate train special testing requirements when the benefit of performing the special test does not justify the disadvantages of performing of the test. These changes will allow for improved availability of alternate safety equipment necessary to mitigate the consequences of an accident and for improved availability of the emergency diesel generators. The changes to Section 3.7 can potentially improve the reliability of the emergency diesel generators. The administrative changes do not change any current requirements and, therefore, have no affect on the probability or consequences of any previously analyzed accident.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response:

The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because they do not affect the current plant configuration or current

operating practices. The changes eliminate alternate train special testing requirements when the benefit of performing the special test does not justify the disadvantages of performing the test and correct administrative errors in Section 3.3.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

Response:

The proposed amendment does not involve a significant reduction in a margin of safety. The changes eliminate alternate train special testing requirements when the benefit of performing the special test does not justify the disadvantages of performing the test. These changes will allow for improved availability of alternate safety equipment and for improved availability of the emergency diesel generators. The changes to Section 3.7 can potentially improve the reliability of the emergency diesel generators. The administrative changes do not change any current requirements and, therefore, have no affect on any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Robert A. Capra

Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: January 19, 1993

Description of amendment request: The licensee commenced operating on a 24-month fuel cycle, instead of the previous 18-month fuel cycle, with fuel cycle 9. Fuel cycle 9 started in August 1992. In order to accommodate operation on a 24-month cycle, the licensee requested a Technical Specifications (TS) amendment which proposed extending the hydrogen recombiner refueling surveillance test interval (specified in TS Section 4.5.7.a.2) to 24 months. This proposed change follows the guidance provided in Generic Letter 91-04, "Changes in Technical Specification Surveillance Intervals to Accommodate a 24-Month Fuel Cycle," as applicable.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Consistent with the criteria of 10 CFR 50.92, the enclosed application is judged to involve no significant hazards based on the following information:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of any accident previously evaluated?

Response:

The proposed change does not involve a significant increase in the probability or consequences of any accident previously analyzed. The change proposes extending the surveillance interval for recombiner system testing. The change does not involve any physical changes to the plant, nor does it alter the way the EHRS [electric hydrogen recombiner system] functions. The six month test provides assurance of EHRS operability. An evaluation of the nuclear plant reliability data system from 1983 to 1992 provides additional assurance of the overall model B EHRS reliability. The six month test and NPRDS [nuclear plant reliability data system] search provide assurance that extending the three recombiner surveillances (circuit calibration, visual examination, and check of heater circuits) is not expected to degrade system performance.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any previously evaluated?

Response:

The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated. The change proposes extending the surveillance interval for recombiner system testing. The change does not involve any physical changes to the plant, nor does it alter the way the EHRS functions. The six month test provides assurance of EHRS operability. An evaluation of the nuclear plant reliability data system from 1983 to 1992 provides additional assurance of the overall model B EHRS reliability, and therefore the longer surveillance intervals are not expected to degrade system performance.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

Response:

The proposed change does not involve a significant reduction in a margin of safety. The change proposes extending the surveillance interval for recombiner system testing. The change does not involve any physical changes to the plant, nor does it involve any changes to established setpoints. The six month test provides assurance of EHRS operability. An evaluation of the nuclear plant reliability data system from 1983 to 1992 provides additional assurance of the overall model B EHRS reliability, and therefore the longer surveillance intervals are not expected to degrade system performance.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Robert A. Capra

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: November 19, and December 29, 1992

Description of amendment request: The licensee is requesting relief from the Emergency Diesel Generator (EDG) fuel oil storage recommendations of Standard Review Plan Section 9.5.4, Paragraph I.1.d and Regulatory Guide 1.137, Revision 1, as committed to in the Hope Creek Updated Final Safety Analysis Report (UFSAR).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below (The licensee has provided separate no significant hazards considerations for the two changes they are requesting.]:

PSE&G has, pursuant to 10 CFR 50.92, reviewed the proposed licensing commitment changes to determine whether our request involves a significant hazards consideration. We have determined that operation of the Hope Creek Generating Station in accordance with the proposed changes [The following no significant hazards consideration regards the fuel oil transfer pump automatic start level.]:

1. Will not involve a significant increase in the probability or consequences of an accident previously evaluated.

Having the fuel oil transfer pump start level set below 66 minutes does not increase the probability of an accident since the fuel oil transfer pumps have the ability to increase the day tank level while the EDGs are running. Loss of a EDG fuel oil day tank or loss of inventory in the day tank is bounded by the analysis for the loss of an EDG during a design basis accident. PSE&G has demonstrated that the Hope Creek Generating Station has the ability to shut the plant down and maintain the plant in safe shutdown in the event of a Loss of Offsite Power concurrent with a design base accident with the loss of one EDG (refer to UFSAR Section 8.3.1.1.3).

2. Will not create the possibility of a new or different kind of accident from any accident previously evaluated.

Loss of level in the EDG fuel oil day tank is bounded by a loss of the EDG. PSE&G has previously demonstrated that the Hope Creek Generating Station has the ability to shut the plant down and maintain the plant in safe shutdown in the event of a Loss of Offsite Power concurrent with a design base accident with the loss of one EDG (refer to UFSAR Section 8.3.1.1.3).

3. Will not involve a significant reduction in a margin of safety.

Having the EDG fuel oil transfer pump start level set below the ANSI N195-1976 level of 66 minutes will not reduce the margin of safety since the fuel oil transfer pumps have the ability to increase the EDG day tank level while the EDG is running.

The EDG fuel oil transfer pump logic is designed to start the alternate transfer pump upon receipt of a low level alarm in the day tank if the designated transfer pump does not start. This design precludes the loss of one transfer pump from causing the loss of fuel oil inventory to the EDG.

PSE&G has also demonstrated the ability to shutdown and maintain HCGS in safe shutdown with the loss of one EDG during a design basis accident concurrent with a loss of offsite power (refer to UFSAR Section 8.3.1.1.3). Loss of a EDG bounds the complete loss of fuel oil inventory in the EDG day tanks.

PSE&G has, pursuant to 10 CFR 50.92, reviewed the proposed licensing commitment changes to determine whether our request involves a significant hazards consideration. We have determined that operation of the Hope Creek Generating Station in accordance with the proposed changes [The following no significant hazards consideration regards transferring fuel oil from an idle EDG to allow the remaining EDGs to have enough fuel to run for seven consecutive days without refueling.]:

1. Will not involve a significant increase in the probability or consequences of an accident previously evaluated.

Since the EDGs are used to mitigate the consequences of an accident, transferring fuel oil from one tank to another will not increase the probability of an accident. With the ability to transfer fuel oil from the idle EDG, Hope Creek Generating Station has sufficient EDG fuel oil capacity in seismic category I tanks to operate the EDGs for seven days in the event of a DBA concurrent with the loss of offsite power in accordance with Regulatory Guide 1.137, Revision 1.

2. Will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The transfer of EDG fuel oil from one tank to another will only occur during long term accident mitigation and therefore does not create the possibility of a new or different kind of accident.

3. Will not involve a significant reduction in a margin of safety.

The EDG onsite fuel oil storage tanks are seismic category I. The eight EDG fuel oil storage tanks at HCGS hold a supply of fuel oil that is sufficient to supply the EDGs for 7 days of operation following a loss of offsite power event concurrent with a design basis accident. In response to NRC FSAR Question 430.88, PSE&G evaluated the ability to refuel the EDG fuel oil storage tanks within the seven day time period under severe weather conditions. This evaluation states that while extremely adverse wind, weather and tidal conditions at the Hope Creek Site could interfere with diesel oil delivery for approximately 24-36 hours, it would be a very improbable situation that would preclude delivery by truck or barge for as long as 60 hours. During normal weather conditions the delivery of fuel oil takes approximately 1-2 days from placing an order to receiving the oil onsite. Since Hope Creek has the ability to refuel the EDG within the seven day fuel supply, there is no reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) aresatisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

Attorney for licensee: M. J. Wetterhahn, Esquire, Winston and Strawn, 1400 L Street, NW., Washington, DC 20005-3502

NRC Project Director: Charles L. Miller

Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: January 18, 1993

Description of amendment request: This amendment would modify Technical Specification (TS) 4.6.4.2, Electric Hydrogen Recombiners Surveillance Requirements. The more conservative and technically accurate requirements from both units' surveillance requirements would be combined into a common set of requirements, providing consistency between the two units. A provision would be added that would allow the 18-month surveillance to satisfy the 6-month surveillance when the tests fall due at or near the same time.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The operation of the Salem Generating Station (SGS) in accordance with the proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment does not involve a physical or procedural change for any structure, component, or system that affects the probability or consequences of any accident or malfunction of equipment important to safety previously evaluated in the Updated Final Safety Analysis Report (UFSAR). The testing in existing Unit 1 Specification 4.6.4.2.b.3 is already administatively required and performed for Unit 2. These changes will merely make the TS require that testing which is already being performed. The change to TS 4.6.4.2.a is cosmetic for Unit 2 and an improvement for Unit 1. This change would add more conservative surveillance requirements. Further, the asterisked NOTE will reduce unnecessary, duplicative, cycling of recombiner equipment by taking credit for 18 month testing satisfying 6 month testing requirements when both tests fall due at roughly the same time.

2. The operation of the Salem Generating Station (SGS) in accordance with the proposed change will not create the possibility of a new or different kind of accident from any previously evaluated.

There are no physical changes to the plant or to the manner in which the plant is operated involved in the proposed revision. The proposed change will require additional testing (18 month functional testing) in the Unit 2 TS and make a minor correction to the 6 month functional test requirement in Unit 1 TS for consistency with the existing Unit 2 test description.

3. The operation of the Salem Generating Station (SGS) in accordance with the proposed change does not involve a significant reduction in a margin of safety.

The proposed revision will add an 18 month test requirement on Unit 2 and refine the wording of the Unit 1 six month testing to match that of Unit 2. The proposed changes add clarity and consistency to the specifications which will lessen the likelihood of error in performing surveillance testing for both Salem units. The changes, being fundamentally administrative, have no impact upon margins of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Salem Free Public library, 112 West Broadway, Salem, New Jersey 08079

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, D.C., 20005-3502

NRC Project Director: Charles L. Miller

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of amendment requests: December 20, 1991

Description of amendment requests: The licensee proposes to revise Technical Specifications (TS) 3/4.4.8.3.1, "Overpressure Protection Systems-RCS Temperature ≤ 312 [degrees] F" for Unit 2 and "Overpressure Protection Systems-RCS Temperature ≤ 302 [degrees] F" for Unit 3, TS 3/4.1.2.3, "Charging Pump-

Shutdown," and TS 3/4.5.3, "ECCS Subsystems-T_{avg} Less Than 350 [degrees] F," as recommended by Generic Letter 90-06.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed revision to TS 3/4.4.8.3.1 will not significantly alter the way the [Low Temperature Overpressure Protection] LTOP system is operated. The proposed revision: (1) Shortens the [Allowable Outage Time] AOT for [Shutdown Cooling System] SDCS Relief Valve isolation valves to increase the availability of the LTOP system thereby reducing the risks from low temperature event, (2) Limits the number of OPERABLE [High Pressure Safety Injection] HPSI pumps to preclude a mass addition to the [Reactor Coolant System] RCS that exceeds the design basis of the LTOP, and (3) provides an alternate ACTION to power-lock open one pair of OPERABLE SDCS Relief Valve isolation valves that is used for overpressure protection due to the INOPERABILITY of the other pair of SDCS Relief Valve isolation valves. This alternate ACTION precludes a single failure that can restore power to the OPERABLE isolation valve pair and result in loss of LTOP system safety function while maintenance or repair is being performed on the other SDCS Relief Valve isolation valve pair. The consequences of an LTOP event are not affected by this change. There are no changes to plant equipment or accident assumptions and no significant changes to plant operation. The racking out of the third HPSI pump breaker or locking close of its discharge valve, and the alternate action to power-lock open the OPERABLE SDCS Relief valve isolation valve pair will be performed in accordance with established procedures. Therefore, operation of the facility as a result of this proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed revisions to TS 3/4.1.2.3 and TS 3/4.5.3 to limit the number of OPERABLE HPSI pumps applicable in MODES 5 and 6 for TS 3/4.1.2.3 and MODE 4 for TS 3/4.5.3 do not impact facility operation. The existing TS 3/4.1.2.3 requires at least one OPERABLE Charging pump or one OPERABLE HPSI pump, and the existing TS 3/4.5.3 requires only one OPERABLE HPSI pump. As in TS 3/4.4.8.3.1, the proposed revisions to TSs 3/4.1.2.3 and 3/4.5.3 provide assurance that a mass addition to the RCS that exceeds the design basis of the LTOP system will not occur. The consequences of a low temperature overpressure event are not affected by these revisions. There are no changes to plant equipment, operation, or accident analyses assumptions. Therefore, operation of the facility as a result of this proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed revision to TS 3/4.4.8.3.1: (1) Increases the availability of the SDCS Relief Valve isolation valves thereby reducing the risk from low temperature overpressure events, (2) limits the number of OPERABLE HPSI pumps to preclude a potential challenge to the LTOP system, (3) permits operation with single pair of SDCS Relief Valve isolation valves and, (4) ensures a single failure will not result in the SDCS Relief Valve isolation pair that is used for overpressure protection to lose its safety function. The proposed changes do not alter or modify the design of the plant equipment. Manipulation of equipment i.e., breakers and valves, to comply with the proposed TS will be in accordance with established procedures. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed revisions to TSs 3/4.1.2.3 and 3/4.5.3 do not modify the LTOP system or related equipment. The proposed revisions to these TSs provide assurance that plant operation is consistent with the design basis of the LTOP system and the plant specific design when using pumps for makeup and [Emergency Core Cooling System] ECCS functions. Therefore, the proposed changes will not create a new or different kind of accident from any accident previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed revision to TS 3/4.4.8.3.1 provides a conservative 24-hour limitation for LTOP system INOPERABILITY during LTOP conditions thereby increasing the availability of the LTOP system to mitigate low temperature overpressure events. Secondly, the proposed revision ensures a single failure does not prevent the SDCS Relief Valve isolation valves from performing their safety function during LTOP conditions. And thirdly, the proposed revision precludes the challenge to the LTOP that might occur due to a mass addition to the RCS that exceeds the design basis of the LTOP system. These proposed revisions enhance overall plant safety. The bases and assumptions used in the safety analyses for the LTOP system are not changed by this proposed revisions. Therefore, the proposed change does not involve a reduction in a margin of safety.

As in TS 3/4.4.8.3.1, the proposed revisions to TS 3/4.1.2.3 and TS 3/4.5.3 will preclude the potential challenge to the LTOP system due to a mass addition to the RCS that exceeds the design basis assumptions of the LTOP. The non-availability of the third HPSI pump for TS 3/4.1.2.3 to provide RCS makeup and injection and in TS 3/4.5.3 for reactivity control and ECCS functions does not impact any margin of safety. Therefore, the proposed changes do not involve a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713

Attorney for licensee: James A. Beoletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770

NRC Project Director: Theodore R. Quay

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of amendment requests: September 3, 1992

Description of amendment requests: The licensee proposes to revise Technical Specification (TS) 3/4.4.8, "Pressure/Temperature Limits-Reactor Coolant System," and its associated Bases, following NRC guidance provided in Generic Letter 91-01. This generic letter allows licensees to remove their Reactor Vessel Material Surveillance Capsule Withdrawal Schedules from the TS because they are a duplication of the requirements of 10 CFR part 50, Appendix H. This TS amendment request also corrects five typographical/editorial mistakes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility according to this proposed change involve a significant increase in the probability or consequences of accident previously evaluated?

Response. No

The proposed change does not modify the facility in any way nor does it modify the response to accidents that have been previously evaluated. This schedule deletion is considered administrative in nature since the program for surveillance of reactor vessel material would continue to be controlled by 10 CFR part 50, Appendix H.

The removal from the TS of the schedule for the withdrawal of reactor vessel material surveillance specimens will not result in any loss of regulatory control because changes to this schedule are controlled by the

requirements of Appendix H to 10 CFR part 50. In addition, to ensure that the surveillance specimens are withdrawn at the proper time, the surveillance requirements in the TS on pressure and temperature limits will indicate that the specimens will be removed and examined to determine changes in their material properties, as required by Appendix H. The schedule for specimen removal will be maintained in the [Updated Final Safety Analysis Report] UFSAR. Therefore, this proposed change will not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Will operation of the facility according to this proposed change create the probability of a new or different kind of accident previously evaluated?

Response. No

This proposed change is strictly administrative in that it deletes the withdrawal schedule from the TS and places it in the UFSAR. The placement of this schedule in the TS duplicates the controls to this schedule as required by 10 CFR part 50, Appendix H. Therefore, this change will not create the probability of a new or different kind of accident from any accident previously evaluated.

3. Will operation of the facility according to this proposed change involve a significant reduction in a margin of safety?

Response. No

This proposed change is strictly administrative in that it deletes the withdrawal schedule from the TS and places it in the UFSAR. The placement of this schedule in the TS duplicates the controls to this schedule as required by 10 part CFR 50, Appendix H. Therefore, this change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P. O. Box 19557, Irvine, California 92713

Attorney for licensee: James A. Beoletto, Esquire, Southern California Edison Company, P. O. Box 800, Rosemead, California 91770

NRC Project Director: Theodore R. Quay

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of amendment requests: October 2, 1992

Description of amendment requests: The licensee proposes to revise License Condition 2.C.(19)i for San Onofre Unit 2 and License Condition 2.C.(17)d for San Onofre Unit 3, "Post Accident Sampling System (NUREG-0737 Item II.B.3)," to remove conditions already complied with, and to revise four Post Accident Sampling System (PASS) requirements.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The Updated Final Safety Analysis Report (UFSAR) Section 15.6.3.1 provides an analysis of a decrease in reactor coolant inventory due to a primary sample or instrument line break outside of containment. The analysis of protection measures against the dynamic effects associated with the postulated rupture of piping both inside and outside containment is provided in UFSAR Section 3.6. UFSAR Section 6.2 provides the analysis of the containment isolation system integrity for postulated high energy line break scenarios inside the containment. PASS sample lines penetrating the containment boundary are provided with containment isolation valves as stated in UFSAR Section 9.3.2.1 and are identified in UFSAR Table 6.2-35 as valves that close on a Containment Isolation Actuation Signal (CIAS) or a Safety Injection Actuation Signal (SIAS) actuation. PASS is used following a loss of coolant accident (LOCA) to determine the extent of core damage, and, therefore, control has been provided to override the CIAS signal (UFSAR Table 7.3-8) to perform post-accident sampling.

In UFSAR Section 15.6.3.1, the radiological consequences of the 3/4-inch PASS reactor coolant sample line break accident is conservatively bounded by the 2-inch letdown line break accident. The PASS reactor coolant sample lines are additionally provided with locked flow restricting throttle valves to further limit blowdown (UFSAR Section 9.3.2.2.2.1).

The four proposed deletions to the PASS requirements, deletion of (1) dissolved total gas analysis, (2) the shipping cask, (3) collecting an undiluted grab sample, and (4) the PASS containment hydrogen analyzer, do not add or modify any lines penetrating the containment nor do these modifications affect the existing flowpath between the Reactor Coolant System (RCS) and the PASS sample skid. No increased leakage is expected as a result of these modifications. Therefore, PASS leakage considerations are unchanged from those found in the UFSAR Section 15.6.3.3.5.1.B discussion of LOCA doses.

For each parameter measured by a new method, the accuracy, range, sensitivity, and response times of the new instrumentation and procedures are maintained within the previous requirements. In addition, radiation exposures to any individual for reactor coolant and containment atmosphere sampling and analysis will be as low as reasonably achievable and not exceed 5 rem whole body and 75 rem extremities as required by General Design Criterion 5 (Appendix A, 10 CFR part 50). Because alternate instrumentation will be used to provide the information needed for accident evaluation within the required times, there will be no increase in potential accident consequences.

It is concluded that these four revisions to the PASS requirements will not result in a significant increase in the probability or consequences of any accident previously evaluated.

2. Will operation of the facility in accordance with this proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

No. The only types of accidents that can be related to the PASS are potential pipe breaks outside containment and high energy line breaks either inside or outside containment. These are already addressed in, and bounded by, UFSAR Sections 15.6.3.1, 3.6, and 6.2. The four proposed deletions to the PASS requirements, deletion of (1) dissolved total gas analysis, (2) the shipping cask, (3) the requirement to collect an undiluted grab sample, and (4) the PASS containment atmosphere hydrogen analyzer, do not alter the reactor coolant sample flowpath to the PASS or introduce any design alterations which could create the potential for a failure of a different type than already analyzed.

It is concluded that these four revisions to the PASS requirements will not result in the possibility of a new or different kind of accident from any accident previously identified.

3. Will operation of the facility in accordance with this proposed amendment involve a significant reduction in a margin of safety?

No. PASS is not a safety related system. The only components related to the PASS which are safety related are those sample lines which penetrate the containment boundary. These lines will not be modified in any way during the implementation of the four proposed revisions to the PASS requirements. As isolation of the PASS sample lines is automatically initiated on a CIAS or SIAS signal, there is no potential for a reduction in the margin of safety in the immediate post-accident environment. Following the manual post-accident implementation of PASS, the four deletions to the PASS requirements, deletion of (1) the dissolved total gas analysis, (2) the shipping cask, (3) collecting an undiluted grab sample, and (4) the PASS containment atmosphere hydrogen analyzer, are anticipated to increase reliability due to simplification of the design. It is expected that no increase in PASS leakage will occur as a result of these deletions and that PASS leakage considerations will continue to be bounded by the evaluation in UFSAR Section 15.6.3.3.5.1.B.

For each parameter measured by a new method, the accuracy, range, sensitivity, and response times of the new instrumentation and procedures are maintained within the

previous requirements. Also, the new reactor coolant hydrogen analyzer eliminates the need for the total gas analysis because the new hydrogen analyzer is more reliable and accurate. In addition, radiation exposures to any individual for reactor coolant and containment atmosphere sampling and analysis will be as low as reasonably achievable and not exceed 5 rem whole body and 75 rem extremities as required by General Design Criterion 5 (Appendix A, 10 CFR part 50).

It is concluded that this proposed amendment will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P. O. Box 19557, Irvine, California 92713

Attorney for licensee: James A. Beoletto, Esquire, Southern California Edison Company, P. O. Box 800, Rosemead, California 91770

NRC Project Director: Theodore R. Quay

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of amendment requests: October 16, 1992

Description of amendment requests: The licensee proposes to revise Technical Specification (TS) 3/4.3.4, "Turbine Overspeed Protection," to delete the weekly surveillance test of the turbine valves, and utilize the monthly surveillance testing to demonstrate Turbine Overspeed Protection System operability.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of any accident previously evaluated?

Response: No

As part of the testing for the Turbine Overspeed Protection System, the turbine stop valves, control valves, reheat stop valves, and reheat intercept valves are required to be cycled through at least one complete cycle from the running position. The surveillance tests are currently performed at power every 7 days and every 31 days. [Surveillance Requirement] SR 4.3.4 demonstrates the valves are free to close, thus satisfying the valves safety function--to ensure the valves close, precluding turbine missile generation.

Turbine valve testing has been found to be a significant contributor to reactor trip and subsequently unnecessary challenges to plant systems and personnel on an industry-wide basis. Testing at power is generally a concern and should be minimized when possible. In addition, turbine valve testing is hard on the equipment, causing wear to the valves and thermal cycling and stress to the steam system.

The proposed change would revise the surveillance to specify one test to be performed at least once per 31 days. Although there would be a slight increase in the probability of missile generation from turbine overspeed as a result of the decrease in the valve testing frequency, the increase is not significant. GEC [Alsthom International], the turbine manufacturer, has calculated the probability of turbine missile genesis (P1) to be 6.7×10^{-8} for the weekly testing schedule and 2.7×10^{-7} for the monthly testing schedule. Therefore, the proposed change in testing frequency would not jeopardize plant safety as the probability of turbine missile genesis resulting from an overspeed condition is well within the current NRC acceptance criteria of 1×10^{-5} events per year. The consequence of a turbine generated missile are unaffected by this change.

Therefore, the proposed change will not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any previously evaluated?

Response: No

The Turbine Overspeed Protection System will continue to perform its design function to protect the turbine from excessive overspeed. In addition, the type of tests required by SR 4.3.4 will not be modified as a result of the proposed change. The proposed surveillance does not introduce a new or different kind of accident because the test, acceptance criteria, and inspection methods are unchanged. Therefore the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No

The proposed change would revise SR 4.3.4.a and SR 4.3.4.b to permit one monthly test to satisfy both requirements. The [San Onofre, Units 2 and 3] turbine manufacturer has concurred with this proposal. Based on reanalysis, the revised P1 has been found to be within NRC acceptance criteria. The actual tests to demonstrate turbine overspeed protection system operability would not be affected and would be conducted in the same manner. Therefore, the proposed change will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713

Attorney for licensee: James A. Beoletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770

NRC Project Director: Theodore R. Quay

Southern California Edison Company, et al., Docket Nos. 50-361 and 50362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of amendment requests: October 29, 1992

Description of amendment requests: The licensee proposes to revise Technical Specification (TS) 3/4.5.1, "Safety Injection Tanks," by adding an alternate method of ensuring power removal to the Safety Injection Tank (SIT) vent valves.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No

The SIT vent valves will still be maintained with power removed when the valves are closed and with a method of detection of power removal. This change only provides an alternate method of ensuring power is removed from these valves. The SIT vent valve fuses will remain in the fuse holder at all times unless the associated disconnect switch is INOPERABLE, and the monthly surveillance will normally be performed on the disconnect switches instead. Procedures will be changed to reflect the new surveillance, method of removing power, and operation of the vent valves. There is no change to the SIT vent valve configuration. Therefore, there is no significant increase in the probability or consequences of a previously evaluated accident.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different type of accident from any accident previously evaluated?

Response: No

The SIT vent valves will still be maintained with power removed when the valves are closed and with a method of

detection of power removal. This change only provides an alternate method of ensuring power is removed from these valves. The SIT vent valve fuses will remain in the fuse holder at all times unless the associated disconnect switch is INOPERABLE, and the monthly surveillance will normally be performed on the disconnect switches instead. Procedures will be changed to reflect the new surveillance, method of removing power, and operation of the vent valves. There is no change to the SIT vent valve configuration. Therefore, this is no possibility of a different type of accident from any accident previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No

The SIT vent valves will still be maintained with power removed when the valves are closed and with a method of detection of power removal. This change only provides an alternate method of ensuring power is removed from these valves. The SIT vent valve fuses will remain in the fuse holder at all times unless the associated disconnect switch is INOPERABLE, and the monthly surveillance will normally be performed on the disconnect switches instead. Procedures will be changed to reflect the new surveillance, method of removing power, and operation of the vent valves. There is no change to the SIT vent valve configuration. Therefore, there is no significant reduction of a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P. O. Box 19557, Irvine, California 92713

Attorney for licensee: James A. Beoletto, Esquire, Southern California Edison Company, P. O. Box 800, Rosemead, California 91770

NRC Project Director: Theodore R. Quay

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of amendment requests: November 18, 1992

Description of amendment requests: The licensee proposes to revise Technical Specifications (TS) 6.9.1.8, "Semiannual Radioactive Effluent Release Report," 6.14, "Offsite Dose Calculation Manual," and Index, Section 6.9, "Reporting Requirements," following the provisions provided in 10 CFR 50.36a. This proposed change would extend the Radioactive Effluent Release Report submittal frequency from semiannual to annual.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No

This change is administrative in nature and makes the TSs consistent with the amended requirement of 10 CFR 50.36a(a)(2).

There is no change to plant design, operation, or configuration. Therefore, there is no significant increase in the probability or consequences of an accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different type of accident from any accident previously evaluated?

Response: No

This change is administrative in nature and makes the TSs consistent with the amended requirement of 10 CFR 50.36a(a)(2). There is no change to plant design, operation, or configuration. Therefore, this change does not create the possibility of a new or different type of accident from any accident previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No

This change is administrative in nature and makes the TSs consistent with the amended requirement of 10 CFR 50.36a(a)(2). There is no change to plant design, operation, or configuration. Therefore, there is no reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713

Attorney for licensee: James A. Beoletto, Esquire, Southern California Edison Company, P. O. Box 800, Rosemead, California 91770

NRC Project Director: Theodore R. Quay

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of amendment requests: November 20, 1992

Description of amendment requests: The licensee proposes to revise Technical Specification (TS) 3.4.5, "Reactor Coolant System Leakage," to allow the required water inventory balance to be performed within 120 hours of the last water inventory balance, in lieu of performing the water inventory balance every 72 hours, when this activity would require interruption of transient evolutions.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response. No

A revision to [Surveillance Requirement] SR 4.4.5.2.1 c is proposed to allow the transient evolution to continue and the required water inventory balance to be performed within 120 hours of the last water inventory balance. [Reactor Coolant System] RCS leakage will be monitored during this time by the following three remaining required surveillances:

a. Monitoring the containment atmosphere gaseous or particulate radioactivity monitor at least once per 12 hours.

b. Monitoring the containment sump inlet flow at least once per 12 hours.

d. Monitoring the reactor head flange leakoff system at least once per 24 hours.

The water accumulation methods have proven to detect leaks before the water inventory balance and before the containment radioactivity monitoring system. Therefore, operation of the facility in accordance with this proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response. No

The proposed changes do not involve any alterations to the plant's physical structure or to the way in which it is operated. Leak detection will continue to be monitored by three of four methods. Therefore, the proposed revision to the technical specifications will not create the possibility of a new or different kind of accident from any previously evaluated accident.

3. Will operation of the facility in accordance with this proposed change

involve a significant reduction in [a] margin of safety?

Response. No

A revision to SR 4.4.5.2.1 c is proposed to allow the transient evolution to continue and the required water inventory balance to be performed within 120 hours of the last water inventory balance. RCS leakage will be monitored during this time by the following three remaining required surveillances:

a. Monitoring the containment atmosphere gaseous or particulate radioactivity monitor at least once per 12 hours.

b. Monitoring the containment sump inlet flow at least once per 12 hours.

d. Monitoring the reactor head flange leakoff system at least once per 24 hours.

The maximum allowable leak rate of 1 gpm is not changed, and as discussed above, leak detection monitoring will occur using the other methods available. The water accumulation methods have proven to detect leaks before the water inventory balance and before the containment radioactivity monitoring system. Therefore, the proposed revision to the technical specifications will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713

Attorney for licensee: James A. Beoletto, Esquire, Southern California Edison Company, P. O. Box 800, Rosemead, California 91770

NRC Project Director: Theodore R. Quay

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of amendment requests: December 24, 1992

Description of amendment requests: The licensee proposes to revise Technical Specification (TS) 3/4.9.7, "Fuel Handling Machine - Spent Fuel Storage Pool Building," to allow long-term use of the spent fuel cask pool cover.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility according to this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No

The probability or consequences of a spent fuel assembly drop during normal movement of spent fuel are not affected by the proposed change because the methods and equipment used to move spent fuel are not changed.

As discussed in Section 15.7 of the [Update Final Safety Analysis Report] UFSAR, spent fuel casks cannot be transported over the spent fuel pool and are not transported over irradiated fuel assemblies. Thus, an accident resulting from dropping a cask into the spent fuel pool or onto spent fuel is not credible. The equipment and procedures used to move spent fuel casks are unaffected by the proposed change because the cask pool cover will be removed whenever a spent fuel cask is lifted in the Fuel Handling Building. Therefore, the probability and the consequences of this type of accident are unaffected by the proposed change.

The probability of consequences of a spent fuel pool gate drop are not affected by the proposed change because the methods and equipment used to move the gates will not change and the cask pool cover will be removed whenever a spent fuel pool gate at the cask pool end of the main pool is lifted in the Fuel Handling Building.

The probability or consequences of a test equipment drop are not affected by the proposed change because the methods and equipment used to move the Test Equipment will not change. The existing lift height restriction for movement of the Test Equipment above the pool racks will also be applied when moving the Test Equipment in Exclusion Zone A, which is adjacent to the spent fuel pool. This means that administrative controls will limit the maximum Test Equipment lift height to six inches above the cover or the edge of the spent fuel pool whenever the cask pool cover is installed.

The cask pool cover, to be used as a work area adjacent to the spent fuel pool, will consist of a single assembly with length and width which exceed the length and width of the cask pool. During its installation, the cover will be placed over the cask pool in a manner which will preclude a drop into the cask pool. A postulated drop of the cask pool cover and/or its special lifting device into the spent fuel pool is highly unlikely because of the features of the cover's design. The safe load path for both the cask pool cover and the special lifting device is very narrow and restrictive, is aligned with the east-west centerline axis of the cask pool, and the drop height of the assembly is limited to one foot. Spent fuel will not be stored in the cask pool while the cask pool cover is either in-place or being removed or installed.

The heavy leads to be lifted in the proximity of the spent fuel pool while the cask pool cover is in-place (or being installed or removed) have been evaluated utilizing the guidelines of NUREG-0612. Administrative controls will be used to prevent lifts that could result in a heavy load drop from heights or locations that exceed the design capability of the cover or cause perforation of the cover. Heavy load lift restrictions will be imposed within an exclusion zone adjacent to the spent fuel pool. Additionally, a heavy load will not be placed or stored within the exclusion zone unless it remains hooked to the cask handling crane. The rolling distance of a load, if dropped, is not expected to be significant, because heavy load handling with the cask pool cover in place will be controlled and performed at low drop heights. Thus, a postulated load drop into the spent fuel pool is highly unlikely.

Therefore, (1) the probability of an accident resulting from the handling of a heavy load in the proximity of the spent fuel pool is not significantly increased and (2) the radiological and pool leakage consequences of a potential heavy load drop remain bounded by the consequences of a potential spent fuel gate drop.

It is concluded that the proposed change will not significantly increase the probability or the consequences of any accident previously evaluated.

2. Will operation of the facility according to this proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No

The proposed change does not create a new or different type of accident because heavy load drops during normal spent fuel handling operations are accidents that have been previously analyzed for the spent fuel pool area.

The heavy loads to be lifted in the proximity of the spent fuel pool while the cask pool cover is in-place (or being installed or removed) have been evaluated utilizing the guidelines of NUREG-0612. The guidelines of Section 5.1 of NUREG-0612 are met with respect to the handling of these heavy loads.

3. Does the proposed modification involve a significant reduction in a margin of safety?

Response: No

The radiological and pool leakage consequences of a potential heavy load drop remain bounded by the consequences of a potential spent fuel gate drop. Therefore, the margins of safety are not significantly reduced by the proposed change.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713

Attorney for licensee: James A. Beoletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770

NRC Project Director: Theodore R. Quay

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of amendment requests: December 24, 1992

Description of amendment requests: The licensee proposes to revise Technical Specifications (TS) 3/4.4.1.4.1, "Cold Shutdown - Loops Filled," TS 3/4.4.1.4.2, "Cold Shutdown - Loops Not Filled," TS 3/4.9.8.1, "Shutdown Cooling and Coolant Circulation-Low Water Level," TS 3/4.9.8.2, "Shutdown Cooling and Coolant Circulation-Low Water Level," and associated Bases. This will allow for the use of Containment Spray (CS) pumps in place of Low Pressure Safety Injection (LPSI) pumps to perform Shutdown Cooling (SDC) during Modes 5 and 6 of operation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is resented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response. No

The function of the CS system is to remove heat from the containment atmosphere in the event of a Loss Of Coolant Accident (LOCA) or Main Steam Line Break (MSLB) inside containment. The CS system is required for containment cooling by TSs in Modes 1, 2, and 3 of operation. The proposed change will allow for use of CS pumps, which are an integral part of the CS system, to perform shutdown cooling only in Modes 5 and 6 of operation. Modifications to the [reactor coolant system] RCS that cross-tie the CS system to SDC system contain manually operated valves that will remain in the LOCKED-CLOSED position in Modes 1, 2, and 3, thus segregating the CS system from the SDC system and allowing the CS pumps to perform their containment cooling functions. Therefore, the proposed change will not increase the probability or consequences of accidents previously evaluated in the Updated Final Safety Analysis Report (UFSAR).

During normal power operation, the SDC system is used to reduce the temperature of the RCS in post-shutdown periods from operating temperature to the refueling temperature. The initial phase of the cooldown is accomplished by heat rejection from the steam generator to the condenser or the atmosphere. After the reactor coolant temperature and pressure have been reduced to approximately 350 [degrees] F and 376 lb/in^2 the SDC system is put into operation. The proposed change will allow for the use of CS pumps in place of LPSI pumps in the SDC system after the reactor coolant has reached a temperature of 200 [degrees] F and is vented in accordance with TS 3.4.8.3.1.b. The SDC system is credited to perform long-term core cooling to maintain acceptable core temperatures until the plant is secured for all accidents except for a large break LOCA (UFSAR Section 15.6.3.3.2 and 15.6.3.2.1.5). The proposed change is to allow SDC by CS pumps only during maintenance of SDC systems (Modes 5 and 6) and not in post-accident conditions. Therefore, this change does not impact the performance of the SDC system during long-term core cooling.

The CS pumps are fully capable of providing the required flow rate to perform SDC in Modes 5 and 6. In Mode 5, the CS pumps are capable of providing the required SDC cooling flow with the RCS loops filled and during mid-loop operation. The CS pumps, however, have a higher discharge head than the LPSI pumps. To compensate for this difference, shutdown cooling by the CS pumps will only be performed when the RCS is vented in accordance with TS 3.4.8.3.1.b to preclude any possibility of over-pressurization of piping in the SDC system and the CS system.

None of the structures, systems, or components that initiate any accident described in the UFSAR will be affected by this change. Therefore, this proposed change will not constitute an increase in the probability of an accident previously evaluated. There will be no increase in any accident probability as a result of this change because cooling to the [spent fuel pool] SFP is maintained available at all times.

The rerack license amendment request, PCN 287, provides an analysis for a complete loss of cooling that results in boiling of the spent fuel pool. This was evaluated by the NRC and documented in the Safety Evaluation Report on the Units 2 and 3 Reracking, issued May 1, 1990.

The only potential accident remaining is a release of radioactivity from damaged fuel assemblies in the SFP. Both the SFP cooling system and the SDC systems are designed to maintain cooling capabilities to both the SFP and the core, respectively, which prevents this potential accident from occurring. In addition, the cooling capacity of each train in the SDC system is greater than the cooling capacity of the SFP cooling system.

During refueling outages there is only one complete train required to provide a heat path from the SFP to the ultimate heat sink: one or two train(s) of the SFP cooling system, one train of [component cooling water] CCW, one train of [salt water cooling] SWC, and the associated Diesel Generator. The above is true whether or not the SDC system is available for back-up.

The proposed change will only affect the location of the fuel. The heat load from the fuel in the SFP and the fuel in the core will be the same as if all the fuel were in the SFP. The large heat sink will be provided by both the SFP and the reactor fueling pool being connected and level maintained 23 feet above the reactor vessel flange. Therefore, the intent of the basis for TS 3/4.9.8 is met at all times during these evolutions.

Therefore, there is no increase in the probability or consequences of an accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response. No

The proposed change does not affect any structures, systems, or components which initiate any accident. All new components (manually operated valves and thermal wells for temperature elements) are designed to Seismic Category 1, ASME Section III Class 2, "N" stamp, and meet the current design criteria for the Shutdown Cooling system and the Containment Spray system. The isolation valves at the system interfaces are designed at higher pressure and temperature ratings than the system design requirement. The cross-tie piping will be equipped with thermal relief valves to protect the pipes from over-pressurization if the interface valves between the SDC suction line and the cross-tie were to leak. In addition, the cross-tie piping will not be subjected to the high pressure that the SDC system is generally subjected to during normal post-shutdown cooling since the CS pumps will only be used for SDC in Modes 5 and 6 after the RCS has been fully depressurized and vented.

According to UFSAR Section 5.4.7.1, a LOCA during shutdown cooling is not considered to be credible since the total stress in any RCS component will be considerably less than the total stress at design pressure. This will be a valid assertion after the implementation of this proposed plant modification, since the CS pumps will be used in Modes 5 and 6 when the RCS system is fully depressurized and vented. Since the pipes of the cross-tie are routed through the same areas where the SDC system pipes are located, no new detection methods are required to determine the condition of the cross-tie pipes. Also, no new actions to mitigate the consequences from a break/crack in the cross-tie piping will be required other than the existing actions for the SDC system.

The proposed change will allow for use of CS pumps to provide SDC flow. The CS pumps are capable of providing the required minimum flow rate for SDC in Modes 5 and 6. The CS pumps have a higher discharge head than the LPSI pumps, and to compensate for this difference, shutdown cooling by CS pumps will only be performed after the RCS has been depressurized and vented in accordance with TS 3.4.8.3.1.b. This will protect pipes of the SDC system and the CS system from inadvertent over-pressurization.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response. No

The proposed change does not affect the safety related functions of the SDC system or the CS system. The CS system will continue to perform its containment cooling function in Modes 1, 2, and 3, since the CS pumps will only be used in Modes 5 and 6 when the CS pumps are segregated from the CS system and the RWST by LOCKED-CLOSED

isolation valves. The thermal hydraulic analysis performed to support the use of CS pumps in place of LPSI pumps to perform SDC indicates no reduction in a margin of safety.

This proposed change does not cause a reduction in a margin of safety because, as before the change, only one train of cooling is relied upon from the Spent Fuel Pool to the Ultimate Heat Sink during mode 5 and 6.

The proposed change does not reduce the capability of heat transfer, and it does not change the number of trains required to be available to cool the core. The use of the SDC system has been approved by the NRC as an acceptable cooling source for the SFP in the safety evaluation report for the Units 2 and 3 reracking, issued May 1, 1990. In addition, the cooling capacity of the SDC system is greater than the cooling capacity of the SFP cooling system. Additionally, the SDC/SFP cooling mixed flow configuration provides a larger volume of water that will provide heat removal in the event that cooling flow would be interrupted. Therefore, the margin of safety is increased, not reduced during operation using the proposed alignment for the alternate SFP cooling.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713

Attorney for licensee: James A. Beoletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770

NRC Project Director: Theodore R. Quay

Southern Nuclear Operating Company, Inc., Docket Nos. 50-348 and 50-364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendments request: May 13, 1991, as supplemented October 13, 1992. The amendment request was previously noticed July 22, 1992 (57 FR 32577). The amendment is being renoticed because the TS wording was revised by the October 13, 1992, submittal.

Description of amendments request: The amendments would modify the Technical Specifications (TS) for the overpressure protection systems. The allowable outage time (AOT) for one inoperable residual heat removal (RHR) relief valve with one or more of the reactor coolant system (RCS) cold leg temperatures less than or equal to 310 degrees Fahrenheit is being decreased from 7 days to 24 hours for water-solid conditions. The required AOT for low temperature conditions other than water-solid will remain at 7 days.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed modification to the AOT for one inoperable RHR relief valve with the RCS in a water-solid condition does not significantly increase the probability or consequences of an accident previously evaluated in the FSAR [Final Safety Analysis Report]. The proposed reduction in AOT is an enhancement to the existing technical specification, and affords increased protection for an LTOP [low temperature overpressure] event postulated during water-solid operation. As previously discussed, this reduction in AOT is being proposed to assure proper overpressure protection is afforded for the most vulnerable situation (water-solid operation). This modification does not directly initiate an accident. Since no changes in relief valve design, setpoint or operation are involved, the probability of brittle reactor vessel failure has not significantly increased by the proposed change. The consequences of accidents previously evaluated in the FSAR are unaffected by this proposed change.

2. The proposed change does not create the possibility of a new or different kind of accident than any accident already evaluated in the FSAR. Cold overpressure events have been analyzed and their bases are presented in the Bases to Technical Specification 3/4.4.10. The reduction in the allowed outage time for one inoperable RHR relief valve will not alter the conclusion of the cold overpressure analysis. This technical specification change enhances the plant ability to prevent an overpressure event by applying greater restriction upon operations during times of highest risk (i.e., water-solid conditions). No new accident scenarios, failure mechanisms, or limiting single failures are introduced as a result of this proposed change. The proposed technical specification modification does not challenge the performance or integrity of any safety-related systems. Therefore, the possibility of a new or different kind of accident is not created.

3. The proposed technical specification change does not involve a significant reduction in the margin of safety. The proposed reduction in AOT for water solid conditions assures proper protection is afforded for all modes of low temperature operation. The margin of safety from an accident is improved by significantly limiting the time allowed with one train of a protection feature inoperable during the time that the plant is in a vulnerable configuration. The LTOP basis for one RHR relief valve capacity has not changed. Therefore there is no significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Houston Love Memorial Library, 212 W. Burdeshaw Street, P. O. Box 1369, Dothan, Alabama 36302

Attorney for licensee: James H. Miller, III, Esq., Balch and Bingham, P. O. Box 306, 1710 Sixth Avenue North, Birmingham, Alabama 35201

NRC Project Director: Elinor G. Adensam

Southern Nuclear Operating Company, Inc., Docket Nos. 50-348 and 50-364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendments request: December 11, 1992

Description of amendments request: The proposed revisions to Technical Specification 3/4.8.1 for both units include:

(i) Revising Unit 1 Index Page IX to provide the correct page numbers.

(ii) Revising the diesel fuel oil storage system requirement to reflect that each storage tank must contain a minimum of 25,000 gallons of usable fuel rather than merely specifying 25,000 gallons of fuel. This change is also applicable to Specification 3/4.8.2.

(iii) Revising the ACTION associated with an offsite circuit inoperable to reflect new requirements for surveillance activities and offsite circuit restoration. The revision also deletes the exception to Specification 3.0.4.

(iv) Revising the ACTION associated with one diesel generator set inoperable to reflect new requirements for surveillance activities and removing note ** which states that if the scheduled yearly maintenance of a diesel generator set exceeds 10 days, the diesel generator set must be declared inoperable. The revision also reflects new requirements for diesel generator operability status restoration.

(v) Revising the ACTION associated with one offsite circuit and one diesel generator set inoperable to reflect new requirements for surveillance activities and removing note ** which states that if the scheduled yearly maintenance of a diesel generator set exceeds 10 days, the diesel generator set must be declared inoperable. The revision also reflects new requirements for diesel generator operability status restoration and offsite circuit restoration.

(vi) Revising the ACTION associated with both of the offsite circuits inoperable to reflect new requirements for surveillance activities on the diesel generator sets. The revision also reflects

new requirements for offsite circuit restoration.

(vii) Revising the ACTION associated with both of the diesel generator sets inoperable to reflect new requirements for surveillance activities on offsite A.C. sources. The revision also reflects new requirements for diesel generator operability status restoration.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes to the electrical system technical specifications will not involve a significant increase in the probability or consequences of an accident previously evaluated. The changes made to the technical specifications will increase the availability of the electrical systems required to mitigate the consequences of an accident by reducing the time allowed for continued operation with an offsite circuit or a diesel generator inoperable. The reduction in the number of diesel generator surveillance starts is expected to improve reliability. The proposed changes are generally in agreement with the STS which have been previously reviewed and approved by the NRC.

2. The proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed changes do not involve physical changes to the facility and do not result in a change in the manner in which the offsite circuits or the diesel generators provide electrical service to the plant. The assumptions and conclusions of the accident analyses presented in the FSAR are unaffected by these proposed changes. Therefore, a new or different kind of accident will not occur as a result of these changes.

3. The proposed changes do not involve a significant reduction in a margin of safety. The proposed changes do not alter the manner in which safety limits, limiting safety system setpoints, or limiting conditions for operation are determined. By increasing the restrictions upon plant operation with an offsite electrical circuit or a diesel generator out of service, the availability of power to equipment essential for safe operation is enhanced. In addition, the reduction in the number of diesel generator starts is expected to improve reliability. Therefore, a significant reduction in a margin to safety will not occur due to these proposed technical specification changes.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Houston-Love Memorial Library, 212 W. Burdeshaw Street, P. O. Box 1369, Dothan, Alabama 36302

Attorney for licensee: James H. Miller, III, Esq., Balch and Bingham, P. O. Box 306, 1710 Sixth Avenue North, Birmingham, Alabama 35201

NRC Project Director: Elinor G. Adensam

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: January 17, 1992

Description of amendment request: This amendment would revise Technical Specifications (TS) Table 15.4.1-1, "Minimum Frequencies for Checks, Calibrations, and Test of Instrument Channels." The proposed amendment would remove the requirements to check Analog Rod Position, Rod Position Bank Counters, and Steam Generator Flow Mismatch when the reactor is in cold shutdown. Additionally, the proposed change would clarify the test requirements for the Overpower delta T function to ensure consistency with the test requirements of the Overtemperature delta T function.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. Operation of this facility under the proposed Technical Specification change will not create a significant increase in the probability or consequences of an accident previously evaluated. This amendment only removes the requirement to log Analog Rod Position, Rod Position Bank Counters, and Steam Generator Flow Mismatch when the plant is in cold shutdown. While in cold shutdown, control rods are fully inserted, the rod power supply is deenergized, and the reactor trip and bypass breakers are open, ensuring no rod motion. Additionally, the operator is required to monitor Source and Intermediate Range detectors, as well as rod bottom lights when Rod Position Indicators are energized. These requirements ensure that the plant is constantly being monitored for any reactivity changes. The presence of a heat sink is ensured by monitoring the parameters associated with the Residual Heat Removal System. This system is required to be in operation when the plant is in cold shutdown, and the associated parameters are monitored on cold shutdown logs. Additionally, Steam Generator Level and Pressure are monitored while the plant is in cold shutdown. These two parameters provide indications concerning the operability of a steam generator for decay heat removal.

The proposed change to the test frequency for the Overpower delta T function is simply an administrative change to clarify any confusion associated with the notation. This change will ensure that the test requirements for the Overpower delta T and Overtemperature delta T functions are identical. Since there is no physical change to the facility, its systems, or its operation, an increased probability or consequences of an accident previously evaluated cannot occur.

2. Operation of this facility under the proposed Technical Specification change will not create the possibility of a new or different kind of accident from any accident previously evaluated. This amendment removes the requirement to log the three parameters on a once-per-shift basis when the plant is in cold shutdown. The reason that these parameters are monitored is to ensure that the operator can detect any reactivity changes, as well as ensure the presence of a heat sink. Monitoring Source and Intermediate Range detectors and rod bottom lights when the Rod Position Indicators are energized, along with parameters associated with the Residual Heat Removal System, are sufficient to meet these requirements. Steam Generator Level and Pressure are also monitored and can provide additional indications concerning the operability of a steam generator for decay heat removal.

The proposed change to the test frequency for the Overpower delta T function is simply an administrative change to clarify any confusion associated with the notation. This change will ensure that the test requirements for the Overpower delta T and Overtemperature delta T functions are identical. There is no physical change to the facility, it systems, or its operation. Thus, a new or different kind of accident cannot occur.

3. Operation of this facility under the proposed Technical Specification change will not create a significant reduction in a margin of safety. Under this proposed amendment, Analog Rod Position, Rod Position Bank Counters, and Steam Generator Flow Mismatch are not required to be logged when the plant is in cold shutdown. These parameters are monitored to ensure the presence of a heat sink and the swift detection of any reactivity changes. The presence of a heat sink is ensured by monitoring the parameters associated with the Residual Heat Removal System. This system is required to be in operation when the plant is in cold shutdown. Steam Generator Level and Pressure are also monitored, and provide indications concerning the operability of a steam generator for decay heat removal.

Prior to placing the plant in cold shutdown, the operator, by procedure, must ensure that all control rods are fully inserted and that the reactor trip and bypass breakers are open. This ensures that there can be no rod motion. In order to detect any reactivity changes, Source and Intermediate Range detectors are monitored, as well as the rod bottom lights when the Rod Position Indicators are energized. Monitoring of these parameters is sufficient to ensure the presence of a heat sink and the swift detection of any reactivity changes. Thus, monitoring Analog Rod Position, Rod Position Bank Counters, and Steam Generator

Flow Mismatch is redundant and is not required when the plant is in cold shutdown.

The proposed change to the test frequency for the Overpower delta T function is simply an administrative change to clarify any confusion associated with the notation. This change will ensure that the test requirements for the Overpower delta T and Overtemperature delta T functions are identical. Since this amendment does not change the facility, its systems, or its operation, a significant reduction in a margin of safety cannot occur.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: John N. Hannon.

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: January 19, 1993

Description of amendment request: The proposed amendment would revise Technical Specification Table 15.3.5-1, "Engineered Safety Features Initiation Instrument Setting Limits," Item 9, "Degraded Voltage (4.16 KV)." Item 9 now requires the degraded voltage relay setpoints to be set at greater than or equal to 3875 volts plus or minus 2%. The proposed amendment would change this setpoint to 3959 volts plus or minus 1/2%.

The proposed amendment would also revise Technical Specification Table 15.3.5-3, "Emergency Cooling," Item 4.a, "Degraded Voltage (4.16KV)," and Item 4.b, "Loss of Voltage (4.16 KV)." Item 4.a specifies the number of instrument channels which must be operable for degraded voltage protection for each 4.16 KV safeguards bus and the degree of redundancy which must exist. Item 4.b imposes similar requirements for the loss-of-voltage protection channels. If these conditions cannot be met, the current specifications permit continued operation for up to seven days provided both emergency diesel generators are otherwise operable and the associated diesel generator is operating and providing power to the affected bus. If the condition is corrected within seven days, then the affected unit is required to be placed in hot shutdown. The proposed amendment would change the action statement to both items to read: "Declare the associated emergency diesel generator inoperable for the affected bus. The applicable Limiting Condition for Operation (LCO) shall be entered. Separate LCOs may be entered for the Degraded Voltage and Loss of Voltage functions."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1

Operation of PBNP in accordance with the provisions of the proposed amendments does not result in a significant increase in the probability or consequences of any accident previously evaluated.

The revised setpoint for the degraded voltage protection on 4160V Safeguards Buses A05 and A06 removes the non-conservatism in the existing relay setpoint. The setpoint remains below the voltage levels at which spurious activation which could affect safeguards equipment reliability is expected to occur. The proposed setpoint is more restrictive than the existing setpoint and provides assurance that equipment will not be adversely affected by operation for extended periods of time at reduced voltage levels. Therefore, added assurance is provided that safeguards system and equipment will function as designed. The probability or consequences of an any[sic] accident previously evaluated will not be increased by this setpoint change.

The required actions for continued operation with less than the required channels for degraded voltage or loss of voltage protection of safeguards equipment have been revised to require the entry into the LCO for the associated emergency diesel generator (EDG) which will allow continued operation for up to seven days while corrective action is taken prior to placing the affected unit in hot shutdown. The present specification also allows 7 days to take corrective action prior to placing the affected unit in hot shutdown. The requirement to place the affected safeguards buses on the EDG has been eliminated. The preferred source of power to the safeguards buses is from offsite, with the EDGs serving as the safety-related backup source of power. The EDGs are intended to be a standby source of power. It is unlikely that the degraded voltage protection and the loss of voltage protection would be inoperable at the same time. Therefore protection will still be provided, independent of the inoperable channel, for severely degraded or loss of voltage conditions. Operation of the EDGs for an extended period of time when not needed to perform its safety function as analyzed in the PBNP Final Safety Analysis Report, subjects the EDG to increased wear associated with operation which may affect reliability and, therefore, is undesirable. Degraded voltage and loss of voltage conditions can readily be detected by existing instrumentation as well as routine checks, calibrations and tests, and can be compensated for by operator action. Therefore, the elimination of the requirement to place the affected buses on an EDG while maintaining the requirement to take corrective action within 7 days does not result in a significant increase in the probability or consequences of any accident previously evaluated.

The remaining proposed changes, which add the safeguards bus designations to the related items in the Technical specification Tables is an administrative change [sic]. It does not affect any operational requirement or function related to PBNP. Therefore, these changes cannot result in an increase in the probability or consequences of any accident previously evaluated.

Criterion 2

Operation of PBNP in accordance with the provisions of the proposed amendment will not create the possibility of a new or different type of accident than any accident previously evaluated.

The design of PBNP is not being altered as a result of the proposed amendments. The existing design and function of the degraded voltage protection and loss of voltage protection for safeguards equipment is being maintained. Therefore, a new or different type of accident than any accident previously evaluated cannot result.

Criterion 3

Operation of PBNP in accordance with the provisions of the proposed amendments will not result in a significant reduction in a margin of safety.

The setpoint for the degraded voltage protection is being revised to eliminate the exiting non-conservatism in the existing setpoint. The new setpoint is maintained at a level where the reliability of safeguards equipment is not expected to be affected by spurious actuations. Corrective action for inoperable degraded voltage and loss of voltage protection channel will still be required to be taken within 7 days or the affected unit placed in hot shutdown. By not placing the affected buses on the associated EDG, the EDGs are maintained as the standby source which is their intended and design function. The EDGs will also not be subjected to the potential for decreased reliability that could be caused by component wear or other failure mechanisms that may be the result of extended operation. Therefore, a margin of safety is not significantly reduced.

The remaining proposed changes, which add the safeguards bus designations to the related items in the Technical Specification Tables is an administrative change. It does not affect any operational requirement or function related to PBNP. Therefore, a margin of safety is not reduced.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John N. Hannon

Previously Published Notices of Consideration of Issuance of Amendments to Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration. For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Georgia Power Company, et al., Docket Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: November 5, 1992

Description of amendment request: The proposed amendments would revise Technical Specification 5.3.1 in accordance with Generic Letter 90-02 regarding fuel assemblies in design features.

Date of publication of individual notice in **Federal Register:** February 2, 1993 (58 FR 6820)

Expiration date of individual notice: March 4, 1993

Local Public Document Room location: Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830

Northeast Nuclear Energy Company, Docket No. 50-245, Millstone Nuclear Power Station, Unit 1, New London County, Connecticut

Date of amendment request: January 12, 1992

Description of amendment request: The proposed amendment to the Technical Specifications would allow for temporarily bypassing the Main Steam Line Radiation Monitor (MSLRM) trip function in order to allow condensate demineralizers to be returned to service, thereby eliminating the possibility of an inadvertent initiation of the MSLRM trip function. A time limit of 2 hours per occurrence has been set to minimize the overall time that the MSLRM trip function may be bypassed.

Date of publication of individual notice in **Federal Register:** January 25, 1993 (58 FR 6023)

Expiration date of individual notice: February 24, 1993

Local Public Document Room location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: December 7, 1992

Description of amendment request: The proposed amendment to the Technical Specifications would allow the fuel rack storage capacity in the Spent Fuel Pool to be increased to 1083 high density storage racks.

Date of Publication of individual notice in **Federal Register:** February 2, 1993 (58 FR 6822)

Expiration date of individual notice: March 4, 1993

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102

Notice of Issuance of Amendment to Facility Operating License

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, D.C., and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: August 10, 1992

Brief description of amendment: This amendment revises the Technical Specifications surveillance requirements for the station batteries by replacing the rated load discharge test with a service discharge test once-per-cycle and a performance discharge test every 5 years in place of the service test that would normally occur within that time frame.

Date of issuance: January 25, 1993

Effective date: January 25, 1993

Amendment No.: 145

Facility Operating License No. DPR-35: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 23, 1992 (57 FR 61107) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 25, 1993. No significant hazards consideration comments received: No

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: October 23, 1992

Brief description of amendment: This amendment revises the scram insertion

times to reflect the use of advanced GE-10 fuel design in fuel cycle 10.

Date of issuance: January 27, 1993

Effective date: January 27, 1993

Amendment No.: 146

Facility Operating License No. DPR-35: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 9, 1992 (57 FR 58245) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 27, 1993. No significant hazards consideration comments received: No

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Commonwealth Edison Company, Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station Units 1 and 2, Lake County, Illinois

Date of application for amendments: November 22, 1991

Brief description of amendments: The amendments add the Technical Specifications for some of the accident monitoring instrumentation covered by NUREG-0737, Generic Letter 83-37, and Regulatory Guide 1.97. In addition, the amendments make some administrative changes and revise a few other Technical Specifications for post-accident monitoring instrumentation to make them consistent with the guidance provided by the staff. The November 22, 1991, submittal superceeded the previous submittals dated May 23, 1990, and August 26, 1990, in their entirety.

Date of issuance: January 27, 1993

Effective date: January 27, 1993

Amendment Nos.: 141 and 130

Facility Operating License Nos. DPR-39 and DPR-48. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 16, 1992 (57 FR 42772) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 27, 1993. No significant hazards consideration comments received: No

Local Public Document Room location: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Consolidated Edison Company of New York, Docket No. 50-247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: August 7, 1992, as supplemented on January 5, 1993.

Brief description of amendment: The amendment revises the Indian Point Nuclear Generating Unit No. 2 Technical Specifications to delete the snubber listing, Table 3.12-1, in Section 3.12. The amendment is in accordance with NRC Generic Letter 84-13 which permitted the removal of snubber listings from Technical Specifications and NRC Generic Letter 91-08 which addressed administrative controls for component lists that are removed from Technical Specifications.

Date of issuance: January 26, 1993

Effective date: January 26, 1993

Amendment No.: 160

Facility Operating License No. DPR-26: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 30, 1992 (57 FR 45084) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 26, 1993. No significant hazards consideration comments received: No

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: November 5, 1992, as supplemented December 9 and 18, 1992

Brief description of amendments: The amendments revise the limitations on concentrations of radioactive material released in liquid effluents and the limitations on the dose rate resulting from radioactive material released in gaseous effluents, and relocates the prior 10 CFR 20.106 requirements to the new 10 CFR 20.1302. These changes are in response to the new 10 CFR part 20.

Date of issuance: January 6, 1993

Effective date: January 6, 1993

Amendment Nos.: 104, 98

Facility Operating License Nos. NPF-35 and NPF-52: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 23, 1992 (57 FR 55008) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 6, 1993.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: November 5, 1992, as supplemented December 9 and 18, 1992

Brief description of amendments: The amendments revise the limitations on concentrations of radioactive material released in liquid effluents and the limitations on the dose rate resulting from radioactive material released in gaseous effluents, and relocate the prior 10 CFR 20.106 requirements to the new 10 CFR 20.1302. The changes are in response to the new 10 CFR part 20.

Date of issuance: January 6, 1993

Effective date: January 6, 1993

Amendment Nos.: 134, 116

Facility Operating License Nos. NPF-9 and NPF-17: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 23, 1992 (57 FR 55005) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 6, 1993. No significant hazards consideration comments received: No.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: February 10, 1989, as supplemented April 30, November 16, and December 10, 1992

Brief description of amendments: The amendments revise certain 18-month emergency diesel generator surveillance requirements governed by Technical Specification 4.8.1.1.2.e.

Date of issuance: February 1, 1993

Effective date: February 1, 1993

Amendment Nos.: 135, 117

Facility Operating License Nos. NPF-9 and NPF-17: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 7, 1989 (54 FR 9583) The April 30, November 16, and December 10, 1992, letters provided clarifying information and corrections which were not outside the scope of the original **Federal** Register notice and did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 1, 1993. No significant hazards consideration comments received: No.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

Duke Power Company, Docket Nos. 50-269, 50-270, and 50-287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of application of amendments: November 5, 1992, as supplemented December 9 and 18, 1992

Brief description of amendments: The amendments revise the limitations on concentrations of radioactive material released in liquid effluents and the limitations on the dose rate resulting from radioactive material released in gaseous effluents, and relocates the prior 10 CFR 20.106 requirements to the new 10 CFR 20.1302. These changes are in response to the new 10 CFR part 20.

Date of issuance: January 6, 1993

Effective date: January 6, 1993

Amendment Nos.: 198, 198, and 195

Facility Operating License Nos. DPR-38, DPR-47, and DPR-55: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 23, 1992 (57 FR 55006) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 6, 1993.

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina 29691

Entergy Operations, Inc., Docket No. 50-368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of application for amendment: July 22, 1992, as supplemented by letter dated September 11, 1992

Brief description of amendment: The amendment revised the surveillance requirements for steam generator (SG) tubing, TS 4.4.5 and associated Bases, to allow the use of Combustion Engineering Nuclear Services (CENS) sleeves for tube repair in the SGs.

Date of issuance: January 26, 1993

Effective date: January 26, 1993

Amendment No.: 142

Facility Operating License No. NPF-6. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 19, 1992 (57 FR 37567) The additional information contained in the supplemental letter dated September 11, 1992, was clarifying in nature and, thus, within the scope of the initial notice and did not affect the staff's proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 26, 1993. No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: Febrary 22, 1991, as supplemented November 6, 1991, May 28, 1992, and December 21, 1992. The supplemental letters are clarifying and do not affect our finding of no significant hazards consideration.

Brief description of amendment: This amendment removes certain fire protection items from the Crystal River Unit No. 3 Technical Specifications (TS), modifies a license condition to establish the change control process for the Fire Protection Program, and corrects the remote shutdown system steam generator level instrumentation location and measurement range to reflect the existing plant configuration. The requirements of the fire protection TS have been relocated to the Fire Protection Plan.

Date of issuance. January 22, 1993

Effective date: January 22, 1993

Amendment No.: 147

Facility Operating License No. DPR-72. Amendment revised the Technical Specifications. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 22, 1993. No significant hazards consideration comments received: No.

Local Public Document Room location: Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 32629

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit 1, Dauphin County, Pennsylvania

Date of application for amendment: February 24, 1992

Brief description of amendment: The amendment conforms Section 4.4 and the bases statements of the Technical Specifications (TSs) to the exemption granted by the NRC on February 25, 1991, regarding the scheduling of containment integrated leak rate testing. The amendment also provides additional options for verifying valve positions during engineered safeguards surveillance testing and incorporates a number of administrative improvements into the TSs.

Date of issuance. January 26, 1993

Effective date: January 26, 1993

Amendment No.: 167

Facility Operating License No. DPR-50. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 14, 1992 (57 FR 47136) The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated January 26, 1993. No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: November 18, 1992

Brief description of amendment: The amendment changes Technical Specification surveillance requirements to extend the maximum interval between containment Type B and Type C tests from the present 24 months to 34 months for this fuel cycle only.

Date of issuance: January 29, 1993

Effective date: January 29, 1993

Amendment No.: 75

Facility Operating License No. NPF-49. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 23, 1992 (57 FR 61120) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 29, 1993. No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: September 16, 1992, as supplemented November 3, 1992.

Brief description of amendment: The amendment permits implementation of an expanded operating domain resulting from maximum extended load line limit analysis (MELLLA) and increased core flow (ICF).

Date of issuance: January 27, 1993

Effective date: January 27, 1993

Amendment No.: 84

Facility Operating License No. DPR-22. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 28, 1992 (57 FR 48823) The Commission's related evaluation of the amendment is

contained in a Safety Evaluation dated January 27, 1993. No significant hazards consideration comments received: No.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: February 12, 1992, as supplemented December 14, 1992

Brief description of amendment: The amendment changed Technical Specifications 5.5 and 5.8 to reflect the implementation of the Qualified Reviewer Program for the review and approval of new procedures, and changes thereto at the Fort Calhoun Station.

Date of issuance: January 26, 1993

Effective date: 90 days from the date of issuance

Amendment No.: 149

Facility Operating License No. DPR-40. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 18, 1992 (57 FR 9449) The additional information contained in the supplemental letter dated December 14, 1992, was clarifying in nature and thus, within the scope of the initial notice and did not affect the staff's proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 26, 1993. No significant hazards consideration comments received: No.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102

Philadelphia Electric Company, Docket Nos. 50-352 and 50-353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendments: April 3, 1992, as supplemented January 21 and 22, 1993.

Brief description of amendments: The amendments revised the Technical Specification Surveillance Requirements for the Standby Liquid Control (SLC) system to: 1) use the daily check of the SLC pump suction piping temperature to verify system operability, rather than heat tracing operability; 2) verify that the piping is not blocked by pumping from the storage tank to a test drum, rather than to the test tank; and 3) require only one SLC storage tank heater to be operable, rather than two which are currently required.

Date of issuance: January 29, 1993

Effective date: January 29, 1993

Amendment Nos. 59 and 24

Facility Operating License Nos. NPF-39 and NPF-85. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 13, 1992 (57 FR 20515) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 29, 1993. No significant hazards consideration comments received: No

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Portland General Electric Company, et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of application for amendment: November 5, 1992

Brief description of amendment: The amendment revised Trojan Technical Specification 3/4.3.3.7, "Fire Protection Instrumentation." This amendment revised the list of fire detection instruments (Table 3.3-10) and surveillance requirements found within the specification to reflect modifications to the fire detection system, which were made to ensure compliance with the National Fire Protection Association Standard on Automatic Fire Detectors (NFPA 72E).

Date of issuance: January 26, 1993

Effective date: January 26, 1993

Amendment No.: 189

Facility Operating License No. NPF-1: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 9, 1992 (57 FR 58248) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 26, 1993. No significant hazards consideration comments received: No.

Local Public Document Room location: Branford Price Millar Library, Portland State University, 934 S.W. Harrison Street, P.O. Box 1151, Portland, Oregon 97207

Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application for amendment: April 27, 1990

Brief description of amendment: The amendment deleted the March 5, 1980 Order. The Order required implementation of certain training, qualification, and staffing requirements.

Date of issuance: January 19, 1993

Effective date: January 19, 1993

Amendment No. 177

Facility Operating License No. NPF-3. Amendment deletes the March 5, 1980 Order.

Date of initial notice in **Federal Register:** August 21, 1991 (56 FR 41587) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 19, 1993 and an Environmental Assessment dated December 1, 1992. No significant hazards consideration comments received: No

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia.

Date of application for amendments: June 1, 1992

Brief description of amendments: The amendments clarify the definition and requirements for containment integrity and establish consistency with NUREG-0452, "Standard Technical Specifications for Westinghouse Pressurized Water Reactors," Revision 4. In addition, the containment isolation valve tables are being eliminated in accordance with Generic Letter 91-08, "Removal of Component Lists From Technical Specifications."

Date of issuance: January 22, 1993

Effective date: January 22, 1993

Amendment Nos. 72, 171

Facility Operating License Nos. DPR-32 and DPR-37: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 22, 1992 (57 FR 32578) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 22, 1993. No significant hazards consideration comments received: No

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia.

Date of application for amendments: September 4, 1992

Brief description of amendments: These amendments revise the Technical Specifications to modify the acceptance criteria for functional testing of the Anchor Darling mechanical snubbers. In addition, other administrative changes have been made to provide consistency

in terminology and to note that functional testing is in accordance with the approved inservice inspection program.

Date of issuance: January 22, 1993

Effective date: January 22, 1993

Amendment Nos. 173, 172

Facility Operating License Nos. DPR-32 and DPR-37: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 14, 1992 (57 FR 47142) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 22, 1993. No significant hazards consideration comments received: No

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of application for amendment: October 31, 1991

Brief description of amendment: This amendment removes the main steam line radiation monitor (MSLRM) Scram and isolation valve closure functions from the Technical Specifications. This change will reduce the potential for unnecessary reactor shutdown due to spurious MSLRM trip actuation and will increase plant operational flexibility by maintaining the condenser heat sink capabilities.

Date of issuance: January 26, 1993

Effective date: January 26, 1993

Amendment No.: 112

Facility Operating License No. NPF-21: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 28, 1992 (57 FR 48831) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 26, 1993. No significant hazards consideration comments received: No.

Local Public Document Room location: Richland Public Library, 955 Northgate Street, Richland, Washington 99352

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of application for amendment. July 8, 1992, as superseded August 20, 1992.

Brief description of amendment. The amendment revised Technical Specification (TS) Section 3.4, "Steam and Power Conversion System," TS Section 4.8, "Auxiliary Feedwater System," and their respective bases. The changes incorporate an NRC staff recommendation regarding the required minimum condensate storage tank inventory, additional restrictions on the operation of the auxiliary feedwater system, and revisions to the surveillance requirements for the turbine driven auxiliary feedwater pump. In addition, administrative changes were made.

Date of issuance: February 1, 1993

Effective date: February 1, 1993

Amendment No.: 97

Facility Operating License No. DPR-43. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 19, 1992 (57 FR 37574) and December 23, 1992 (57 FR 61123). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 1, 1993. No significant hazards consideration comments received: No.

Local Public Document Room location: University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Notice of Issuance of Amendment to Facility Operating License and Final Determination of No Significant Hazards Consideration and Opportunity for Hearing (Exigent or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing. For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental

Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U. S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. By March 19, 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 for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the 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. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, 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 ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 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 (Project Director): petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of application for amendment: January 19, 1993

Brief description of amendment: This amendment changes the surveillance interval in Technical Specification Table 4.2.2, Item 2, for testing two control rod drive mechanisms, CRD-20 and CRD-31, from "Every Two Weeks" to once in March 1993.

Date of issuance: January 29, 1993

Effective date: January 29, 1993

Amendment No.: 155

Facility Operating License No. DPR-20. Amendment revised the Technical Specifications. Public comments requested as to proposed no significant hazards consideration: No. The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated January 29, 1993.

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201

Local Public Document Room location: Van Wylen Library, Hope College, Holland, Michigan 49423.

NRC Project Director: L. B. Marsh

Dated at Rockville, Maryland, this 9th day of February 1993.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects - I/II, Office of Nuclear Reactor Regulation

[Doc. 93-3540 Filed 2-16-93; 8:45 am]

BILLING CODE 7590-01-F

[Docket No. 99900271]

Rosemount, Inc.; Receipt of Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that by Petition dated December 31, 1992, Paul M. Blanch (Petitioner) has requested that the Commission take immediate enforcement action against Rosemount, Inc., for a knowing and intentional failure to provide notice of defects in basic components, as required by 10 CFR 21.21. As a basis for this request, the Petitioner asserts that Rosemount became aware, prior to 1986, that basic components consisting of 1150 series transmitters supplied to nuclear industry purchasers contained defects, but failed to notify either the purchaser's or affected licensees within five working days of the discovery of the defect, or the Commission within a timely manner, as required by 10 CFR 21.21. Specifically, the Petitioner asserts that Rosemount became aware that the transmitters contained defects consisting of a loss of fill oil which resulted in an undetected failure of the transmitter. The Petitioner asserts that this resulted in the severe degradation of the transmitters' response time and drift which was outside of the specified procurement requirements and was in violation of NRC requirements as defined in 10 CFR 50.55 and certain IEEE Codes and Standards required by the procurement documents. According to the Petitioner, a second failure mechanism was that certain 1150 series transmitters contained a defect which resulted in either an intermittent up-scale or down-scale reading which returned to normal after power was removed.

The request is being treated pursuant to 10 CFR 2.206 of the Commission's regulations. The request has been referred to the Director of Nuclear Reactor Regulation (NRR). By letter dated February 2, 1993, the Petitioner's request that the Commission take immediate action has been denied. As provided by § 2.206, appropriate action will be taken on this request within a reasonable time.

A copy of the Petition is available for inspection at the Commission's Public Document Room at 2120 L Street, NW., Washington, DC 20555.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 2nd day of February 1993

Thomas E. Murley,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 93-3669 Filed 2-16-93; 8:45 am]

BILLING CODE 7590-01-M

NUREG-1021, Revision 7, "Operator Licensing Examiner Standards;" Availability

The Nuclear Regulatory Commission has issued Revision 7 of NUREG-1021, "Operator Licensing Examiner Standards." The Commission uses this document to provide policy and guidelines for NRC examiners and to establish the procedures and practices for conducting initial and requalification written examinations and operating tests for license applicants and licensed operators at power reactor facilities pursuant to part 55 of title 10 of the Code of Federal Regulations. The policies and guidelines contained in Revision 7 of NUREG-1021 will be used for all examinations commencing 180 days from the date of this notice.

Copies of NUREG-1021, Revision 7, may be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013-7082. Copies are also available from the National Technical Information Services, 5285 Port Royal Road, Springfield, VA, 22161. A copy is also available for inspection and/or copying for a fee in the NRC Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 10th day of February, 1993.

David J. Lange,

Acting Chief, Operator Licensing Branch, Division of Reactor Controls and Human Factors, Office of Nuclear Reactor Regulation.

[FR Doc. 93-3670 Filed 2-16-93; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Request for Reclearance of Form RI 38-107

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a request for reclearance of an information collection. Form RI 38-107, Verification of Who is Getting Payments, is designed for use when OPM, for any reason, must verify that the entitled person is indeed receiving the monies payable. Failure to collect this information would cause OPM to pay monies absent the assurance of a correct payee.

Approximately 3,290 RI 38-107 forms are completed annually. It takes approximately 10 minutes to complete this form. The annual burden is 549 hours.

For copies of this proposal, contact C. Ronald Trueworthy on (703) 908-8550.

DATES: Comments on this proposal should be received on or before March 19, 1993.

ADDRESSES: Send or deliver comments to—

Lorraine E. Dettman, Chief, Operations Support Division, Retirement and Insurance Group, U.S. Office of Personnel Management, 1900 E Street, NW., room 3349, Washington, DC 20415, and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., room 3002, Washington, DC 20503.

FOR FURTHER INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Mary Beth Smith-Toomey, Chief, Administrative Management Branch (202) 606-0616.

U.S. Office of Personnel Management.

Patricia W. Lattimore,

Acting Director.

[FR Doc. 93-3573 Filed 2-16-93; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-31844; File No. SR-AMEX-92-29]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Notice of Filing of and Order Granting Accelerated Approval Relating to the Listing and Trading of Broad-Based Index Options That Expire at the End of Each Calendar Quarter

February 9, 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 November 13, 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 and II below, which Items have been prepared by the AMEX.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The AMEX proposes to list for trading index options on broad-based stock indexes that will expire on the first business day of the month following each calendar quarter ("quarterly style expiration index options" or "QIX").[2]

The text of the proposed rule change is available at the Office of the Secretary, AMEX, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the AMEX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The AMEX has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

(1) Purpose

When standardized index options began trading in 1983, they incorporated many of the same contract specifications of exchange-traded equity options. In particular, index options were introduced with comparable expirations (the Saturday following the third Friday of the expiration month). The significant difference between exchange-traded index options and equity options was that index options settle in cash as opposed to the delivery of the underlying stock.

As institutional investors have expanded their use of exchange-traded index options through the years, it has been observed that a number of such investors appear to be using the over-the-counter ("OTC") market where options can be customized with expirations at calendar-end quarters in order to coincide with quarterly and year-end valuations of their portfolios.

In order to meet the increasing needs of such institutional investors, the Exchange proposes to introduce standardized broad-based stock index options which will trade until the last business day of the calendar quarter (*i.e.*, March 31, June 30, September 30 and December 31). Expiration of these quarterly style index options contracts will take place on the first business day following the end of the calendar quarter.

The Exchange proposes to list QIXs on the Major Market Index ("XMI"), the XII, and the Standard & Poor's ("S&P") Midcap Index ("MID"). Contract terms for these options will be similar to the corresponding "regular" index options (*i.e.*, those expiring on the Saturday following the third Friday of the expiration month). QIXs will feature European-style exercise and will have their settlement value based upon closing prices on the last business day of the quarter. Further, to better meet the needs of institutional users, the Exchange plans to use an index multiplier of up to 500 (in order to offer larger-sized index contracts), instead of the customary 100 multiplier, and intends to initially list up to eight quarterly expirations.

For purposes of the Exchange's position limit framework, the AMEX proposes that. (1) Positions in QIX options be aggregated with positions in related index options;[3] (2) no "telescoping" provision limiting positions in near-term months will apply to QIX options, and (3) QIX options with contract multipliers greater than 100 will not be entitled to increased position limits but must adhere to existing position limits set forth in Rule 904C.[4]

(2) Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act, in general, and section 6(b)(5), in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The AMEX believes that the proposed rule change will not impose a 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 either solicited or received.

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 listing and trading of QIX options based on the XMI, XII and MID is consistent with the requirements of the Act and the rules and regulations thereunder, and, in particular, the requirements of section 6(b)(5) of the Act.[5] 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. 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. Specifically, by providing investors

[1] On August 21, 1992, the AMEX originally filed with the Commission its quarterly style expiration index options proposal. The AMEX subsequently amended the filing on September 15, 1992 to make the nomenclature for the quarterly style options consistent with the Rules of the Options Clearing Corporation ("OCC"). See letter from Ellen T. Kander, Special Counsel, Derivative Securities, AMEX, to Thomas Gira, Branch Chief, Options Regulation, SEC, dated September 15, 1992. On January 29, 1993, the proposal was further amended to clarify position limits in the Institutional Index ("XII") option to no more than 25,000 contracts for index arbitrage purposes. *See* letter from Ellen T. Kander, Special Counsel, Derivative Securities, AMEX, to Jeffrey P. Burns, Staff Attorney, Branch of Options Regulation, SEC, dated January 29, 1993.

[2] Presently, options traded at the AMEX expire on the Saturday following the third Friday of the expiration month. The AMEX 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 AMEX also trades long-term index options that may expire three years from listing named "LEAPS." The AMEX 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.

[3] For current position limit in the XII is 45,000 contracts. The AMEX proposal would not allow more than 25,000 contracts in the XII to be used for index arbitrage purposes.

[4] The Exchange believes that increased contract sizes may be justified due to the larger portfolios now being managed by institutional investors. The AMEX's rules provide that position limits will be accordingly adjusted if the multiplier is between 100 and 500. In those instances where the Exchange intends to list and trade a QIX option with a multiplier greater than 100, the Commission expects to be notified, and appropriate procedures or rule amendments filed and approved pursuant to section 19(b) of the Act prior to trading options based on a multiplier other than 100.

[5] 15 U.S.C. 78f(b)(5) (1982).

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 AMEX proposal will allow investors increased flexibility to tailor their portfolio positions to satisfy their investment objectives.[6] Accordingly, the Commission believes the AMEX 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,[7] and will thereby promote competition among these markets.

In addition, the Commission believes that the AMEX 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 XMI, XII and MID options to quarterly calendar expirations. The attributes of the Exchange's XMI, XII and MID 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 on a real-time basis, standardized contract specifications, parameters and procedures for clearance and settlement, and the guarantee of OCC for all contracts traded on the Exchange.[8]

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. Position and exercise limits on QIX XMIs, QIX XIIs and QIX MIDs will be aggregated with all outstanding contracts based on the XMI, XII or MID, respectively. The specific position and exercise limits for QIXs are as follows: (1) QIX XMIs are subject to a 34,000 contract limit, (2) QIX XIIs are subject to a 45,000 contract limit with an index arbitrage limitation of 25,000 contracts;[9] and (3) QIX MIDs are subject to a 25,000 contract limit.[10]

The Commission notes that QIX XIIs will be treated like existing XII option contracts, which are A.M.-settled, except for expiration settlement which will be based on the closing values of the component securities.[11] 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,[12] these concerns are reduced in the case of QIXs, 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 XMIs, QIX XIIs and QIX MIDs will never expire on an "Expiration Friday" or any other "Expiration Fridays" in March, June, September and December, thereby diminishing any impact that QIXs 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 AMEX 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 AMEX, the Commission believes that 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 "AMEX systems are able to fully handle any series added in conjunction with the listing of quarterly expiration index options."[13] In addition, the Exchange further represents that OPRA has made assurances that it has the necessary systems capacity to support the new series which may result from the introduction of QIX options.[14]

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 QIX options can provide investors in tailoring portfolio hedges that expire on the last business day of the quarter. In addition, AMEX's QIX proposal is similar to a proposal by the CBOE to trade QIX options on two different broad based indexes.[15] Although the indexes in the CBOE rule filing are different, the general trading requirements for AMEX's QIX proposal are similar or identical to the CBOE's proposal which was published for comment.[16] Accordingly, because we do not believe the AMEX proposal raises any new regulatory issues we believe it is appropriate to approve the AMEX proposal at this time. The Commission further 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

[6] 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.

[7] 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.

[8] See File No. SR-OCC-91-27.

[9] Specifically, AMEX Rule 904C(b) states that no more than 25,000 contracts may be used for purpose of taking advantage of any differential in price between the XII Index and the securities underlying the XII.

[10] QIX XMIs, QIX XIIs and QIX MIDs will be entitled to certain hedge exemptions from position limits under the AMEX's rules. QIX XIIs are to be treated identically to XII options expiring on the Saturday following the third Friday of the quarter month for purposes of the hedging exemptions from position and exercise limits (150,000 contract limit) and the facilitation exemption (250,000 contracts in the aggregate and 135,000 contracts for a single account). See Information Circular from Howard Baker, Senior Vice President, AMEX, to Members, Member Organizations and Registered Options Principals regarding Institutional Index Options—Introduction of Opening-Settled Contracts and Expansion of Position Limits ("Institutional Index Circular"). QIX XMIs and QIX MIDs are subject to the 75,000 contract hedge exemption, and, will not be eligible for any facilitation exemptions from position limits. See Securities Exchange Act Release No. 25938 (July 22, 1988), 53 FR 28738 and AMEX Information Circular #88-105 (August 12, 1988) ("Existing Hedge Exemption"). For the purpose of these hedge and facilitation exemptions, QIX options and those stock index options currently trading based on the XMI, XII or MID will be aggregated.

[11] QIXs on the XMI, XII and/or MIDs will have their settlement value based on the closing prices of the component securities on the last business day of the quarter.

[12] See Securities Exchange Act Release No. 31330 (October 16, 1992), 57 FR 48408.

[13] See letter from Ellen T Kander, Special Counsel, Derivative Securities, AMEX, to Jeffrey P Burns, Staff Attorney, Branch of Options Regulation, SEC, dated February 1, 1993.

[14] *Id.*

[15] See Securities Exchange Act Release No. 31800 (February 1, 1993) (approval of file No. SR-CBOE-92-13).

[16] No comments were received on the CBOE proposal.

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–92–29 and should be submitted by March 10, 1993

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[17] that the proposed rule change (SR–AMEX–92–29) and amendments described herein are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–3660 Filed 2–16–93, 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–31845; File No. SR–NASD–92–53]

Self-Regulatory Organizations; Notice of Proposed Rule Change by National Association of Securities Dealers, Inc., Relating to the Codification of Guidelines Regarding Communications With the Public About Investment Companies and Variable Contracts

February 10, 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 8, 1992, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change[1] as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing to delete its Guidelines Regarding Communications with the Public About Investment Companies and Variable Contracts ("Guidelines")—published at ¶ 5286 of the NASD Manual—and amend Article III, section 35 of the Rules of Fair Practice ("Section 35") to incorporate certain specific standards from the Guidelines. Below is the text of the proposed amendments to section 35. Proposed new language is italicized.

Communications With the Public

Sec. 35.

* * * * *

(d) Standards Applicable to Communications with the Public.

(1) General Standards

* * * * *

(D) In judging whether a communication or a particular element of a communication may be misleading, several factors should be considered, including but not limited to.

(i) The Overall Context in Which the Statement or Statements Are Made: A statement made in one context may be misleading even though such a statement could be perfectly appropriate in another context. An essential test in this regard is the balance of treatment of risks and potential benefits.

(ii) The Audience to Which the Communication Is Directed: Different levels of explanation or detail may be necessary depending on the audience to which a communication is directed, and the ability of the member given the nature of the media used, to restrict the audience appropriately If the statements made in a communication would be applicable only to a limited audience, or if additional information might be necessary for other audiences, it should be kept in mind that it is not always possible to restrict the readership of a particular communication.

(iii) The Overall Clarity of the Communication. A statement or disclosure made in an unclear manner obviously can result in a lack of understanding of the statement, or in a serious misunderstanding. A complex or overly technical explanation may be worse than too little information. Likewise material disclosure relegated to legends or footnotes realistically may not enhance the reader's understanding of the communication.

(2) Specific Standards

In addition to the foregoing general standards, the following specific standards apply:

* * * * *

(L) Claims of Tax Free/Tax Exempt Returns: Income or investment returns may not be characterized as tax free or exempt from income tax where tax liability is merely postponed or deferred. If taxes are payable upon redemption, that fact must be disclosed. References to tax free/tax exempt current income must indicate which taxes apply or which do not unless income is free from all applicable taxes. For example, if income from an investment company investing in municipal bonds may be subject to state or local income taxes, this should be stated, or the illustration should otherwise make it clear that income is free from federal income tax.

(M) Comparisons: In making a comparison, either directly or indirectly, the member must make certain that the purpose of the comparison is clear and must provide a fair and balanced presentation, including any material differences between the subjects of comparison. Such differences may include investment objectives, sales and management fees, liquidity, safety, guarantees or insurance, fluctuation of principal and/or return, tax features, and any other factors necessary to make such comparisons fair and not misleading.

(N) Predictions and Projections: Investment results cannot be predicted or projected. Investment performance illustrations may not imply that gain or income realized in the past will be repeated in the future. However, for purposes of this rule, the following types of information are not considered projections of performance: hypothetical illustrations of mathematical principles, (e.g., illustrations designed to show the effects of dollar cost averaging, tax-free compounding, or the mechanics of variable annuity contracts or variable life policies).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The NASD is proposing to codify the Guidelines by deleting the Guidelines and amending Article III, section 35 of the Rules of Fair Practice to incorporate certain specific standards from the Guidelines. The Guidelines were adopted by the NASD in 1982 following the SEC's 1979 repeal of its Statement of Policy on Investment Company Sales Literature. In June 1991, when the SEC amended Rule 482 under the Securities Act of 1933 and Rule 34b–1 under the Investment Company Act of 1940 relating to the communication of investment company performance to the public, many of the provisions of the Guidelines were rendered obsolete. Accordingly, the NASD is proposing to delete the Guidelines and amend Article III, section 35 of the Rules of Fair Practice by adding those provisions of

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[17] 15 U.S.C. 78s(b)(2) (1982).

[18] 17 CFR 200.30–3(a)(12) (1992).

[1] On January 11, 1993, the NASD filed Amendment No. 1 with the Commission. Amendment No. 1 reports the results of a member vote on the proposed rule change, which was published for member vote in NASD Notice to Members 92–56 (November 1992). The results of the member vote are as follows: 1768 voting in favor, 154 opposed, 8 not voting, and 18 unsigned, out of 1948 ballots received.

the Guidelines that impose general standards for communications and certain of the specific standards for communications concerning claims of tax free or tax exempt returns, comparisons, and predictions and projections. The amended provisions would apply to advertisements for all types of investments, whereas the application of the Guidelines is restricted to investment company and variable contract products.

Proposed new subsection 35(d)(1)(D) would incorporate the entire provision set forth as "General Considerations," currently included in the first section of the Guidelines. The first standard under new paragraph 35(d)(1)(D)(i) relates to the overall context of a statement and would require members to consider that a statement may be misleading in one context while being perfectly appropriate in another context. The principal test of this standard is whether the statement adequately balances the potential risks with the potential benefits. This provision incorporates rule language identical to that currently in the Guidelines.

The standard set forth in proposed new paragraph 35(d)(1)(D)(ii) relates to the importance of the target audience as a factor in evaluating the communication. The provision would require varying levels of explanation or detail in a communication depending on the audience and the member's ability to restrict the communication to the intended audience. Members are required to consider the likelihood that the communication could be received by persons for whom the explanations or information are inadequate or misleading. This provision incorporates rule language identical to that currently contained in the Guidelines.

The standard set forth in proposed new paragraph 35(d)(1)(D)(iii) would require all statements in communications to be made clearly and cautions against complex or overly technical explanations and the inclusion of material information in legends or footnotes. This provision incorporates rule language identical to that currently contained in the Guidelines.

Proposed new subsections 35(d)(2)(L), (M) and (N) would incorporate a number of concepts contained in other parts of the Guidelines into the requirements set forth as "Specific Standards" with respect to communications with the public in section 35. Proposed subsection 35(d)(2)(L) would prohibit members from stating that an investment is "tax free" or "tax exempt" if tax liability is merely postponed or deferred, and requires that if there are references to tax free/tax exempt current income or if taxes are payable on redemption, those facts and any applicable taxes must be adequately disclosed. The rule language of this provision is drawn from the last paragraph of the section in the Guidelines titled "4. Specific Considerations in Presenting Yield Data or Illustrations."

Proposed subsection 35(d)(2)(M) would require members, when using comparisons, to ensure that the comparisons are clear, fair, balanced, and include any material differences between the subjects of the comparison such as liquidity, safety, investment objectives and fees, among others. The rule language of this provision is drawn from the first three paragraphs of the section in the Guidelines titled "5. Considerations Regarding Comparisons."

Proposed subsection 35(d)(2)(N) would prohibit members from predicting or projecting future performance on any basis, including past performance. Hypothetical illustrations of mathematical principles such as dollar cost averaging, however, are not considered projections of performance. The rule language of this provision is based on that included in the section in the Guidelines titled "Adequacy of Information Concerning the Relevance of Results Illustrated to Probable Future Results."

The NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act in that the proposed advertising rules will protect investors and the public interest. The proposed rule change will protect investors and the public interest by codifying certain general and specific standards in the Guidelines, and by extending the application of these standards, which currently apply only to investment company securities, to communications regarding all types of securities. The proposed rule change will thereby prevent the use of misleading statements, inadequate explanations of statements or statements which have no basis in fact, in connection with communications with the public regarding investments.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The NASD published the proposed rule change for comment in Notice to Members 91–79. The NASD received five comment letters in connection with the proposed rule change. Four commenters were in favor of the proposed rule change and one was opposed to one provision.

One commenter in favor of the proposed rule change suggested that a new subsection should be added to proposed subsection 35(d)(1)(D) relating to "General Standards" incorporating principles from the Guidelines that the commenter believed are not expressly covered elsewhere in section 35. These principles include the need to balance the treatment of risks and potential benefits, the need to consider the audience to which a communication is directed and the importance of clarity of a communication. The NASD agreed with these comments and amended the proposed rule change to include such language.

The same commenter suggested that proposed subsection 35(d)(2)(L) relating to tax-free/tax-exempt claims be modified to specify that adequate disclosure would require disclosure of which taxes apply or which do not (as opposed to a discussion of all taxes and their applicability or lack thereof), as appropriate. The NASD agreed with these recommendations and has modified subsection 35(d)(2)(L) to reflect the comments.

One commenter suggested that proposed subsection 35(d)(2)(M) relating to making comparisons between investments options include a specific reference to differences in the safety of investments. The NASD agreed and inserted the word "safety" into the proposed rule language. Another commenter suggested that this subsection be clarified by explaining that the requirement to disclose material differences *may* include those listed in the subsection to distinguish between those differences which, while listed, may not be material. The NASD agreed and inserted the word "may" in the language of proposed subsection 35(d)(2)(M).

That same commenter suggested that the requirement in subsection 35(d)(2)(M) to disclose material differences between the subjects of the comparisons should be modified to require disclosure only of "relevant" material differences. The NASD believes that the terms "material" and "relevant" are roughly synonymous for these

purposes, and therefore, would be redundant if used together.

Two commenters were opposed to the proposed prohibition in subsection 35(d)(2)(N) on predictions or projections of performance. The commenters suggested that the proposed subsection be deleted in its entirety because such projections are likely too speculative and therefore, misleading, under the antifraud provisions of the federal securities laws. The NASD does not believe any change in this subsection is warranted even though this subsection may be partially duplicative of a provision of the federal securities laws. The proposed subsection is addressed to specific forms of communication, while the antifraud provisions are general in nature. Further, certain antifraud provisions may require proof of scienter as an element of the violation while the proposed subsection is proscriptive without reference to intent.

The same commenters suggested that, if the subsection were not deleted it should be modified to permit statements relating to results from zero coupon bond portfolios and hypothetical illustrations (such as dollar cost averaging or tax free compounding charts). The NASD disagreed with the commenter's suggestion regarding zero coupon bond portfolios because for the variety of types of zero coupon bond funds and because of the changes in expectations if the shares are liquidated; however, the NASD agreed with the recommendation regarding hypothetical illustrations. The NASD has modified proposed subsection 35(d)(2)(N) as published for comment to permit hypothetical illustrations of mathematical principles. Finally, two commenters suggested deleting the first reference to "future" in this subsection on grounds of redundancy. The NASD agrees and has modified the proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by March 10, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–3661 Filed 2–16–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–31846; File No. SR–PSE–93–02]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Stock Exchange, Inc. Relating to Amendments to its Equity Transaction Charges

February 10, 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 19, 1993, 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. On January 26, 1993, the PSE submitted to the Commission Amendment No. 1 to the proposed rule change.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE proposes to amend the Equity Transaction Charges published in the Schedule of Rates for Exchange Services. The Exchange proposed the following amendments to its Equity Transaction fee schedule:[2]

A. EXCHANGE TRANSACTIONS PER MONTH

Cumulative trade value per month	Charge per $1,000 of trade value
[$650,000,001 and over]	[0.2]
$650,000,001 to $800,000,000	0.02
Over $800,000,000	0.01

B. THE FOLLOWING DISCOUNTS FROM THE ABOVE TRANSACTION FEES APPLY TO AUTOMATED TRADES

Trade size (shares)	Under $150 million of trade value	$150 to $350 million of trade value	$350 to $500 million of trade value
[100 to 300	50%	40%	20%]
[301 to 500	40	30	10]
[501 to 900	30	20	5]
100 to 400	35%	30%	25%
401 to 600	25	20	15
601 to 800	20	15	5
801 to 1100	10	5	2.5

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 Exchange is proposing these changes in order to compete for increased order flow and for larger-sized trades to be executed on its Equity Floors. The Exchange is proposing to make the following changes to its

[1] See letter from Michael D. Pierson, Senior Attorney, PSE, to Louis A. Randazzo, Attorney, Commission, dated January 26, 1993. Amendment No. 1 clarified the specific additions and deletions to the proposed equity rates and clarified the Exchange's purpose for the proposed rule change.

[2] With respect to the following schedule, italicizing indicates new material and brackets indicate material to be deleted.

charges to members for certain equity transactions as published in the Exchange's Schedule of Rates. First, the Exchange proposes to modify its equity transaction charges by adding a new value tier for Exchange transactions with monthly cumulative trade values greater than $800,000,000. The charge per $1,000 of trade value would be $0.01. Previously, the Exchange assessed a charge of $0.02 (per $1,000 of trade value) for cumulative trade values per month of $650,000,001 and over.

Second, the Exchange proposes to modify the current discounts applicable to transaction fees for automated trades. Accordingly, the maximum applicable trade size has been increased from 900 shares to 1100 shares in order to provide increased discounts for larger-sized trades. In addition, the discounts for automated trade transaction fees have been redistributed based on the dollar value of applicable trades.

2. Statutory Basis

The proposed filing is consistent with section 6(b)(4) of the Act in that it provides for the equitable allocation of reasonable charges among its members and persons using its facilities.

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

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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 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 PSE. All submissions should refer to File No. SR–PSE–93–02 and should be submitted by March 10, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–3662 Filed 2–16–93; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Inc.

February 10, 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 Co.'s, Inc.
Common Stock, $.01 Par Value (File No. 7–10228)

This security is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 25, 1993, written data, views and arguments concerning the above-referenced applications. 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 applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–3582 Filed 2–16–93; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Inc.

February 10, 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 securities:

Toledo Edison Co.
8.84% Cum. Pfd., $25.00 Par Value (File No. 7–10190)
Toledo Edison Co.
$2.365 Cum. Pfd., $25.00 Par Value (File No. 7–10191)
Toledo Edison Co.
Adj. Rte. Pfd. Ser. A, $25.00 Par Value (File No. 7–10192)
Toledo Edison Co.
Adj. Rte. Pfd. Ser. B, $25.00 Par Value (File No. 7–10193)
Toledo Edison Co.
$2.81 Cum. Pfd., $25.00 Par Value (File No. 7–10194)
Tosco Company
Common Stock, $.75 Par Value (File No. 7–10195)
Transamerica Income Shares, Inc.
Common Stock, $1.00 Par Value (File No. 7–10196)
Transco Energy Co.
$4.75 Ser. Cum., No Par Value (File No. 7–10197)
Transcontinental Gas Pipe Line Corp.
$8.64 Cum. Pfd. Ser., No Par Value (File No. 7–10198)
Triangle Industries, Inc.
Capital Stock, No Par Value (File No. 7–10199)
TRW, Inc.
$4.40 Cum. Conv. Ser. Pfd. II Ser. I, No Par Value (File No. 7–10200)
TRW, Inc.
$4.50 Cum. Conv. Ser. Pfd. II Ser. 3, No Par Value (File No. 10201)
Turkish Investment Fund, Inc.

Common Stock, $.01 Par Value (File No. 7–10202)
Twin Disc, Inc.
Common Stock, No Par Value (File No. 7–10203)
UDC Universal Development LP
Pfd. Dep. Units Ser. B, No Par Value (File No. 7–10204)
Unifirst Corp.
Common Stock, $.10 Par Value (File No. 7–10205)
Union Electric Company
$4.56 Pfd. Ser., No Par Value (File No. 7–10206)
Union Electric Company
$4.50 Pfd. Ser., No Par Value (File No. 7–10207)
Union Electric Company
$3.50 Pfd. Ser., No Par Value (File No. 7–10208)
Union Electric Company
$4.00 Pfd. Ser., No Par Value (File No. 7–10209)
Union Electric Company
$6.40 Cum. Pfd. Ser., No Par Value (File No. 7–10210)
Union Electric Company
$8.00 Cum. Pfd. Ser. of 1971, No Par Value (File No. 7–10211)
Union Electric Company
$7.44 Cum. Pfd. Ser., No Par Value (File No. 7–10212)
Union Electric Company
$8.00 Cum. Pfd. Ser of 1969, No Par Value (File No. 7–10213)
Union Planters Corp.
Common Stock, $5.00 Par Value (File No. 7–10214)
Union Texas Petroleum Holdings, Inc.
Common Stock, $.05 Par Value (File No. 7–10215)
United Dominion Realty Trust, Inc.
Common Stock, $1.00 Par Value (File No. 7–10216)
United Investors Management Co.
Common Stock, $1.00 Par Value (File No. 7–10217)
United Kingdom Fund, Inc.
Common Stock, No Par Value (File No. 7–10218)
UNUM Corp.
Common Stock, $10.00 Par Value (File No. 7–10219)
URS Corporation
Common Stock, $.25 Par Value (File No. 7–10220)
Utilicorp United, Inc.
$1.775 Cum. Conv. Pfd. Ser., No Par Value (File No. 7–10221)
Vestaur Securities, Inc.
Common Stock, $.01 Par Value (File No. 7–10222)
Virginia Electric & Power Co.
$5.00 Pfd., $100.00 Par Value (File No. 7–10223)
Virginia Electric & Power Co.
$7.20 Pfd., $100.00 Par Value (File No. 7–10224)
Virginia Electric & Power Co.
$7.45 Pfd., $$100.00 Par Value (File No. 7–10225)
Virginia Electric & Power Co.
$7.72 Pfd., No Par Value (File No. 7–10226)
Virginia Electric & Power Co.
$7.72 Pfd. Ser. 1972, $100.00 Par Value (File No. 7–10227)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 4, 1993, written data, views and arguments concerning the above-referenced applications. 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 applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–3583 Filed 2–16–93; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2623]

Arizona, Amendment #1; Declaration of Disaster Loan Area

In accordance with a Presidential amendment dated February 4, 1993, the above-numbered Declaration is hereby amended to include Yuma County as a disaster area as a result of damages caused by flooding beginning on January 5, 1993.

Imperial County, California, which is contiguous to Yuma County, Arizona, is covered by a declaration for the State of California for the same occurrence.

All other information remains the same, i.e., the termination date for filing applications for physical damage is March 22, 1993 and October 19, 1993 for economic injury.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: February 8, 1993.

Bernard Kulik,

Assistant Administrator for Disaster Assistance.

[FR Doc. 93–3654 Filed 2–16–93; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2629]

California (and Contiguous Counties in Oregon, Nevada and Arizona); Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on February 3, 1993, I find that the Counties of Contra Costa, Fresno, Imperial, Lassen, Madera, Mendocino, Modoc, Moterey, Orange, Plumas, Riverside, San Bernardino, San Diego, Sierra, Siskiyou, Sonoma, Tehama, Trinity, Tulare, and the City of Fillmore in the State of California constitute a disaster area as a result of damages caused by severe winter storms, mud and rock slides, and flooding which occurred January 5 through January 22, 1993. Applications for loans for physical damage may be filed until the close of business on April 5, 1993, and for loans for economic injury until the close of business on November 3, 1993, at the address listed: United States 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 Alameda, Butte, Del Norte, Glenn, Humboldt, Inyo, Kern, Kings, Lake, Los Angeles, Marin, Mariposa, Merced, Mono, Napa, Nevada, Sacramento, San Benito, San Joaquin, San Luis Obispo, Santa Cruz, Shasta, Solano, Tuolumne, Ventura, and Yuba in California; Jackson, Josephine, Klamath, and Lake Counties in Oregon: Clark and Washoe, Counties in Nevada; and LaPaz, Mohave, and Yuma Counties in Arizona 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 262906. For economic injury the numbers are 784600 for California; 784700 for

Oregon; 784800 for Nevada; and 784900 for Arizona.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: February 8, 1993.

Bernard Kulik,

Assistant Administrator for Disaster Assistance.

[FR Doc. 93–3651 Filed 2–16–93; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2628]

Florida; Declaration of Disaster Loan Area

Pasco County and the contiguous counties of Hernando, Hillsborough, Pinellas, Polk, and Sumter in the State of Florida constitute a disaster area due to damages caused by a fire in the U.S.A. Flea Market on U.S. 19 in Pasco County, which occurred on January 17, 1993. Applications for loans for physical damage may be filed until the close of business on April 8, 1993 and for economic injury until the close of business on November 5, 1993 at the address listed: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, suite 300, Atlanta, GA 30308, 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 number assigned to this disaster for physical damage is 262805 and for economic injury the number is 784500.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: February 5, 1993.

Dayton J. Watkins,

Acting Administrator.

[FR Doc. 93–3650 Filed 2–16–93; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2627]

Louisiana; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on February 2, 1993, I find that the parishes of Ascension, East Baton Rouge, Lafayette, Livingston, and St. Martin in the State of Louisiana constitute a disaster area as a result of damages caused by severe storms and flooding beginning on January 20, 1993 and continuing through January 25, 1993. Applications for loans for physical damage may be filed until the close of business on April 3, 1993, and for loans for economic injury until the close of business on November 2, 1993, at the address listed: Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., suite 102, Ft. Worth, Texas 76155, or other locally announced locations. In addition, applications for economic injury loans for small businesses located in the contiguous parishes of Acadia, Assumption, East Feliciana, Iberia, Iberville, Pointe Coupee, St. Helena, St. James, St. John the Baptist, St. Landry, St. Mary, Tangipahoa, Vermilion, West Baton Rouge, and West Feliciana in the State of Louisiana 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 262706 and for economic injury the number is 784400.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: February 9, 1993.

Bernard Kulik,

Assistant Administrator for Disaster Assistance.

[FR Doc. 93–3655 Filed 2–16–93; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2624]

Massachusetts, Amendment #1; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended to include Plymouth County and the contiguous counties of Barnstable, Bristol and Norfolk as a disaster area as a result of damages caused by a winter storm and coastal flooding which occurred December 10–13, 1992.

All other information remains the same, i.e., the termination date for filing applications for physical damage is March 29, 1993 and October 26, 1993 for economic injury.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: February 5, 1993.

Dayton J. Watkins,

Acting Administrator.

[FR Doc. 93–3652 Filed 2–16–93; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2620]

New York, Amendment #1, Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended, effective January 6, 1993, to establish the incident period for this disaster as beginning on December 10, 1992 and continuing through December 14, 1992.

All other information remains the same, i.e., the termination date for filing applications for physical damage is February 19, 1993 and September 21, 1993 for economic injury.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: February 4, 1993.

Bernard Kulik,

Asst. Administrator for Disaster Assistance.

[FR Doc. 93–3653 Filed 2–16–93; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2626]

Pennsylvania; Declaration of Disaster Loan Area

Allegheny County and the contiguous counties of Armstrong, Beaver, Butler, Washington and Westmoreland in the State of Pennsylvania constitute a disaster area as a result of damages caused by a fire in the Columbia and Regal Apartments in the City of Pittsburgh, which occurred on January 17, 1993. Applications for loans for physical damage may be filed until the close of business on April 1, 1993 and for economic injury until the close of business on November 1, 1993 at the

address listed: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, suite 300, Atlanta, GA 30308, 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 number assigned to this disaster for physical damage is 262605 and for economic injury the number is 784100.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: January 31, 1993.

Dayton J. Watkins,

Acting Administrator.

[FR Doc. 93-3649 Filed 2-16-93; 8:45 am]

BILLING CODE 8025-01-M

First Maryland Capital, Inc.; License Revocation

[License No. 03/03-0169]

Notice is hereby given that License No. 03/03-0169 issued to First Maryland Capital, Incorporated, 107 Jefferson Street, Rockville, Maryland, on July 12, 1984, is revoked. First Maryland Capital's further participation in the SBIC Program is terminated.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the revocation of the license is effective on January 16, 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: February 8, 1993.

Wayne S. Foren,

Associate Administrator for Investment.

[FR Doc. 93-3643 Filed 2-16-93; 8:45 am]

BILLING CODE 8025-01-M

First United Small Business Investment Company, Inc.; License Revocation

[License No. 01/01-0284]

Notice is hereby given that License No. 01/01-0284, issued to First United Small Business Investment Company, Inc., 135 Will Drive, Canton, Massachusetts, on October 29, 1976, is revoked.

Under authority vested by the Act and pursuant to the regulations promulgated thereunder, the revocation of the license was effective January 22, 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)

Wayne S. Foren,

Associate Administrator for Investment.

[FR Doc. 93-3642 Filed 2-16-93; 8:45 am]

BILLING CODE 8025-01-M

Clear Rapids District Advisory Council; Public Meeting

The U.S. Small Business Administration Cedar Rapids District Advisory Council will hold a public meeting at 10 a.m. on Wednesday, March 24, 1993 at Firstar Bank Cedar Rapids, 222 Second Avenue, SE., Cedar Rapids, 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. James N. Thomson, District Director, U.S. Small Business Administration, 373 Collins Road, NE., Cedar Rapids, Iowa 52402-3147, (319) 393-8630.

Dated: February 8, 1993.

Dorothy A. Overal,

Acting Assistant Administrator, Office of Advisory Councils.

[FR Doc. 93-3647 Filed 2-16-93; 8:45 am]

BILLING CODE 8025-01-M

New Orleans District Advisory Council; Public Meeting

The U.S. Small Business Administration New Orleans District Advisory Council will hold a public meeting at 10 a.m. on Friday, March 5, 1993 at the Department of Economic Development, 101 France Street, Baton Rouge, Louisiana, 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 Abby H. Carter, District Director, U.S. Small Business Administration, 1661 Canal Street, suite 2000, New Orleans, Louisiana 70112-2890, (504) 589-2744.

Dated: February 8, 1993.

Dorothy A. Overal,

Acting Assistant Administrator, Office of Advisory Councils.

[FR Doc. 93-3648 Filed 2-16-93; 8:45 am]

BILLING CODE 8025-01-M

Delegation of Authority; Delegation of Authority No. 12—A (Revision 5) Redelegation of Financial Assistance; Amendment 2

On October 24, 1991, the Small Business Administration (SBA) published a notice in the **Federal Register** (56 FR 55147) setting forth the authority delegated by the Administrator to the Assistant Administrator for Financial Assistance for the purpose of administering SBA's various financial assistance programs. This document amends Delegation of Authority No. 12—A (Revision 5) by delegating authority to the Assistant Administrator for Financial Assistance and the Director, Office of Portfolio Management to service loans made by the Economic Development Administration of the Department of Commerce. Delegation of Authority No. 12—A (Revision 5, Amendment 2) reads as follows:

Delegation of Authority No. 12—A (Revision 5) is amended by revising paragraphs I.A.1.f. and I.C.1.b. to read as follows:

I. * * * * *

A. To the Assistant Administrator for Financial Assistance as follows:

1. Financial Assistance Program

* * * * *

f. To take all necessary actions in connection with the servicing or liquidation of loans made by the Economic Development Administration of the Department of Commerce pursuant to Memoranda of Understanding between EDA and SBA, with the exception of legal action to be taken with respect to any such loans classified in litigation.

* * * * *

C. To the Director, Office of Portfolio Management as follows:

1. Financial Assistance Program

* * * * *

b. To take all necessary actions in connection with the servicing or liquidation of loans made by the Economic Development Administration of the Department of Commerce pursuant to Memoranda of

Understanding between EDA and SBA, with the exception of legal action to be taken with respect to any such loans classified in litigation.

* * * * *

Effective date: January 31, 1993.

Dated: January 31, 1993.

Dayton J. Watkins,

Acting Administrator.

[FR Doc. 93-3641 Filed 2-16-93; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 99000077]

Phoenix Capital Partners, L.P.; Filing of an Application for a License To Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1992)) by Phoenix Capital Partners, L.P., 777 Alexander Road, Princeton, New Jersey 08540, for a license to operate as a small business investment company (SBIC) under the Small Business Investment Act of 1958, as amended (15 U.S.C. et seq.), and the Rules and Regulations promulgated thereunder.

The initial investors and their percent of ownership of the Applicant are as follows:

Name	Title	Percentage of ownership in applicant
General Partner:		
Phoenix Capital Partners, Inc., 777 Alexander Road, Princeton, New Jersey 08540	Corporate, General Partner	1.0
Judith E. Schneider, 777 Alexander Road, Princeton, New Jersey 08540	Chief Operating Officer, VP/Director, Corp. Gen. Part.	0.0
Limited Partners:*		
David C. Denise, 777 Alexander Road, Princeton, New Jersey 08540	President/Director, Corp. Gen. Part	33.0
Mohan C. Reddy, 777 Alexander Road, Princeton, New Jersey 08540	VP/Secretary/Director, Corp. Gen. Part.	33.0
C. Prakash Reddy, 777 Alexander Road, Princeton, New Jersey 08540	Treasury/Director, Corp. Gen. Part	33.0

*All three Limited Partners own an equal share of the Corporate General Partner.

The applicant will begin operations with a capitalization of $2,600,000 and will be a source of equity capital and long term funds for qualified small business concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including profitability and financial soundness in accordance with the Act and Regulations.

Notice is hereby given that any person may, not later than 30 days from the date of publication of this notice, submit written comments on the proposed SBIC to the Associate Administrator for Investment, Small Business Administration, 409 3rd Street, SW., Washington, DC 20416.

A copy of this notice will be published in a newspaper of general circulation in Princeton, New Jersey.

(Catalog of Federal Domestic Assistance Programs No. 59.011, Small Business Investment Companies)

Dated: February 8, 1993.

Wayne S. Foren,

Associate Administrator for Investment.

[FR Doc. 93-3644 Filed 2-16-93; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map Notice Palm Beach International Airport, West Palm Beach, FL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by Palm Beach County for Palm Beach International Airport under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR part 150 are in compliance with applicable requirements.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps is February 1, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. Tommy J. Pickering, P.E., Federal Aviation Administration, Orlando Airports District Office, 9677 Tradeport Drive, Suite 130, Orlando, Florida 32827-5397, (407) 648-6583.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for Palm Beach International Airport are in compliance with applicable requirements of part 150, effective February 1, 1993.

Under section 103 of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) part 150, promulgated pursuant to title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by Palm Beach County. The specific maps under consideration are "1991 BASE CASE LDN FOR THE AVERAGE ANNUAL DAY WITH EXISTING OFF-AIRPORT LAND USE" (Figure 14.3) and "1996 FORECAST CASE WITH CURRENT

PBIA NOISE POLICIES, INCORPORATING EFFECTS OF 1991 NATIONAL NOISE POLICY, AVERAGE DAY LDN WITH EXISTING OFF-AIRPORT LAND USE" (Figure 14.4) in the submission. The FAA has determined that these maps for Palm Beach International Airport are in compliance with applicable requirements. This determination is effective on February 1, 1993. FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of FAR part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under § 150.21 of FAR part 150, that the statutorily required consultation has been accomplished.

Copies of the noise exposure maps and of the FAA's evaluation of the maps are available for examination at the following locations:

Federal Aviation Administration, Orlando Airports District Office, 9677 Tradeport Drive, suite 130, Orlando, Florida 32827–5397.

Palm Beach County, Noise Abatement Officer, Palm Beach International Airport, Building 846, Eight Street, West Palm Beach, FL 33406–1491.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Orlando, Florida. February 1, 1993.

W. Dean Stringer,

Assistant Manager, Orlando Airports District Office.

[FR Doc. 93–3628 Filed 2–16–93; 8:45 am]

BILLING CODE 4910–13–M

Approval of Noise Compatibility Program; Shreveport Regional Airport, Shreveport, LA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by City of Shreveport acting by and through the Shreveport Airport Authority under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and CFR part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96–52 (1980). On July 29, 1992, the FAA determined that the noise exposure maps submitted by the Shreveport Airport Authority under part 150 were in compliance with applicable requirements. On January 25, 1993, the Administrator approved the noise compatibility program. Most of the recommendations of the program were approved.

EFFECTIVE DATE: The effective date of the FAA's approval of the Shreveport Regional Airport noise compatibility program is January 25, 1993.

FOR FURTHER INFORMATION CONTACT: Pamela Bayliff, Department of Transportation, Federal Aviation Administration, 4400 Blue Mount Road, Fort Worth, Texas, 76193–0630, (817) 624–5136. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for, Shreveport Regional Airport, effective January 25, 1993.

Under section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR part 150 program recommendations is measured according to the standards expressed in part 150 of the Act and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR part 150, § 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the

program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for project grants must be submitted to the FAA Airports Division Office in Forth Worth, Texas.

City of Shreveport acting by and through the Shreveport Airport Authority submitted to the FAA on March 4, 1992, the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from January 1989 through December 1989. The Shreveport Regional Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on July 29, 1992. Notice of this determination was published in the **Federal Register** on August 12, 1992. The Shreveport Regional Airport FAR part 150 noise compatibility study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to (or beyond) the year 1996. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in section 104(b) of the Act. The FAA began its review of the program on July 29, 1992, and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained 17 proposed actions for noise mitigation (on/or off) the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR part 150 have been satisfied. The overall program, therefore, was approved by the Administrator effective January 25, 1993.

Outright approval was granted for 16 of the specific program elements. Program element 8 was approved in part. Only those measures of the Floodplain Overlay Zoning Plan that prohibit development of the noise sensitive land uses within the existing and future DNL 65 contours of the floodplain are approved for part 150 purposes. Those portions of the Floodplain Overlay Zoning not addressing the prohibition of noise sensitive land uses within the DNL 65 contour are not approved for part 150 purposes.

The approved actions are as follows:

1. All jet aircraft hold runway heading to 1,500 feet MSL before turning to destination.
2. Rezone land along Maywood Drive.
3. Rezone land west of U.S. 220, north of Maywood Drive and South of Junior Place.
4. Rezone land north of Hollywood Avenue.
5. Rezone land west of Walker Road, north of Merriwether Road and east of Meadowwood subdivision.
6. Rezone land east of Walker Road, west of Jewella Road between Cargill Park and Inner Loop Expressway.
7. Implement airport noise overlay zoning.
8. Amend subdivision regulations.
9. Amend building codes.
10. Metropolitan planning commission adopt part 150 plan.
11. Adopt guidelines for discretionary review of development projects.
12. Phased voluntary acquisition of 24 residences along Maywood Drive.
13. Voluntary acquisition of 26 residences along Merriwether Road between Walker Road and Jewella Road.
14. Voluntary acquisition of 26 residences along Meadow Parkway, Birchwood and Castlewood Drives.
15. Acquisition of undeveloped, residentially zoned land in DNL 70 contour.
16. Institute a soundproofing program for existing residential dwellings.

These determinations are set forth in detail in a Record of Approval endorsed by the Administrator on January 25, 1993. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available at the FAA office listed above and at the administrative offices of the Shreveport Regional Airport.

Issued in Forth Worth, Texas, February 3, 1993.

Otis T. Welch,

Acting Manager, Airports Division.

[FR Doc. 93–3621 Filed 2–16–93; 8:45 am]

BILLING CODE 4910–13–M

[Summary Notice No. PE–92–35]

Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received; reopening of comment period.

SUMMARY: Pursuant to the FAA's rulemaking provisions governing the processing of petitions for exemption (14 CFR part 11), this notice reopens the comment period of the petition for exemption for DHL Airways, Inc. The purpose of this notice is to give all interested persons the opportunity for participation in this aspect of the FAA's rulemaking process.

DATES: Comments on this petition for exemption must identify Docket Number 26419 and must be received on or before March 9, 1993.

ADDRESSES: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of Chief Counsel, ATTN: Rules Docket (AGC–10), Docket No. 26419, 800 Independence Ave. SW., Washington, DC 20591; Telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Ms. Effie M. Upshaw, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Ave. SW., Washington, DC 20591; Telephone (202) 267–7626.

SUPPLEMENTARY INFORMATION:

Background

On December 7, 1992, the FAA published a summary of the petition of DHL Airways, Inc. was published in the **Federal Register** for comment; the comment period closed December 28, 1992.

After the comment period closed, the FAA received a number of comments that it considered warranted reopening of the comment period. A reopening of the comment period will not be detrimental to the petitioner since the petitioner has stated, and the FAA agrees, that there is a "need for a record which is factual and accurate." Therefore the FAA has determined that interested parties should be afforded the opportunity to comment on the petition. Thus, the comment period for this exemption is reopened for an additional 20-day period; any comments received after the closing date will not be considered.

Summary of the Petition for Exemption

Docket No.: 26419.

Petitioner: DHL Airways, Inc.

Sections of the FAR Affected: 14 CFR 121.503, 121.505, 121.511.

Description of Relief Sought: To allow an extension of the termination date of Exemption No. 5296, which expires April 30, 1993, and which allows DHL Airways, Inc., a supplemental air carrier, to conduct its part 121 all-cargo operations according to flight and duty time provisions applicable to a domestic air carrier rather than the flight and duty time provisions applicable to supplemental air carriers.

Issued in Washington, DC on February 9, 1993.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

[FR Doc. 93–3625 Filed 2–16–93; 8:45 am]

BILLING CODE 4910–13–M

Flight Standards District Office at Honolulu, HI; Relocation

Notice is hereby given that on or about February 15, 1993, the Flight Standards District Office at 90 Nakolo Place, room 215, Honolulu, Hawaii 96819 will be relocating to 135 Nakolo Place, Honolulu, Hawaii 96819. Services to the general public will continue to be provided by this office without interruption. This information will be reflected in the FAA organization Statement the next time it is reissued.

Authority: Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354.

Issued in Hawthorne, CA, on February 8, 1993.

Fanny Rivera,

Regional Administrator, Western-Pacific Region.

[FR Doc. 93–3622 Filed 2–16–93; 8:45 am]

BILLING CODE 4910–13–M

Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly notice of PFC approvals and disapprovals. In January 1993, there were four applications approved.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: Helena Regional Airport Authority, Helena, Montana.

Application Type: Impose and Use PFC Revenue.

PFC Level: $3.00.

Total Approved Net PFC Revenue: $1,056,190.

Earliest Permissible Charge Effective Date: April 1, 1993.

Duration of Authority to Impose: December 1, 1999.

Class of Air Carriers Not Required to Collect PFC's: Part 121 nonscheduled charter carriers.

Determination: Approved. The FAA has determined that the proposed class accounts for less than 1 percent of the airport's total annual enplanements.

Brief Description of Projects Approved to Impose and Use: Runway signing and lighting, Land acquisition, Passenger access lift, North parallel air carrier taxiway, Purchase snow removal equipment, Regional fire training facility.

Brief Description of Projects Approved to Impose Only: Terminal modifications, Runway 9/27 overlay.

Brief Description of Project Withdrawn: Expand north terminal parking.

Determination: The Helena Regional Airport Authority withdrew this project from its application by letter to the FAA dated October 6, 1992.

Decision Date: January 14, 1993.

For Further Information Contact: Dave Gabbert, Helena Airports, District Office, (406) 449–5271.

Public Agency: City of Steamboat Springs, Steamboat Springs, Colorado.

Application Type: Impose and Use PFC Revenue.

PFC Level: $3.00.

Total Approved Net PFC Revenue: $1,887,337.

Earliest Permissible Charge Effective Date: April 1, 1993.

Duration of Authority to Impose: April 1, 2012.

Class of Air Carriers Not Required to Collect PFC's: Part 135 carriers which are further defined as follows: "The carriage in air commerce of persons or property for compensation or hire as a commercial operator (not an air carrier) in aircraft having a maximum seating capacity of less than 20 passengers or a maximum payload capacity of less than 6,000 pounds, or the carriage in air commerce of persons or property in common carriage operations solely between points entirely within any state of the United States in aircraft having a maximum seating capacity of 30 seats or less or a maximum payload capacity of 7,500 pounds or less."

Determination: Approved. The FAA has determined that the proposed class accounts for less than 1 percent of the airport's total annual enplanements.

Brief Description of Projects Approved to Impose and Use: Terminal complex-site preparation and access road, Utility extensions for terminal site, Rehabilitate and light air carrier apron and taxiway, Construct new terminal building, Land reimbursement.

Decision Date: January 15, 1993.

For Further Information Contact: Bradley S. Davis, Denver Airports District Office, (303) 286–5537.

Public Agency: Walker Field, Colorado Public Airport Authority, Grand Junction, Colorado.

Application Type: Impose and Use PFC Revenue.

PFC Level: $3.00.

Total Approved Net PFC Revenue: $1,812,000.

Earliest Permissible Charge Effective Date: April 1, 1993.

Duration of Authority to Impose: March 1, 1998.

Class of Air Carriers Not Required to Collect PFC's: None.

Brief Description of Projects Approved to Impose and Use: Replace retaining wall (phase I), security fencing, and rehabilitate general aviation apron, Replace retaining wall (phase II), Install signage, Reconstruct general aviation apron (phase II), Overlay general aviation apron, Construct general aviation apron, Install security fencing (Bureau of Land Management fire coordination center), Master plan update, Rehabilitate runway 11/29, Runway 11/29 safety area grading, Pave shoulders on runway 11/29, Reconstruct general aviation apron (phase I), Reconstruct general aviation apron (phase II).

Brief Description of Projects Approved to Impose Only: Rehabilitate taxiway A, Install precision approach path indicator, runway 11, Install visual approach descent indicators and runway end identifier lights, runway 4/22, Rehabilitate runway 4/22.

Brief Description of Project Approved in Part to Impose Only: Install fencing.

Determination: The project start date is beyond the 2 year requirement for impose and use approvals in § 158.33(a)(1), therefore, the project is approved for impose only. The amount of approved PFC revenue reflects a decrease from the requested amount. This reduction limits the approved impose only PFC amount based on the total amount of alternate project revenue approved and limits the public agency's total PFC collection to the amount equal to the approved alternate project amount.

Decision Date: January 15, 1993.

For Further Information Contact: Philip Braden, Denver Airports District Office, (303) 398–0840.

Public Agency: County of Sacramento, Sacramento, California.

Application Type: Impose and Use PFC Revenue.

PFC Level: $3.00.

Total Approved Net PFC Revenue: $24,045,000.

Earliest Permissible Charge Effective Date: April 1, 1993.

Duration of Authority to Impose: September 1, 1996.

Class of Air Carriers Not Required to Collect PFC's: None.

Brief Description of Projects Approved to Impose and Use: Rehabilitation of terminals 1 and 2, Overlay runway 16L/34R and associated taxiways and install in-pavement lighting, Runway 16L/34R pavement reconstruction, Overlay runway 16R/34L and associated taxiways, Pavement vacuum sweeper replacement, Rehabilitate existing terminal aprons, Existing terminals aircraft loading bridges, Closed circuit television system expansion, Wastewater master plan update.

Brief Description of Project Approved in Part to Impose and Use: Aircraft rescue and firefighting vehicle replacement.

Determination: The County originally requested full PFC funding for this project; however, since submission of the PFC application, the County has been informed it will receive partial AIP funding for this project. The approved amount represents a portion of the total cost of the project which has been reduced by the amount of AIP funds being provided.

Brief Description of Project Disapproved: West terminal apron repair.

Determination: This project is described as maintenance by the County in the transcript of the consultation meeting, and as such is not AIP eligible under paragraph 501 of FAA Order 5100.38A. Therefore, this project is not PFC eligible.

Decision Date: January 26, 1993.

For Further Information Contact: Joseph R. Rodriguez, San Francisco Airports District Office, (415) 876–2778. Airports District Office, (407) 648–6583.

Issued in Washington, DC, on February 8, 1993.

Ellis Ohnstad,

Manager, Program Guidance Branch.

CUMULATIVE LIST OF PFC APPLICATIONS PREVIOUSLY APPROVED

State, airport, city	Date approved	Level of PFC	Total approved net PFC revenue	Earliest charge effective date	Estimated charge expiration date*
Alabama:					
Huntsville Intl-Carl T. Jones Field, Huntsville	03/06/1992	$3	$20,631,051	06/01/1992	11/01/2008
Muscle Shoals Regional, Muscle Shoals	02/18/1992	3	104,100	06/01/1992	02/01/1995
Arizona:					
Flagstaff Pulliam, Flagstaff	09/29/1992	3	2,463,581	12/01/1992	01/01/2015
California:					
Arcata, Arcata	11/24/1992	3	188,500	02/01/1993	05/01/1994
Inyokern, Inyokern	12/10/1992	3	127,500	03/01/1993	09/01/1995
Metropolitan Oakland International, Oakland	06/26/1992	3	8,736,000	09/01/1992	09/01/1993
Palm Springs Regional, Palm Springs	06/25/1992	3	44,612,350	10/01/1992	06/01/2019
San Jose International, San Jose	06/11/1992	3	29,228,826	09/01/1992	08/01/1995
San Luis Obispo County-McChesney Field, San Luis Obispo	11/24/1992	3	502,437	03/01/1993	02/01/1995
Lake Tahoe, South Lake Tahoe	05/01/1992	3	928,747	08/01/1992	03/01/1997
Colorado:					
Colorado Springs Municipal, Colorado Springs	12/22/1992	3	5,622,000	03/01/1993	02/01/1996
Denver International (New), Denver	04/28/1992	3	2,330,734,321	07/01/1992	01/01/2026
Telluride Regional, Telluride	11/23/1992	3	200,000	02/01/1992	11/01/1997
Florida:					
Southwest Florida Regional, Fort Myers	08/31/1992	3	257,673,262	11/01/1992	06/01/2015
Key West International, Key West	12/17/1992	3	945,937	03/01/1993	12/01/1995
Marathon, Marathon	12/17/1992	3	153,556	03/01/1993	06/01/1995
Orlando International, Orlando	11/27/1992	3	167,574,527	02/01/1993	02/01/1998
Pensacola Regional, Pensacola	11/23/1992	3	4,715,000	02/01/1993	04/01/1996
Sarasota-Bradenton, Sarasota	06/29/1992	3	38,715,000	09/01/1992	09/01/2005
Tallahassee Regional, Tallahassee	11/13/1992	3	8,617.154	02/01/1993	12/01/1998
Georgia:					
Savannah International, Savannah	01/23/1992	3	39,501,502	07/01/1992	03/01/2004
Valdosta Regional, Valdosta	12/23/1992	3	260,526	03/01/1993	10/01/1997
Idaho:					
Idaho Falls Municipal, Idaho Falls	10/30/1992	3	1,500,000	01/01/1993	01/01/1998
Twin Falls-Sun Valley Regional, Twin Falls	08/12/1992	3	270,000	11/01/1992	05/01/1998
Illinois:					
Greater Rockford, Rockford	07/24/1992	3	1,177,348	10/01/1992	10/01/1996
Capital, Springfield	03/27/1992	3	682,306	06/01/1992	05/01/1994
Iowa:					
Dubuque Regional, Dubuque	10/06/1992	3	108,500	01/01/1993	05/01/1994
Louisiana:					
Baton Rouge Metropolitan, Ryan Field, Baton Rouge	09/28/1992	3	9,823,159	12/01/1992	12/01/1998
Maryland:					
Baltimore-Washington International, Baltimore	07/27/1992	3	141,866,000	10/01/1992	09/01/2002
Massachusetts:					
Worcester Municipal, Worcester	07/28/1992	3	2,301,362	10/01/1992	10/01/1997
Michigan:					
Detroit Metropolitan-Wayne County, Detroit	09/21/1992	3	640,707,000	12/01/1992	06/01/2009
Delta County, Escanaba	11/17/1992	3	158,325	02/01/1993	08/01/1996
Kent County International, Grand Rapids	09/09/1992	3	12,450,000	12/01/1992	05/01/1998
Marquette County, Marquette	10/01/1992	3	459,700	12/01/1992	04/01/1996
Pellston Regional Airport of Emmet C., Pellston	12/22/1992	3	440,875	03/01/1993	06/01/1995
Minnesota:					
Minneapolis-St. Paul International, Minneapolis	03/31/1992	3	66,355,682	06/01/1992	08/01/1994
Mississippi:					
Golden Triangle Regional, Columbus	05/08/1992	3	1,693,211	08/01/1992	09/01/2006
Gulfport-Biloxi Regional, Gulfport-Biloxi	04/03/1992	3	384,028	07/01/1992	12/01/1993
Hattiesburg-Laurel Regional, Hattiesburg-Laurel	04/15/1992	3	119,153	07/01/1992	01/01/1998
Key Field, Meridian	08/21/1992	3	122,500	11/01/1992	06/01/1994
Missouri:					
Lambert-St. Louis International, St. Louis	09/30/1992	3	131,453,450	12/01/1992	12/01/1997

CUMULATIVE LIST OF PFC APPLICATIONS PREVIOUSLY APPROVED—Continued

State, airport, city	Date approved	Level of PFC	Total approved net PFC revenue	Earliest charge effective date	Estimated charge expiration date*
Montana:					
Great Falls International, Great Falls	08/28/1992	3	3,010,900	11/01/1992	07/01/2002
Missoula International, Missoula	06/12/1992	3	1,900,000	09/01/1992	08/01/1997
Nevada:					
McCarran International, Las Vegas	02/24/1992	3	944,028,500	06/01/1992	02/01/2014
New Hampshire:					
Manchester, Manchester	10/13/1992	3	5,461,000	01/01/1993	03/01/1997
New Jersey:					
Newark International, Newark	07/23/1992	3	84,600,000	10/01/1992	08/01/1995
New York:					
Greater Buffalo International, Buffalo	05/29/1992	3	189,873,000	08/01/1992	03/01/2026
Tompkins County, Ithaca	09/28/1992	3	1,900,000	01/01/1993	01/01/1999
John F. Kennedy International, New York	07/23/1992	3	109,980,000	10/01/1992	08/01/1995
Laguardia, New York	07/23/1992	3	87,420,000	10/01/1992	08/01/1995
Westchester County, White Plains	11/09/1992	3	27,883,000	02/01/1993	06/01/2022
North Dakota:					
Grand Forks International, Grand Forks	11/16/1992	3	1,016,509	02/01/1993	02/01/1997
Ohio:					
Akron-Canton Regional, Akron	06/30/1992	3	3,594,000	09/01/1992	08/01/1996
Cleveland-Hopkins International, Cleveland	09/01/1992	3	34,000,000	11/01/1992	11/01/1995
Port Columbus International, Columbus	07/14/1992	3	7,341,707	10/01/1992	03/01/1994
Oklahoma:					
Lawton Municipal, Lawton	05/08/1992	2	334,078	08/01/1992	01/01/1996
Tulsa International, Tulsa	05/11/1992	3	8,450,000	08/01/1992	08/01/1994
Oregon:					
Portland International, Portland	04/08/1992	3	17,961,850	07/01/1992	07/01/1994
Pennsylvania:					
Allentown-Bethlehem-Easton, Allentown	08/28/1992	3	3,778,111	11/01/1992	04/01/1995
Erie International, Erie	07/21/1992	3	1,997,885	10/01/1992	06/01/1997
Philadelphia International, Philadelphia	06/29/1992	3	76,169,000	09/01/1992	07/01/1995
University Park, State College	08/28/1992	3	1,495,974	11/01/1992	07/01/1997
Tennessee:					
Memphis International, Memphis	05/28/1992	3	26,000,000	08/01/1992	12/01/1994
Nashville International, Nashville	10/09/1992	3	143,358,000	01/01/1993	02/01/2004
Texas:					
Killeen Municipal, Killeen	10/20/1992	3	243,339	01/01/1993	11/01/1994
Midland International, Midland	10/16/1992	3	35,529,521	01/01/1993	01/01/2013
Virginia:					
Charlottesville-Albermarle, Charlottesville	06/11/1992	2	255,559	09/01/1992	11/01/1993
Charlottesville-Albermarle, Charlottesville	12/21/1992	2	255,559	09/01/1992	11/01/1993
Washington:					
Seattle-Tacoma International, Seattle	08/13/1992	3	28,847,488	11/01/1992	01/01/1994
Yakima Air Terminal, Yakima	11/10/1992	3	416,258	02/01/1993	04/01/1995
West Virginia:					
Morgantown Muni-Walter L. Bill Hart, Morgantown	09/03/1992	3	55,500	12/01/1992	01/01/1994
Wisconsin:					
Austin Straubel International, Green Bay	12/28/1992	3	8,140,000	03/01/1993	03/01/2003
Guam:					
Guam International Air Terminal, Agana	11/10/1992	3	5,632,000	02/01/1993	06/01/1994
Puerto Rico:					
Rafael Hernandez, Aguadilla	12/29/1992	3	1,053,000	03/01/1993	01/01/1999
Mercedita, Ponce	12/29/1992	3	866,000	03/01/1993	01/01/1999
Luis Munoz Marin International, San Juan	12/29/1992	3	49,768,000	03/01/1993	02/01/1997
Virgin Islands:					
Cyril E. King, Charlotte Amalie	12/08/1992	3	3,871,005	03/01/1993	02/01/1995
Alexander Hamilton, Christiansted St. Croix	12/08/1992	3	2,280,465	03/01/1993	05/01/1995

*The estimated charge expiration date is subject to change due to the rate of collection and actual allowable project costs.

[FR Doc. 93–3618 Filed 2–16–93; 8:45 am]

BILLING CODE 4910–13–M

Research, Engineering and Development Advisory Committee; Security R&D Subcommittee

Pursuant to section 10(A)(2) of the Federal Advisory Com mittee Act (Pub. L. 92–362; 5 U.S.C. app. I), notice is hereby given of a meeting of the Scientific Advisory Panel of the Security R&D Subcommittee of the Federal Aviation Administration (FAA) Research, Engineering and Development (R, E&D) Advisory Committee to be held Thursday, March 11, 1993 at 10 a.m. and Friday, March 12 at 9 a.m. The meeting will take place in the main conference room of the Aviation Security Laboratory, Building 315 of the FAA Technical Center, Atlantic City Airport, New Jersey.

The agenda for this meeting will include an overview of the mission and new physical plant of the Aviation Security Laboratory, an overview of the Security R&D program, and an examination of the responses to the recommendations of the panel documented in the June 2, 1992 report.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. A public comment period is scheduled for 4 p.m. on March 11. Persons wishing to make oral statements, obtain information, or access the FAA Technical Center to attend the meeting should contact Dr. Lyle Malotky, the Panel's Designated Federal Official, FAA/ACS–20, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–3967.

Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on February 9, 1993.

Martin T. Pozesky,

Executive Director, Research, Engineering, and Development Advisory Committee.

[FR Doc. 93-3626 Filed 2-16-93; 8:45 am]

BILLING CODE 4910-13-M

Research, Engineering and Development Advisory Committee

Pursuant to section 10(A)(2) of the Federal Advisory Committee Act (Pub. L. 92-362); 5 U.S.C. app. I), notice is hereby given of a meeting of the Federal Aviation Administration (FAA) Research, Engineering and Development (R,E&D) Advisory Committee to be held Friday, March 5, at 10 a.m. The meeting will take place at the Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC, in the MacCracken Room on the tenth floor.

The agenda for this meeting will include: The transition of responsibilities to a new Chairman of the Committee; brief updates from the various subgroup chairmen on committee activities in the areas of human factors, runway incursions, security R&D, and synthetic vision; and a report from the Capacity Technology and Automation of Airspace and Airport Surface Subcommittee.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements, obtain information, or plan to access the building to attend the meeting should contact Ms. Jan Peters, Special Assistant to the Executive Director of the R,E&D Advisory Committee, ASD-6, 800 Independence Avenue, SW., Washington DC 20591, telephone (202) 287-8543.

Members of the public may present a written statement to the Committee at any time.

Issued in Washington, DC, on February 9, 1993.

Martin T. Pozesky,

Executive Director, Research, Engineering and Development Advisory Committee.

[FR Doc. 93-3627 Filed 2-16-93; 8:45 am]

BILLING CODE 4910-13-M

Intent to Rule on Application to Impose and Use a Passenger Facility Charge (PFC) at William R. Fairchild International Airport, Port Angeles, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use a PFC at William R. Fairchild International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before March 19, 1993.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: J. Wade Bryant, Manager, Seattle Airports District Office, SEA-ADO, Federal Aviation Administration, 1601 Lind Avenue SW., suite 250, Renton, WA 98055-4056.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. John W. Conley, Director of Airports, Engineering and Planning, at the following address: P.O. Box 1350, Port Angeles, Washington 98362.

Air carriers and foreign air carriers may submit copies of written comments previously provided to Spokane Airport Board under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Vargas, (206) 227-2660; Seattle Airports District Office, SEA-ADO; Federal Aviation Administration; 1601 Lind Avenue SW., suite 250; Renton, Washington 98055-4056. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use a PFC at William R. Fairchild International Airport, under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On February 8, 1993, the FAA determined that the application to impose and use the revenue from a PFC submitted by Port of Port Angeles was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than June 1, 1993.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00

Proposed charge effective date: August 1, 1993

Proposed charge expiration date: July 31, 1994

Total estimated PFC revenue: $52,000.00

Brief description of proposed project: Runway and taxiway signage; airport access road; terminal area planning; runway safety area project.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM-600, 1601 Lind Avenue SW., suite 540, Renton, WA 98055-4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Port of Port Angeles at William R. Fairchild International Airport.

Issued in Renton, Washington, on February 8, 1993.

David A. Field,

Acting Assistant Manager, Airports Division, Northwest Mountain Region.

[FR Doc. 93-3619 Filed 2-16-93; 8:45 am]

BILLING CODE 4910-13-M

Intent To Rule on Application To Impose and Use a Passenger Facility Charge (PFC) at Gallatin Field Airport, Belgrade, MT.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use a PFC at Gallatin Field Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before March 19, 1993.

ADDRESSES: Comments on this application may be mailed or delivered

in triplicate to the FAA at the following address: David P. Gabbert, Manager, Helena Airports District Office, HLN-ADO, FAA Building. Room 2, Helena Regional Airport, Helena, MT 59601.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Ted Mathis, Airport Manager, at the following address: #6 Gallatin Field, Belgrade, Montana 59714.

Air carriers and foreign air carriers may submit copies of written comments previously provided to Gallatin Airport Authority under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. David Gabbert, (406) 449-5271; Helena Airports District Office, HLN-ADO; Federal Aviation Administration; FAA Building, room 2; Helena Regional Airport; Helena, MT 59601. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use a PFC at Gallatin Field Airport, under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On February 8, 1993, the FAA determined that the application to impose and use the revenue from a PFC submitted by Gallatin Field Airport Authority was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than May 22, 1993.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00

Proposed charge effective date: August 1, 1993

Proposed charge expiration date: May 31, 2005

Total estimated PFC revenue: $4,198,010.00

Brief description of proposed project: Terminal expansion, Phase I and II.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: On-demand non scheduled Air Taxi/Commercial Operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM-600, 1601 Lind Avenue SW., Suite 540, Renton, WA 98055-4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Gallatin Field Airport.

Issued in Renton, Washington, on February 8, 1993.

David A. Field,

Acting Assistant Manager, Airports Division, Northwest Mountain Region.

[FR Doc. 93-3620 Filed 2-16-93; 8:45 am]

BILLING CODE 4910-13-M

Federal Transit Administration

FTA Sections 3 and 9 Grant Obligations

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: The Department of Transportation and Related Agencies Appropriations Act, 1993, Public Law 102-338, signed into law by President George Bush on October 6, 1992, contains a provision requiring the Federal Transit Administration (FTA) to publish an announcement in the **Federal Register** every 30 days of grants obligated pursuant to sections 3 and 9 of the Federal Transit Act, as amended. The statute requires that the announcement include the grant number, the grant amount, and the transit property receiving each grant. This notice provides the information as required by statute.

FOR FURTHER INFORMATION CONTACT: Janet Lynn Sahaj, Chief, Resource Management and State Programs Division, Office of Capital and Formula Assistance, Department of Transportation, Federal Transit Administration, Office of Grants Management, 400 Seventh Street, SW., room 9305, Washington, DC 20590, (202) 366-2053.

SUPPLEMENTARY INFORMATION: The Section 3 program provides capital assistance to eligible recipients in three categories: Fixed guideway modernization, construction of new fixed guideway systems and extensions, and bus purchases and construction of bus related facilities. The Section 9 program apportions funds on a formula basis to provide capital and operating assistance in urbanized areas. Section 9 grants reported may include flexible funds transferred from the Federal Highway Administration to the FTA for use in transit projects in urbanized areas. These flexible funds are authorized under the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) to be used for highway or transit purposes. Pursuant to the statute FTA reports the following grant information.

SECTION 3.—GRANTS

Transit property	Grant No.	Grant amount	Obligation date
Jaunt Incorporated, Charlottesville, VA	VA-03-0052-00	$548,000	12/18/92
Mass Transit Administration, Baltimore, MD	MD-03-0057-00	10,900,292	12/30/92
Sunline Transit Agency, Palm Springs, CA	CA-03-0376-00	2,175,000	1/15/93
Mass Transit Administration, Baltimore, MD	MD-03-0056-00	9,925,000	1/19/93
Southwest Ohio Regional Transit Authority, Cincinnati, OH-KY	OH-03-0106-00	626,500	1/19/93
Greater Cleveland Regional Transit Authority, Cleveland, OH	OH-03-0128-00	10,288,387	1/4/93
Port Authority of Allegheny County, Pittsburgh, PA	PA-03-0227-01	11,352,500	1/15/93
Port Authority of Allegheny County, Pittsburgh, PA	PA-03-0235-00	13,831,760	1/12/93
Chattanooga Area Regional Transportation Authority, Chattanooga, TN-GA	TN-03-0031-00	14,395,135	1/7/93

SECTION 9.—GRANTS

Transit property	Grant No.	Grant amount	Obligation date
City of Montgomery-Montgomery Area Transit System, Montgomery, AL	AL-90-X073-00	$954,254	12/31/92
Mobile Transit Authority, Mobile, AL	AL-90-X074-00	1,642,515	12/31/92
Birmingham-Jefferson County Transit Authority, Birmingham, AL	AL-90-X075-00	2,814,630	12/31/92

SECTION 9.—GRANTS—Continued

Transit property	Grant No.	Grant amount	Obligation date
Broward Co Bd of Co Commissioners-Broward Co Mass Transit Division, Ft. Lauderdale-Hollywood-Pompano Bch, FL.	FL-90-X199-00	7,220,544	12/21/92
City of Gainesville, Gainesville, FL	FL-90-X205-00	1,798,000	12/21/92
Palm Beach Co Bd of Commissioners-Palm Beach Co Transit Authority, West Palm Bch-Boca Raton-Delray Bch, FL.	FL-90-X209-00	255,976	12/31/92
Jacksonville Transportation Authority, Jacksonville, FL	FL-90-X210-00	4,574,678	12/31/92
Iowa City Transit, Iowa City, IA	IA-90-X141-00	259,079	12/30/92
University of Iowa-Cambus, Iowa City, IA	IA-90-X142-00	103,424	12/31/92
City of Coralville, Iowa City, IA	IA-90-X143-00	89,372	12/30/92
Waterloo Metro Transit Authority, Waterloo-Cedar Falls, IA	IA-90-X148-00	452,063	12/30/92
Wichita Metropolitan Transit Authority, Wichita, KS	KS-90-X055-00	2,598,631	12/31/92
Duluth Transit Authority, Duluth, MN-WI	MN-90-X065-00	344,000	12/24/92
City of Charlotte, Charlotte, NC	NC-90-X150-00	1,285,729	12/31/92
City of Washington, Pittsburgh, PA	PA-90-X242-00	546,847	12/30/92
Luzerne County Transportation Authority, Scranton-Wilkes Barre, PA	PA-90-X244-00	2,493,019	12/31/92
Westmoreland County Transit Authority, Pittsburgh, PA	PA-90-X245-00	524,458	12/31/92
Spartanburg County Government, Spartanburg, SC	SC-90-X059-00	160,000	12/31/92
Greenville Transit Authority, Greenville, SC	SC-90-X060-00	1,226,379	12/31/92
Chattanooga Area Regional Transportation Authority, Chattanooga, TN-GA	TN-90-X105-00	1,733,626	12/31/92
Memphis Area Transit Authority, Memphis, TN-AR-MS	TN-90-X107-00	7,011,657	12/31/92
Greater Richmond Transit Company, Richmond, VA	VA-90-X105-00	2,613,307	12/31/92
Tidewater Transportation District Commission, Norfolk-Virginia Beach-Newport News, VA	VA-90-X107-00	5,492,807	12/30/92
Santa Barbara Metropolitan Transit District, Santa Barbara, CA	CA-90-X511-00	2,040,710	01/04/93
City of Fresno, Fresno, CA	CA-90-X517-00	3,653,000	01/04/93
Rockford Mass Transit District, Rockford, IL	IL-90-X204-00	958,920	01/04/93
Suburban Bus Division-Regional Transportation Authority, Chicago, IL-IN	IL-90-X208-00	3,900,000	01/08/93
Springfield Mass Transit District, Springfield, IL	IL-90-X211-00	739,301	01/04/93
Muncie Public Transportation Corporation, Muncie, IN	IN-90-X178-00	645,994	01/04/93
Transit Authority of Northern Kentucky, Cincinnati, OH-KY	KY-90-X065-00	1,297,597	01/04/93
Montachusett Regional Transit Authority, Fitchburg-Leominster, MA	MA-90-X149-00	370,000	01/08/93
Pioneer Valley Transit Authority, Springfield, MA-CT	MA-90-X151-00	3,183,495	01/08/93
Lowell Regional Transit Authority, Lowell, MA-NH	MA-90-X152-00	1,233,000	01/08/93
Mass Transit Administration, Baltimore, MD	MD-90-X051-00	15,729,359	01/15/93
Casco Bay Island Transit District, Portland, ME	ME-90-X066-00	137,744	01/08/93
City of Detroit Department of Transportation, Detroit, MI	MI-90-X168-00	13,732,064	01/04/93
Ann Arbor Transportation Authority, Ann Arbor, MI	MI-90-X169-00	3,700,723	01/04/93
Metropolitan Transit Commission, Minneapolis-St. Paul, MN	MN-90-X062-00	14,449,084	01/04/93
Central Ohio Transit Authority, Columbus, OH	OH-90-X169-00	4,986,446	01/05/93
Southwest Ohio Regional Transit Authority, Cincinnati, OH-KY	OH-90-X171-00	3,929,220	01/04/93
Miami Valley Regional Transit Authority, Dayton, OH	OH-90-X172-00	2,885,565	01/04/93
Central Ohio Transit Authority, Columbus, OH	OH-90-X175-00	1,200,000	01/05/93
Southwest Ohio Regional Transit Authority, Cincinnati, OH-KY	OH-90-X176-00	5,501,079	01/15/93
Toledo Area Regional Transit Authority, Toledo, OH-MI	OH-90-X178-00	2,411,169	01/04/93
Metro Regional Transit Authority, Akron, OH	OH-90-X180-00	3,638,009	01/04/93
Port Authority of Allegheny County, Pittsburgh, PA	PA-90-X247-00	17,755,067	01/12/93
County of Lackawanna Transit System, Scranton-Wilkes Barre, PA	PA-90-X248-00	1,325,262	01/26/93
City of Tyler, Tyler, TX	TX-90-X266-00	334,579	01/05/93
Chittenden County Transportation Authority, Burlington, VT	VT-90-X014-00	429,513	01/25/93
City of Weirton, Steubenville-Weir, WV-OH-PA	WV-90-X051-00	50,000	01/04/93

Issued on: February 10, 1993.

Robert H. McManus,

Acting Administrator.

[FR Doc. 93-3585 Filed 2-16-93; 8:45 am]

BILLING CODE 4910-57-M

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before March 19, 1993.

ADDRESS COMMENTS TO: Dockets Unit, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Unit, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10949–N	Laidlaw Environmental Services, Inc., Columbia, SC.	49 CFR 177.848(c)	To authorize the transportation of detector units containing cyanide packed in lab pack drums on the same vehicle carrying acids packaged in 55 gallon DOT specification drums separated by nine foot buffer zone. (Mode 1)
10950–N	The Fertilizer Institute on behalf of Members Co., Spokane, WA.	49 CFR 173.315(a) Note 17: 2, 6 & 7; 173.315(m).	To authorize the shipment of anhydrous ammonia for agricultural purposes in MC 330, 331 and non-DOT specification cargo tanks (nurse tanks) mounted on specially designed trucks. (Mode 1)
10951–N	E. I. Dupont de Nemours & Co., Inc. (Du Pont), Wilmington, DE.	49 CFR 179.100–15, 179.101–1	To authorize the transportation of hydrogen chloride, refrigerated liquid, Division 2.3 in DOT-Specification 105A600W tank cars with relief device set to 380 psig and rupture disc at 400 psig. (Mode 2)
10952–N	Propack, Inc., Essington, PA	49 CFR 173.227	To authorize the transportation of poisonous liquids, corrosive, n.o.s., Division 6.1, in 3½ gallon pyrex glass bottles with teflon screw on valve and overpacked with aluminum container with 5 inch styrofoam top pad overpacked in a non-DOT specification plywood box. (Modes 1, 3)
10953–N	Air Transport Association of America, Washington, DC.	49 CFR 173.34(e)(13)(iii)	To extend the life of DOT-Specification 3HT cylinders charged with nitrogen and oxygen, compressed, Division 2.2 utilized as components of aircraft systems. (Modes 1, 4, 5)
10954–N	Atlas Bag Company, Inc., Lincolnwood, IL.	49 CFR 173.211, 173.212, 173.213, 173.62.	To authorize the manufacture, mark and sale of non-DOT specification flexible intermediate bulk bags to be used in transporting various classes of hazardous materials. (Mode 2)
10957–N	Rhone-Poulenc Basic Chemicals Co., Shelton, CT.	49 CFR 174.67(a)(2)	To authorize the blocking and braking of the first and last tank car in a series of five tank cars, instead of each individual car, when engaged in unloading sulfuric acid and sulfuric acid, spent, Class 8. (Mode 2)
10958–N	International Paper, Natchez, MS	49 CFR 174.67 (i) & (j)	To authorize chlorine filled tank cars to remain attached during unloading without the physical presence of an unloader. (Mode 2)
10959–N	Marsulex Incorporated, North York, Ontario, Canada.	49 CFR 173.29(a)(c)(2), 173.31(c)(1)	To authorize a one-time shipment of four DOT Specification 111A10OW2 tank cars which are overdue for tank and safety valve tests containing residue of sulfuric acid, Class B. (Mode 2)
10961–N	J.B. Hunt Special Commodities, Inc. (JBHSC), Hampton, AR.	49 CFR 173.403(n)(4), 173.425(c)(2)	To authorize transport of raffinate sludge, class 7—LSA with radioactivity concentration greater than the limit established, contained in DOT specification MC–312 cargo tanks. (Mode 1)
10962–N	Internationall Compliance Center (USA), Ltd., Niagara Falls, NY.	49 CFR Part 172, Subpart E & F, Part 177, Subpart C.	To authorize the manufacture, mark and sale of specially designed combination packaging for shipment of limited quantities of various classes of hazardous materials to be shipped with the required hazard labels. (Mode 1)
10963–N	Sigrl Great Lakes Carbon Corporation, Union, NJ.	49 CFR 173.119, 173.304, 173.327, 173.328, 173.34, 173.346.	To manufacture, mark and sell non-DOT specification full removable head salvage cylinders of 3½ gallon capacity for over packing damaged or leaking packages of laboratory size gas bottles of pressurized and non-pressurized hazardous material. (Mode 2)
10964–N	Walter Kidde Aerospace, Inc., Wilson, NC.	49 CFR 178.58–16 thru 19, 178.58–2, 178.58–5, 178–58–8 thru 12.	To authorize the manufacture, mark and sell of non-DOT specification cylinders for transporting compressed gas in automatic fire extinguisher system in the cargo area of Boeing 777 aircraft. (Modes 4, 5)
10965–N	HASA, Inc., Santa Clarita, CA	49 CFR 173.152(b)(1), 173.217(c)	To authorize the transportation of various Division 5.1 products in ten pound or less plastic bottles overpacked with strong outside containers. (Mode 1)
10967–N	Balchem, Slate Hill, NY	49 CFR 171.4 and 173.323	To authorize use of a limited number of DOT Specification 5P drums for the shipment of ethylene oxide, Division 2.3, beyond the October 1, 1993 compliance date for poison inhalation packagings. (Modes 1, 2, 3)

This notice of receipt of applications for new exemptions is published in accordance with part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on February 10, 1993.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 93–3615 Filed 2–16–93; 8:45 am]

BILLING CODE 4910–60–M

Office of Hazardous Materials Safety; Notice of Applications for Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for modification of exemptions or applications to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Requests for modifications of exemptions (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.)

are described in footnotes to the application number. Application numbers with the suffix "X" denote a modification request. Application numbers with the suffix "P" denote a party to request. These applications have been separated from the new application for exemptions to facilitate processing.

DATES: Comments must be received on or before March 4, 1993.

ADDRESS COMMENTS TO: Dockets Unit, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Unit, room 8426, Nassif Building, 400 7th Street SW., Washington, DC.

Application No.	Applicant	Renewal of exemption
8249–X	LPS Industries, Inc., Newark, NJ (See Footnote 1).	8249
8710–X	Akzo Chemicals, Inc., Chicago, IL (See Footnote 2).	8710
8886–X	Amerex Corporation, Trussville, AL (See Footnote 3).	8886
9168–X	All-Pak, Inc., Buffalo, NY (See Footnote 4).	9168
9997–X	Hodgdon Powder Company, Inc., Shawnee Mission, KS (See Footnote 5).	9997
10045–X	Federal Express Corporation, Memphis, TN (See Footnote 6).	10045
10127–X	Thiokol Corporation, Huntsville, AL (See Footnote 7).	10127
10230–X	21st Century Containers, Ltd., Atlanta, GA (See Footnote 8).	10230
10886–X	Eco-Pak, Inc., Elizabethton, TN (See Footnote 9).	10886
10943–X	Worthington Cylinder Corporation, Columbus, OH (See Footnote 10).	10943

(*1*) To modify exemption to provide for passenger aircraft as an additional mode of transportation and to exempt 6.1 poisons in packaging group III from labelling requirements.

(*2*) To modify exemption to provide for revised shipping description for organic peroxide solutions, Division 5.2 material for shipment in cargo tanks.

(*3*) To modify exemption to provide for a twelve year retest interval for DOT 4B series cylinders regardless of type of requalification test for use in transporting non-corrosive disperant gas, Division 2.2

(*4*) To authorize limited quantities of certain Class 3, 8 and Division 6.1 materials in specially designed packagings, to be shipped without labels by United Parcel Service and its licensee's passenger aircraft service.

(*5*) To modify exemption to provide for rail as an additional mode of transportation for use in shipment of Class C explosives.

(*6*) To modify exemption to provide for additional routes to be authorized in transporting radioactive and other non-fissile radioactive material packages.

(*7*) To modify exemption to provide for additional shipping containers for use in transporting rocket motors.

(*8*) To authorize an alternative structure of the injection molded portable tanks for shipment of certain Class 3, Class 8 and Division 5.1 materials in addition to various exemption criteria changes and to authorize cargo vessels as an additional mode.

(*9*) To modify exemption to authorize construction of equivalent material without rolling hoops in addition to stainless steel construction of UN1A1W drums for use as overpack in transporting various Class 7 hazardous material.

(*10*) To reissue exemption originally issued to authorize the use of DOT-Specification 39 cylinders in transporting helium, compressed, Division 2.2.

Application No.	Applicant	Parties to exemption
6614–P	AB-Chem Industries, El Cajon, CA.	6614
6691–P	Standard Welders Supply, Memphis, TN.	6691
6691–P	Midwest Airgas, Inc., Fairfield, IA.	6691
7052–P	Lockheed Corporation, Calabasas, CA.	7052
7605–P	Lockheed Corporation, Calabasas, CA.	7605
7616–P	Sabine River & Northern Railroad, Orange, TX.	7616
7840–P	Lockheed Corporation, Calabasas, CA.	7840
7909–P	DowElanco, Indianapolis, IN.	7909
7969–P	Foss Environmental Services Co., Portland, OR.	7969
8426–P	Foss Environmental Services Co., Portland, OR.	8426
8451–P	Molecular Dynamics, Grand Prairie, TX.	8451
8554–P	Hermitage Explosives Corporation, Nashville, TN.	8554
8554–P	Lilly Explosives Company, Pemberton, WV.	8554
8569–P	Lockheed Corporation, Calabasas, CA.	8569
8573–P	HASA of Arizona, Inc., Eloy, AZ.	8573
8937–P	Kaiser Aluminum Specialty Products, Tulsa, OK.	8937
9498–P	Degussa Corporation, Ridgefield Park, NJ.	9498
9723–P	All Chemical Disposal, Inc., San Jose, CA.	9723
9723–P	Hazchem Environmental Corporation, Lombard, IL.	9723
9723–P	Chemical Conservation Corporation, Orlando, FL.	9723
10001–P	The Jimmie Jones Company, Tulsa, OK.	10001
10441–P	Chemical Conservation Corporation, Orlando, FL.	10441
10965–P	HASA of Arizona, Inc., Eloy, AZ.	10965
10967–P	Praxair, Danbury, CT	10967

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on February 10, 1993.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 93–3616 Filed 2–16–93; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–8: OTS No. 4175]

First Federal Savings Bank of Wabash, Wabash, Indiana; Approval of Conversion Application

Notice is hereby given that on January 29, 1993, the Deputy Assistant Director, Corporate Activities Division, Office of Thrift Supervision, or his/her designee, acting pursuant to delegated authority, approved the application of First Federal Savings Bank of Wabash, Wabash, Indiana to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1776 G Street, NW., Washington, DC 20552, and the Central Regional Office, Office of Thrift Supervision, 111 Wacker Driver, Suite 800, Chicago, Illinois 60601–4360.

Dated: February 11, 1993.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 93–3667 Filed 2–16–93; 8:45 am]

BILLING CODE 6720–01–M

[AC–6: OTS No. 1391]

Hamilton Federal Savings, F.A., Brooklyn, NY; Approval of Conversion Application

Notice is hereby given that on January 8, 1993, the Deputy Assistant Director for Corporate Activities, Office of Thrift Supervision, or his/her designee, acting

pursuant to delegated authority, approved the application of Hamilton Federal Savings, F.A., Brooklyn, New York, to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1776 G Street, NW., Washington, DC 20552, and the Northeast Regional Office, Office of Thrift Supervision, 10 Exchange Place, 18th Floor, Jersey City, New Jersey 07302.

Dated: February 11, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 93-3665 Filed 2-16-93; 8:45 am]

BILLING CODE 6720-01-M

[AC-9: OTS No. 5118]

Jefferson Savings and Loan Association, Ballwin, Missouri; Approval of Conversion Application

Notice is hereby given that on February 8, 1993, the Assistant Director for Supervisory Operations, Office of Thrift Supervision, or his designee, acting pursuant to delegated authority, approved the application of Jefferson Savings and Loan Association, Ballwin, Missouri, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1776 G Street, NW., Washington, DC 20552, and the Midwest Regional Office, Office of Thrift Supervision, 122 West John Carpenter Freeway, suite 600, Irving, Texas 75261-9027.

Dated: February 11, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 93-3668 Filed 2-16-93; 8:45 am]

BILLING CODE 6720-01-M

[AC-7: OTS No. 3680]

The Third Savings and Loan Company, Piqua, Ohio; Approval of Conversion Application

Notice is hereby given that on February 2, 1993, the Deputy Assistant Director for Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of the Third Savings and Loan Company, Piqua, Ohio, to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1776 G Street, NW., Washington, DC 20552, and the Central Regional Office, Office of Thrift Supervision, 111 Wacker Drive, suite 800, Chicago, Illinois 60601-4360.

Dated: February 11, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 93-3666 Filed 2-16-93; 8:45 am]

BILLING CODE 6720-01-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85-5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "Painters of the Great Ming: The Imperial Court and the Zhe School" (see list [1]), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the Metropolitan Museum of Art, New York City, from on or about March 10, 1993 to on or about May 9, 1993, and the Dallas Museum of Art, Dallas, Texas, from on or about June 3, 1993 to on or about August 1, 1993, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: February 10, 1993.

R. Wallace Stuart,

Acting General Counsel.

[FR Doc. 93-3588 Filed 2-16-93; 8:45 am]

BILLING CODE 8230-01-M

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[1] A copy of this list may be obtained by contacting Mr. Paul W. Manning of the Office of the General Counsel of USIA. The telephone number is 202/619-6827, and the address is Room 700, U.S. Information Agency, 301 Fourth Street, SW., Washington, DC 20547.

Sunshine Act Meetings

Federal Register
Vol. 58, No. 30
Wednesday, February 17, 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).

UNITED STATES COMMISSION ON CIVIL RIGHTS

DATE AND TIME: February 26, 1993, 9:30 a.m.

PLACE: U.S. Commission on Civil Rights, 624 Ninth Street, NW, Room 540, Washington, DC 20425.

STATUS: Open to the Public.

February 26, 1993

I. Approval of Agenda
II. Approval of Minutes of January Meeting
III. Announcements
IV. Appointments to the Florida, Georgia, and Tennessee Advisory Committees
V. *Native American Students in North Dakota Special Education Programs*
VI. *Police Community Relations in Southern West Virginia*
VII. Staff Director's Report
VIII. Review of 1993 Meeting Dates
IX. Future Agenda Items

Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact Betty Edmiston, Administrative Services and Clearinghouse Division (202) 376–8105 (TDD 202–376–8116), at least five (5) working days before the scheduled date of the meeting.

CONTACT PERSON FOR FURTHER INFORMATION: Barbara Brooks, Press and Communications (202) 376–8312.

Dated: February 11, 1993.

Emma Monroig,
Solicitor.

[FR Doc. 93–3741 Filed 2–12–93; 10:05 am]

BILLING CODE 6335–01–M

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Special Meeting

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the special meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The special meeting of the Board was held at the offices of the Farm Credit Administration in McLean, Virginia, on January 29, 1993, from 3:45 p.m. until such time as the Board concluded its business.

FOR FURTHER INFORMATION CONTACT: Curtis M. Anderson, Secretary to the Farm Credit Administration Board, (703) 883–4003, TDD (703) 883–4444.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: This meeting of the Board was open to the public (limited space available). The matter considered at the meeting was:

Open Session

A. New Business

1. Request for Approval to Increase Medium-Term Note Authorized Celling.

Dated: February 10, 1993.

Curtis M. Anderson,
Secretary, Farm Credit Administration Board.

[FR Doc. 93–3726 Filed 2–11–93; 4:52 pm]

BILLING CODE 6705–01–P

FEDERAL HOUSING FINANCE BOARD

TIME AND DATE: 9:00 a.m., Wednesday, February 24, 1993.

PLACE: Board Room Second Floor, Federal Housing Finance Board, 1777 F Street, N.W., Washington, DC 20006.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

PORTIONS OPEN TO THE PUBLIC: The Board will consider the following:

1. Monthly Reports
   A. District Banks Directorate
   1. Financial Report
   2. Membership Report
   B. Housing Finance Directorate
   1. 1992 End of Year CIP Report
2. Office of Policy and Research
   A. Discussion Regarding Hearing on Study of FHLBank System Mandated by the Housing and Community Development Act

PORTIONS CLOSED TO THE PUBLIC: The Board will consider the following:

1. Approval of the December and January Board Minutes
2. Examination and Regulatory Oversight Reports
   A. Oversight Issues
   1. Financial Management Policy Compliance
   2. End of Year Bank Duration of Equity
3. 1992 FHLBank System Actual to Budget Comparison
4. Presentation of External Auditor's Role
5. Office of Policy and Research
   A. Study of FHLBank System Mandated by the Housing and Community Development Act
   B. System 2000 Update
6. Board Management Issues

The above matters are exempt under one or more of sections 552b(c)(2), (8), (9)(A) and (9)(B) of title 5 of the United States Code.

CONTACT PERSON FOR MORE INFORMATION: Elaine L. Baker, Executive Secretary to the Board, (202) 408–2837.

Philip L. Conover,
Managing Director.

[FR Doc. 93–3756 Filed 2–12–93; 10:54 am]

BILLING CODE 6725–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, February 22, 1993.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. 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 12, 1993.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 93–3846 Filed 2–12–93; 3:14 pm]

BILLING CODE 6210–01–M

UNITED STATES INTERNATIONAL TRADE COMMISSION

[USITC SE–93–04]

TIME AND DATE: February 23, 1993 at 3:00 p.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meetings
2. Minutes
3. Ratification List

4. Invs. Nos. 731–TA–641–642 (Preliminary) (Ferrosilicon from Brazil and Egypt)—briefing and vote
5. Invs. Nos. 731–TA–566 (Final) (Ferrosilicon from the People's Republic of China)—briefing and vote
6. Outstanding action jacket requests none
7. Any items left from previous agenda

CONTACT PERSON FOR MORE INFORMATION: Paul R. Bardos, Acting Secretary, (202) 205–2000.

Issued: February 11, 1993.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–3801 Filed 2–12–93; 12:38 pm]

BILLING CODE 7020–02–M

LEGAL SERVICES CORPORATION

Board of Directors Committee Meeting

TIME AND DATE: A meeting of the Legal Services Corporation Board of Directors Office of the Inspector General Oversight Committee will be held on February 21, 1993. The meeting will commence at 1:00 p.m. and will be open to the public.

PLACE: The Doubletree Suites Hotel, 320 N. 44th Street, Ballroom Salons I & II, Phoenix, AZ 85008, (602) 225–0500.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Agenda.
2. Approval of Minutes of December 6, 1992 Meeting.
3. Consideration of Whether to Formally Adopt, and if so, to Adopt, a Corporate Position as to the Corporation's Program Operating Responsibilities as Referred to in the Inspector General Act.

CONTACT PERSON FOR INFORMATION: Patricia Batie, (202) 336–8800.

Upon request, meeting notices will be made available in alternate formats to accommodate individuals who are blind or have visual impairment.

Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia Batie at (202) 336–8800.

Date Issued: February 11, 1993.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 93–3720 Filed 2–11–93; 4:36 pm]

BILLING CODE 7050–01–M

LEGAL SERVICES CORPORATION

Board of Directors Meetings

TIME AND DATE: The Legal Services Corporation Board of Directors and its Operations and Regulations Committee will hold meetings on February 22, 1993. The meetings will commence at 8:00 a.m., and continue in the following order until all business has been concluded.

1. Operations and Regulations Committee; and
2. Board of Directors.

PLACE: The Doubletree Suites Hotel, 320 N. 44th Street, Ballroom Salons I & II, Phoenix, AZ 85008, (602) 225–0500.

OPERATIONS AND REGULATIONS COMMITTEE MEETING:

STATUS OF MEETINGS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Agenda.
2. Approval of Minutes of December 7, 1992 Meeting.
3. Consideration of Amendments to Sections 1610 and 1611 of the Corporation's Regulations.
4. Consideration of Amendment to Section 1612 of the Corporation's Regulations.
5. Two Lottery Selections for the Fifth Cluster/Control Group of the Comparative Demonstration Projects.

BOARD OF DIRECTORS MEETING:

STATUS OF MEETING: *Open*, except that a portion of the meeting may be closed if a majority of the Board of Directors votes to hold an executive session. At the closed session, pursuant to receipt of the aforementioned vote, the Board will consider and vote on approval of the draft minutes of the executive session held on January 29, 1993. A portion of the executive session will consist of a briefing conducted by Corporation staff.[1] In addition, the Board will hear and consider the report of the General Counsel on litigation to which the Corporation is a party. Finally, the Board will consult with the Inspector General and President, individually, regarding the internal personnel rules and practices of their respective organizations. The closing will be authorized by the relevant sections of the Government in the Sunshine Act [5 U.S.C. Sections 552b(c)(2)(5), (6), and (10)], and the corresponding regulation of the Legal Services Corporation (45 C.F.R. Section 1622.5(a), (d), (e), and (h)].[2] The closing will be certified by the Corporation's General Counsel as authorized by the above-cited provisions of law. A copy of the General Counsel's certification will be posted for public inspection at the Corporation's headquarters, located at 750 First Street, NE., Washington, DC, 20002, in its seventh floor reception area, and will otherwise be available upon request.

MATTERS TO BE CONSIDERED:

OPEN SESSION:

1. Approval of Agenda.
2. Approval of Minutes of January 29, 1993 Meeting
3. Panel Presentation on Legal Services Delivery Systems in the State of Arizona, Moderated by the Honorable Colin Campbell, Former President of the Arizona Bar Foundation
4. Chairman's and Members' Reports
5. Consideration of Operations and Regulations Committee Report
   a. Consideration of Amendments to Sections 1610 and 1611 of the Corporation's Regulations
   b. Consideration of Amendment to Section 1612 of the Corporation's Regulations
6. Consideration of Office of the Inspector General Oversight Committee Report
   a. Consideration of Recommendation on Whether to Formally Adopt, and if so, to Adopt, a Corporate Position as to the Corporation's Program Operating Responsibilities as Referred to in the Inspector General Act
7. Consideration of Provision for the Delivery of Legal Services Committee Report
   a. Consideration of Report on Status of Draft Request for Proposals for Migrant Ombudsman Demonstration Projects
8. Consideration of Audit and Appropriations Committee Report
9. President's Report
10. Inspector General's Report

CLOSED SESSION:

11. Consideration of the General Counsel's Report on Pending Litigation to which the Corporation is a Party
12. Briefing Conducted by Corporation Staff
13. Consultation by Board with the Inspector General on the Internal Personnel Rules and Practices of the Office of the Inspector General
14. Consultation by Board with the President on the Internal Personnel Rules and Practices of the Corporation
15. Approval of Minutes of Executive Session Held on January 29, 1993

OPEN SESSION: (Resumed)

16. Consideration of Other Business

CONTACT PERSON FOR INFORMATION: Patricia Batie (202) 336–8800.

Upon request, meeting notices will be made available in alternate formats to accommodate individuals who are blind or have visual impairment.

Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia Batie at (202) 336–8800.

Date Issued: February 11, 1993.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 93–3721 Filed 2–11–93; 4:36 pm]

BILLING CODE 7050–01–M

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[1] That portion of the closed session which will consist of briefings does not come within the definition of a meeting for purposes of the Government in the Sunshine Act. 5 U.S.C. Section 552b(a)(2). The requirements of the Act, therefore, do not apply to this portion of the closed session. 5 U.S.C. Section 552b(b). *See also* 45 C.F.R. Sections 1622.2 and 1622.3.

[2] As to the Board's consideration and approval of the draft minutes of the executive session(s) held on the above-noted date(s), the closing is authorized as noted in the **Federal Register** notice(s) corresponding to that/those Board meeting(s).

Corrections

Federal Register
Vol. 58, No. 30
Wednesday, February 17, 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

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 92–049–2]

Black Stem Rust; Addition of Rust-Resistant Varieties of Berberis Thunbergii

Correction

In rule document 92–27829 beginning on page 54165 in the issue of Tuesday, November 17, 1992, make the following correction:

§ 301.38–2 [Corrected]

On page 54166, in the second column, in amendatory instruction 3 to § 301.38–2, in the last line, "'Rosy Glow'" should read "'Rose Glow'".

BILLING CODE 1505–01–D

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 161

[Docket No. 91–027–3]

Accreditation of Veterinarians

Correction

In rule document 92–28318 beginning on page 54906 in the issue of Monday, November 23, 1992, make the following correction:

§ 161.3 [Corrected]

On page 54914, in the second column, in § 161.3(f), in the sixth line, "PHIS" should read "APHIS".

BILLING CODE 1505–01–D

COPYRIGHT ROYALTY TRIBUNAL

37 CFR Part 304

[Docket No. 92–2–PBRA]

1992 Adjustment of the Public Broadcasting Royalty Rates and Terms

Correction

In rule document 92–30914 beginning on page 60954 in the issue of Tuesday, December 22, 1992, make the following corrections:

PART 304 [CORRECTED]

1. On page 60954, in the second column, in Part 304, in the table of contents, in the entry for sec. 304.9, "Unknown" was misspelled.

§ 304.7 [Corrected]

2. On page 60955, in the third column, in § 304.7(b), in the seventh line, "the" should read "that".

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–4553–4]

Protection of Stratospheric Ozone

Correction

In rule document 93–757 beginning on page 4768 in the issue of Friday, January 15, 1993, make the following corrections:

§ 82.62 [Corrected]

1. On page 4798, in the third column, in § 82.62(a), in the third line, after "group III" insert "in".

§ 82.64 [Corrected]

2. On page 4799, in the first column, in § 82.64, the second paragraph should be designated "(b)".

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

Proposed Administrative Settlement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as Amended by the Superfund Amendments and Reauthorization Act

Correction

In notice document 93–528 appearing on page 3555 in the issue of Monday, January 11, 1993, make the following correction:

In the 2d column, in the 1st paragraph, in the 16th line, "$200,000.000" should read "$200,000.00".

BILLING CODE 1505–01–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 177

[Docket No. 89F–0115]

Indirect Food Additives; Polymers

Correction

In rule document 93–240 beginning on page 2976 in the issue of Thursday, January 7, 1993, make the following correction:

On page 2977, in the first column, in the first full paragraph, beginning in the third line, "*(insert date...*FEDERAL REGISTER*)*," should read "February 8, 1993,".

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 172

[Docket No. HM–214; Amendment Nos. 171–119, 172–128, 173–232, 174–71, and 176–32]

RIN 2137–AC31

Oil Spill Prevention and Response Plans

Correction

In rule document 93–1866 beginning on page 6864 in the issue of Tuesday,

February 2, 1993, make the following correction:

§ 172.101 [Corrected]

On page 6871, in § 172.101, in the table, under Packing group, "111" should read "I I I".

BILLING CODE 1505-01-D

federal register

Wednesday
February 17, 1993

Part II

Environmental Protection Agency

40 CFR Part 112

Oil Pollution Prevention; Non-Transportation-Related Onshore Facilities; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 112

[SW H–FRL 4556–2]

RIN 2050–AD 30

Oil Pollution Prevention; Non-Transportation-Related Onshore Facilities

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

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the Oil Pollution Prevention regulation, originally promulgated under the Clean Water Act (CWA). The proposed revision would incorporate new requirements added by the Oil Pollution Act of 1990 that direct facility owners and operators to prepare plans for responding to a worst case discharge of oil and to a substantial threat of such a discharge. Other regulatory changes to strengthen the existing regulation also are proposed.

DATES: Comments must be submitted on or before April 19, 1993.

ADDRESSES: *Comments*: Comments should be submitted in triplicate to: Emergency Response Division, Attention: Superfund Docket Clerk, Docket Number SPCC–2P, Superfund Docket, room M2427 (mail code OS–24S), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Docket: Copies of materials relevant to this rulemaking are contained in the Superfund Docket, room M2427 at the U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 [Docket Number SPCC–2P]. The docket is available for inspection between 9 a.m. and 4 p.m., Monday through Friday, excluding Federal holidays. Appointments to review the docket can be made by calling 202–260–3046. The public may copy a maximum of 266 pages from any regulatory docket at no cost. If the number of pages copied exceeds 266, however, a charge of 15 cents will be incurred for each page copied after 100 pages, plus a $25.00 administrative fee.

FOR FURTHER INFORMATION CONTACT: Bobbie Lively-Diebold, Response Standards and Criteria Branch, Emergency Response Division (OS–210), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 at 703–356–8774; the ERNS/SPCC Information line at 202–260–2342; or the RCRA/Superfund Hotline at 800–424–9346 (in the Washington, DC metropolitan area, 703–920–9810). The Telecommunications Device for the Deaf (TDD) Hotline number is 800–553–7672 (in the Washington, DC metropolitan area, 703–486–3323).

SUPPLEMENTARY INFORMATION: The contents of this preamble are listed in the following outline:

I. Introduction
- A. Statutory Authority
- B. The Oil Pollution Act of 1990
- C. This Rulemaking

II. Alternative Approaches for Identifying Facilities Subject to Facility Response Plan Requirements
- A. Option One
- B. Option Two

III. Proposed Approach for the Implementation of Facility Response Plan Requirements
- A. Procedures and Deadlines—§§ 112.20 (a) Through (e)
- B. Selection Criteria—§ 112.20(f) and Appendix C
- C. Environmentally Sensitive Areas—Appendix D
- D. Definition of Worst Case Discharge—Appendix E
- E. Tiered Response Planning
- F. The Determination and Demonstration of Adequate Response Capability—Appendix F
- G. Response Plan Elements—§§ 112.20(g) and (h), and Appendix G

IV. Relationship of Facility Response Plan Requirements to Other Programs

V. Proposed Revisions to Existing 40 CFR part 112 Plan Requirements
- A. Prevention Training
- B. Ensuring Against Brittle Fracture
- C. SPCC Plan Amendment
- D. Authority to Require Preparation of Plans
- E. Submission of Plans That Contain a Waiver of Technical Requirements

VI. Other Technical Considerations Not Proposed

VII. Regulatory Analyses
- A. Executive Order 12291
- B. Regulatory Flexibility Act
- C. Paperwork Reduction Act

I. Introduction

A. Statutory Authority

Section 4202(a)(6) of the Oil Pollution Act of 1990 (OPA), Public Law 101–380, amends section 311(j) of the Federal Water Pollution Control Act, also known as the Clean Water Act (CWA), and requires the President to issue regulations that require owners or operators of tank vessels or offshore facilities or certain onshore facilities to prepare and submit to the President plans for, among other things, responding, to the maximum extent practicable, to a worst case discharge of oil and to a substantial threat of such a discharge.

Section 311(j)(1)(C) of the CWA, authorizes the President to issue regulations establishing procedures, methods, equipment, and other requirements to prevent discharges of oil from vessels and facilities and to contain such discharges. See 33 U.S.C. 1321(j)(1)(C). The President has delegated the authority to regulate non-transportation-related onshore facilities under section 311(j)(1)(C) of the CWA to the U.S. Environmental Protection Agency (EPA of the Agency). See Executive Order 12777, section 2(b)(1), 56 FR 54757 (October 22, 1991), superseding Executive Order 11735, 38 FR 21243. By this same Executive Order, the President has delegated similar authority over transportation-related onshore facilities, deepwater ports, and vessels to the U.S. Department of Transportation (DOT) and authority over other offshore facilities, including associated pipelines, to the U.S. Department of the Interior (DOI). A Memorandum of Understanding (MOU) between the Secretary of Transportation and the EPA Administrator, dated November 24, 1971 (36 FR 24080), establishes the definitions of non-transportation-related facilities and transportation-related facilities. The definitions from the MOU are included in appendix A to 40 CFR part 112.

B. The Oil Pollution Act of 1990

The OPA was enacted to expand prevention and preparedness activities, improve response capabilities, ensure that shippers and oil companies pay the costs of spills that do occur, and establish an expanded research and development program. The Act establishes a new Oil Spill Liability Trust Fund, administered by the United States Coast Guard (USCG). As provided in sections 2002(b), 2003, and 2004 of the OPA, the new Fund replaces the fund established under section 311(k) of the CWA and other oil pollution funds.

Section 4202(a) of the OPA amends CWA section 311(j) to require regulations that provide that owners or operators of facilities prepare and submit "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." This requirement applies to any onshore facility that, "because of its location, could reasonably be expected to cause "substantial harm" to the environment by discharging into or on the navigable waters, adjoining shorelines, or the exclusive economic zone." Today's proposed revisions address only plans for responding to discharges of oil. Implementation of the OPA provisions addressing hazardous substance

response plans will be addressed in a subsequent rule.

CWA section 311(j)(5)(C) sets forth certain minimum requirements for facility response plans. The plans must:

- Be consistent with the requirements of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) and Area Contingency Plans (ACPs);
- Identify the qualified individual having full authority to implement removal actions, and require immediate communications between that individual and the appropriate Federal official and the persons providing removal personnel and equipment;
- Identify and ensure by contract or other approved means the availability of private personnel and equipment necessary to remove, to the maximum extent practicable, a worst case discharge (including a discharge resulting from fire or explosion), and to mitigate or prevent a substantial threat of such a discharge;
- Describe the training, equipment testing, periodic unannounced drills, and response actions of persons at the facility to be carried out under the plan to ensure the safety of the facility and to mitigate or prevent a discharge or the substantial threat of a discharge; and
- Be updated periodically.

Under section 311(j)(5)(D), additional review and approval provisions apply to response plans prepared for onshore facilities that, because of their location, "could reasonably be expected to cause "*significant and* substantial harm" to the environment by discharging into or on the navigable waters or adjoining shorelines or the exclusive economic zone." (emphasis added) Pursuant to authority delegated in Executive Order 12777, EPA is responsible for the following activities for each of these response plans at non-transportation-related onshore facilities:

- Promptly review the response plan;
- Require amendments to any plan that does not meet the section 311(j)(5) requirements;
- Approve any plan that meets these requirements; and
- Review each plan periodically thereafter.

The OPA requires that owners or operators of facilities that could cause "substantial harm" to the environment by discharging oil must submit their response plans to EPA (as delegated by the President in Executive Order 12777) by February 18, 1993, or stop handling, storing, or transporting oil. In addition, under CWA section 311(j)(5) and OPA section 4202(b)(4), a facility required to prepare and submit a response plan under the OPA may not handle, store, or transport oil after August 18, 1993 unless: (1) In the case of a facility for which a plan is reviewed by EPA, the plan has been approved by EPA; and (2) the facility is operating in compliance with the plan. The statute provides that a facility may be allowed to operate without an approved response plan for up to two years after the facility submits a plan that is to be reviewed, if the owner or operator certifies 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.

Under the OPA, facility owners or operators who fail to comply with section 311(j) requirements are subject to new administrative penalties and more stringent judicial penalties than those imposed previously under the CWA. Section 4301(b) of the OPA amends CWA section 311(b) to authorize a civil judicial penalty of $25,000 per day of violation for failure to comply with regulations under CWA section 311(j). In addition to these civil penalties, OPA section 4301(b) amends CWA section 311(b) to authorize administrative penalties for failure to comply with section 311(j) regulations of up to $10,000 per violation, not to exceed $25,000 for Class I penalties, and up to $10,000 per day per violation, not to exceed $125,000 for Class II penalties. Revisions to the penalty provisions are applicable to violations occurring after the August 18, 1990, enactment of the OPA. Violations occurring before enactment of the OPA remain subject to penalty provisions originally set forth in CWA section 311.

C. This Rulemaking

As discussed in section I.A of this Preamble, the Agency proposes revisions to the Oil Pollution Prevention regulation to implement OPA response plan requirements as well as several other technical requirements. After consideration of comments received in response to this proposed rule, a final rule will be promulgated. If comments received indicate sufficient need, the Agency will consider holding a public hearing on the proposed revisions to permit further expression of views prior to the final rulemaking. EPA will publish a notice of its intent to hold any public hearing in the **Federal Register.** Any statements made at such a hearing would be included in the public record of the rulemaking. Until the Agency promulgates a final rule that implements the provisions of CWA section 311(j)(5), owners and operators of onshore, non-transportation-related facilities that handle oil may use this proposed rule as guidance to meet the CWA's requirements for facility response plans.

II. Alternative Approaches for Identifying Facilities Subject to Response Plan Requirements

The Agency investigated two approaches to identifying facilities subject to facility response plan requirements (facilities that could cause "substantial harm" to the environment) under this proposed rulemaking. The major differences between the approaches are: (1) The extent of the regulated community affected by the response plan requirements, and (2) the process to determine which facilities could cause "substantial harm" to the environment, including the selection method and criteria. The two alternatives are outlined briefly below followed by a more detailed discussion of each option. EPA proposes the first option but requests comment on the relative merits of both options.

Under Option 1, EPA would propose to implement the OPA response plan requirements as follows:

- Facilities that could cause "substantial harm" to the environment by discharging oil into navigable waters or adjoining shorelines must prepare and submit a facility response plan to EPA; and
- The Agency will review for approval, all plans submitted by facilities identified as having the potential to cause "significant and substantial harm" to the environment from such discharges.

This option in part would use a process by which owners or operators would determine whether their facility could cause "substantial harm" to the environment. To complete the self-selection process, owners or operators would be required to evaluate their facility against a set of published criteria arranged in a flowchart. The criteria include: Storage capacity, proximity to sensitive environments and drinking water supplies, marine transfer operations, adequacy of secondary containment, and spill history. EPA is considering several alternative threshold levels for the storage capacity criterion. Facilities meeting one or a combination of the above criteria would be determined to have the potential to cause "substantial harm" and would have to prepare and submit a response plan to the appropriate Regional Administrator (RA). In addition, the RA would have the authority to determine that any regulated facility, regardless of the results of the self-selection screening

process, has the potential to cause "substantial harm" based on similar criteria and taking into account other site-specific characteristics and environmental factors. To determine whether a facility could cause "significant and substantial harm" to the environment, the RA would consider other criteria in addition to the factors used in the "substantial harm" determination.

Under Option 2, EPA would propose to require that:

- All regulated facilities would have to prepare a response plan;
- Facilities that could cause "substantial harm" to the environment by discharging into water bodies or adjoining shorelines would have to submit their plans to EPA;
- The Agency would review for approval plans submitted by facilities that could cause "significant and substantial harm" to the environment from such discharges; and
- Certain small, low-risk facilities with secondary containment structures would be allowed to prepare an abridged version of a response plan.

EPA would select "substantial harm" and "significant and substantial harm" facilities using risk-based screening criteria and Regional knowledge.

A. Option One

Under Option 1, EPA would propose to implement the CWA section 311(j)(5) requirements that: (1) The owner or operator of a facility that could cause "substantial harm" prepare and submit a response plan, and (2) facilities that could cause "significant and substantial harm" to the environment have their plans promptly reviewed for approval by EPA. This approach is consistent with the OPA legislative history, which supports the Agency's position that only a subset of all submitted onshore facility response plans would be reviewed and approved. See H.R. Rep. No. 101–653, 101st Cong. 2d Sess. 1991 at p. 150.

"Substantial Harm" Facility Selection Process and Criteria

Under this option, several processes would be used to identify those facilities required to prepare and submit response plans. Facility owners and operators would be required to evaluate their facilities for the potential to cause "substantial harm" to the environment using criteria published in the proposed rule. Owners and operators would be aided in this evaluation by a flowchart designed to determine whether a facility meets the criteria and has the potential to cause "substantial harm." Instructions for the use of the flowchart would be provided to help owners and operators apply the criteria. Under this option, owners or operators of facilities determined not to have the potential to cause "substantial harm" would be required to certify that their facility did not meet the criteria as contained in the flowchart.

The criteria that would be used to help identify the universe of "substantial harm" facilities would include facility storage capacity, proximity to sensitive environments and drinking water supplies, the existence of secondary containment, spill history, and the nature of the facility's marine transfer operations. As described in section III.B of this preamble, in addition to oil storage capacity and the proximity to potable water supplies and environmentally sensitive areas (which are elements specifically referenced in the OPA Conference Report, see H.R. Rep. No. 101–653, 101st Cong. 2d Sess. 1991 at p. 150), EPA has determined that the remaining criteria are elements that are closely related to the potential for a facility to cause "substantial harm" to the environment as a result of a discharge of oil. EPA has arranged the criteria in a flowchart (see appendix C) that shows the decision tree by which owners and operators would determine whether their facility could pose "substantial harm" to the environment.

As presented in the flowchart, a facility would be determined to have the potential to cause "substantial harm" to the environment if either of the following two screening criteria are met:

(1) The facility's total oil storage capacity is greater than or equal to 1 million gallons, and one of the following is true:

- The facility is located at a distance (as calculated using the appropriate formula in appendix C or an alternative formula considered acceptable by the Regional Administrator) such that a discharge from the facility would shut down operations at a public drinking water intake;
- The facility is located at a distance (as calculated using the appropriate formula in appendix C or an alternative formula considered acceptable by the Regional Administrator) such that a discharge from the facility could cause injury to an environmentally sensitive area;
- The facility does not have secondary containment for each aboveground storage area sufficiently large to contain the capacity of the largest aboveground storage tank within each storage area; or
- The facility has had a reportable spill greater than or equal to 10,000 gallons within the last 5 years.

(2) The facility transfers oil of any kind over water to or from vessels and has a storage capacity greater than or equal to 42,000 gallons.

EPA recognizes that large-capacity facilities have a greater potential for causing spills and subsequent environmental damage. EPA also considered an alternative storage capacity cut-off of 200,000 gallons under the first screen for Option 1. EPA requests comment on the appropriateness of the use of the 1 million gallon or 200,000 gallon size cut-off in the determination of "substantial harm" and information on any data relevant to this factor.

Under this option, the RA would have the authority to screen facilities using the same criteria that facility owners or operators would use under the self-selection process. This step will serve to verify that owners or operators are applying the screening criteria correctly. To determine substantial harm, the RA could also evaluate the risk posed by a facility using, among other things, general risk factors (i.e., proximity to sensitive environments and drinking water intakes) similar to the specific criteria discussed above. Moreover, because of the potential variation in site-specific characteristics and environmental factors, as well as the possible relevance of factors not specified in the criteria provided for owners and operators to screen their facilities, the RA would maintain the ability to consider other risk-based factors in making his or her determination. Regional knowledge about the compliance history of a particular facility, as well as other site-specific circumstances that affect the risk of harm from a discharge, are examples of such factors. EPA solicits comment on the appropriateness of these criteria for use by the facility owner or operator and the RA to determine whether a facility could cause "substantial harm" to the environment.

"Significant and Substantial Harm" Facility Selection Process and Criteria

Under Option 1, the RA would further assess the risks posed by an individual facility in order to identify the subset of "substantial harm" facilities that could cause both "significant and substantial" harm to the environment. In making this determination, the RA would use the "substantial harm" factors as well as other information, including: information from submitted plans, facility compliance history, age of tanks, proximity of discharge sources to navigable waters and additional areas of environmental concern, Regional site

characteristics, and local impacts on public health. Although based on a set of national criteria, this prioritization may differ from Region to Region depending on the relative importance of certain factors within a particular area. In addition to those facilities identified to meet the OPA's August 18, 1993, deadline, EPA also may in the future identify additional facilities as having the potential to cause "significant and substantial harm." As stated above, those facilities identified as having the potential to cause "significant and substantial harm," to the environment would be required to have their response plans reviewed for approval.

EPA solicits comment on the appropriateness and relative importance of the selection criteria in the RA's determination of "significant and substantial harm." Also, the Agency requests comment on whether the RA should consider additional facility characteristics, such as the complexity and throughput of a facility's operations and type of product stored in the determination of "significant and substantial harm."

B. Option Two

EPA also is considering a second approach to the implementation of response plan requirements, based on the authority contained in CWA subsections 311(j) (1) and (5). Under this option, all regulated facilities would be required to prepare facility response plans; certain small, low-risk facilities with secondary containment structures would be allowed to prepare an abridged version of a response plan.

Under this approach, only "substantial harm" facilities would be required to submit plans to EPA and "significant and substantial harm" facilities would have their plans reviewed and approved. All other owners and operators subject to the regulation would only have to prepare a facility response plan that would be kept at the facility.

Facility Selection Process and Criteria

The responsibility to determine "substantial harm" and "significant and substantial harm" facilities under this approach would rest entirely with the Agency. The RA would determine which facilities fall within each category using the risk-based screening criteria discussed under Option 1. The remaining aspects of Option 2 are essentially similar to those presented under Option 1.

III. Proposed Approach for the Implementation of Facility Response Plan Requirements

EPA proposes Option 1 for identifying facilities subject to response planning requirements. Only owners or operators of facilities that could cause "substantial harm" to the environment would be required to prepare and submit plans. EPA would then review and approve only those plans submitted by facilities that could cause "significant and substantial harm" to the environment. Risk-based criteria for evaluating the potential to cause "substantial harm" and "significant and substantial harm" are published in § 112.20(f) of today's proposed rule. The "substantial harm" determination would be accomplished, in large part, through a facility self-determination process which uses the criteria in proposed § 112.20(f)(1) in conjunction with the flowchart proposed in appendix C to the rule. In addition, each RA would have the authority to determine that other facilities could cause "substantial harm" to the environment based on the specific criteria in proposed § 112.20(f)(1) or the general factors in proposed § 112.20(f)(2), including other site-specific characteristics and environmental factors that may be relevant. The "substantial harm" criteria are discussed in detail in Section III.B of this preamble. In applying these factors, the RA may seek input on specific facilities from other agencies such as the USCG. The RA also may consider petitions from the public to determine whether a facility could cause "substantial harm" to the environment. Those facilities submitting plans would be required to include a response plan cover sheet (as provided in appendix C), which indicates that the information contained in the plan is accurate and which provides a basic summary of facility information including the results of the self-selection for the "substantial harm" determination. Under proposed § 112.20(e), facilities not required to submit plans would be required to maintain on-site a certification form indicating that the facility was determined not to pose the threat of "substantial harm" to the environment. EPA's formulas for distance were designed to be simple to use. However, facilities may calculate planning distances using more sophisticated formulas, which take into account broader scientific or engineering principles, or local conditions. Such alternative formulas may result in different planning distances than those distances calculated using EPA's proposed formulas in appendix C. If an owner or operator chooses to use an alternative formula and determines that the facility could not cause substantial harm, the owner or operator must attach to the certification form a brief explanation of the formula and its reliability, and demonstrate how calculations were made. In addition, the owner or operator would be required to notify the RA in writing that an alternate formula was used to determine that the facility does not pose a threat of substantial harm. More information concerning the use of alternative formulas is provided in section III.B of this Preamble and in appendix C of the proposed rule.

To determine whether a facility could cause "significant and substantial harm" to the environment, the RA would consider the "substantial harm" criteria in proposed § 112.20(f)(2) as well as additional factors in proposed § 112.20(f)(3), including site-specific information relating to such things as local impacts on public health. Section III.B of this preamble discusses the criteria to be used by RAs in their determination of a facility's potential to cause "significant and substantial harm" to the environment.

A. Procedures and Deadlines—§§ 112.20 (a) through (e)

1. Preparing, Submitting, and Reviewing Plans

As discussed above, the Agency proposed two ways a facility can be screened as having the potential to cause "substantial harm"; one involving a self-effectuating process and the other involving an Agency determination. EPA may identify some facilities as having the potential to cause "substantial harm" that may not have been identified in the self-selection process.

Self-Selection—§ 112.20(a). The owner or operator of an existing facility that meets the criteria proposed in § 112.20(f)(1) would be required to prepare and submit a facility response plan to the appropriate RA by February 18, 1993, in order to meet the OPA deadline for plan submission. EPA proposes in § 112.20(a)(2) that owners or operators of all regulated facilities must determine whether a response plan is required for their facility based on the "substantial harm" criteria. Proposed § 112.20(f)(1) would require that an owner or operator use the flowchart in appendix C to apply these criteria. Appendix C provides information that is necessary for the owner or operator to

correctly apply certain of the criteria proposed in § 112.20(f)(1).

The Agency recognizes that self-selection may occur after February 18, 1993, because of new facilities coming on-line and existing facilities subsequently meeting the criteria for "substantial harm" as a result of a change in operations or site characteristics. To ensure consistency with the overall requirement to prepare and implement a Spill Prevention, Control, and Countermeasure (SPCC) Plan as proposed in the Phase One Notice of Proposed Rulemaking (NPRM) (56 FR 54630; October 22, 1991), EPA proposes in § 112.20(a)(2) that: (1) Newly constructed facilities be required to prepare and submit a response plan prior to the start of operations (adjustments to the response plan can be made and submitted to the Agency after an operational trial period of 60 days); and (2) existing facilities that become subject to the response plan requirements as the result of a planned change in operations be required to prepare and submit a response plan prior to the implementation of changes at the facility. For example, a facility located near an environmentally sensitive area that plans to increase its maximum oil storage capacity to one million gallons subsequently would be determined (according to the flowchart in appendix C) to have the potential to cause "substantial harm." A facility planning such a change would be required to prepare and submit a response plan prior to commencing the new operation. An existing facility, however, may become subject to the response plan requirements through one or a combination of unplanned events, such as experiencing a reportable spill or the identification of a sensitive environment adjacent to the site during the ACP development process as described in section III.C of this preamble. These factors would cause the facility to meet the criteria for "substantial harm" as described in the flowchart. For example, a facility with a total storage capacity greater than one million gallons that experiences a reportable spill exceeding 10,000 gallons would meet the proposed "substantial harm" criteria as indicated in the flowchart in appendix C. In the event of such an unplanned change in a facility's risk classification, the owner or operator would be required to prepare and submit a response plan to the RA within six months of when the change occurs (see proposed § 112.20(a)(2)(iv)).

Agency Determination/Notification for Substantial Harm—§ 112.20(b). As proposed in § 112.20(b), in the event the Agency determines that a facility may pose a threat of "substantial harm" based on the factors in proposed § 112.20(f)(2), the RA would notify in writing the owner or operator of the facility that he or she is required to prepare and submit a facility response plan. To make such a determination, the RA could apply the factors as specified in the flowchart for facility self-selection. Non-notification by the RA would not exempt facilities from the requirement to prepare and submit response plans by February 18, 1993, if they meet the self-selection criteria in the proposed flowchart in appendix C. Under this approach, facilities identified by the RA as having the potential to cause "substantial harm," including new facilities and facilities undergoing a change in operations or facility-specific characteristics, would have six months after notification to prepare and submit a response plan to the appropriate RA. In addition to those facilities identified to meet the OPA's February 18, 1993, deadline, EPA also may in the future identify additional facilities as having the potential to cause "substantial harm" to the environment. Plans submitted by those facilities identified by the RA as having the potential to cause "substantial harm" to the environment will be reviewed by the RA to determine if the facility has the potential to cause "significant and substantial harm" to the environment.

EPA proposes in § 112.20(f)(2)(ii) to allow interested members of the public or Federal, State, or local agencies an opportunity to petition the RA to determine whether a specific facility could cause "substantial harm" to the environment. Under this process, the petitioner would have the opportunity to submit in writing a discussion of how the "substantial harm" criteria proposed in § 112.20(f)(2)(i) apply to the facility in question. The RA would evaluate such petitions in making a determination of whether the facility could cause "substantial harm" to the environment. The factors the RA would consider to determine whether a facility could cause "substantial harm" are discussed in section IV.B of this preamble.

Agency Determination/Notification for Significant and Substantial Harm—§ 112.20(c). As proposed in § 112.20(c)(1), the RA would notify in writing the owner or operator of a facility determined to have the potential, based on the criteria in proposed § 112.20(f)(3), to cause "significant and substantial harm" that his or her response plan will be reviewed for approval. This process would allow facility owners or operators the opportunity to seek, if necessary, authorization from the RA to operate temporarily without an approved response plan. In addition to those facilities identified to meet the OPA's August 18, 1993, deadline, EPA in the future also may identify additional facilities as having the potential to cause "significant and substantial harm." As proposed in § 112.20(c)(1), RAs would be required to periodically review approved response plans from facilities determined to have the potential to cause "significant and substantial harm" to the environment, in addition to reviewing plans submitted to meet the OPA deadline. EPA solicits comment how frequently the RA should review approved facility response plans, and, in particular, whether three years is an appropriate period between plan review. The following section discusses additional revisions proposed in § 112.20(c).

OPA Deadlines for "Substantial Harm" and "Significant and Substantial Harm" Facilities. The OPA sets forth specific timing requirements for when facility owners or operators must prepare and submit response plans to the RA, and the consequences of not submitting a plan when required. If the owner or operator of a facility required to prepare and submit a plan to the RA has not done so by February 18, 1993, that facility must stop handling, storing, or transporting oil. Further, a facility not operating in compliance with the response plan after August 18, 1993, must stop handling, storing, or transporting oil.

The OPA does not specifically address events occurring after the statutory deadlines and leaves implementation of the facility response plan requirement with regard to facilities identified after the statutory deadline to the discretion of the Agency. The Agency interprets the statute as not requiring that a facility determined to have the potential to cause "substantial harm" to the environment that has not submitted a facility response plan by February 18, 1993, must stop handling, storing, or transporting oil until such a plan is submitted, if the determination is made after February 18, 1993. The Agency believes its interpretation of the OPA, which allows six months from the time of discovery or notification that a facility could cause "substantial harm" to prepare and submit a plan, is reasonable and consistent with the objectives of the OPA. EPA requests comment on the choice of a six-month time frame versus a shorter period for development of a plan.

According to the OPA, a facility required to have its response plan

reviewed and approved must stop handling, storing, or transporting oil unless the plan has been approved by August 18, 1993. However, as indicated in the OPA Conference Report (H.R. Rep. No. 101–653, 101st Cong., 2d Sess. 1991 at p. 151), the number of plans requiring review may prevent the RAs from reviewing all response plans by the statutory deadline. Thus, CWA section 311(j)(5)(F) allows the owner or operator of a facility to seek Federal authorization to operate for up to two years after the plan has been submitted for approval if the owner or operator has certified that he or she has ensured by contract or other federally-approved means the availability of private personnel and equipment necessary to respond, to the maximum extent practicable, to a worst case discharge or substantial threat of such a discharge.

As discussed in section I.B of this preamble, a related OPA requirement is that response plans shall identify, and ensure by contract or other federally-approved means the availability of private personnel and equipment necessary to remove a worst case discharge. Although the response plan would already identify such resources, the requirement to certify their availability is necessary only when plan approval is required and cannot take place before the statutory deadline. Such a situation could arise if a large number of plans require approval. The Agency proposes in § 112.20(c)(2) that if notified by EPA that a submitted response plan requires approval and that approval will not be forthcoming prior to the August 18, 1993, deadline, the owner or operator of the facility has 30 days to certify and provide a copy of a signed contract or other approved means demonstrating the availability of adequate resources. The RA would determine whether the response resources identified in the facility's response plan were adequate. Guidelines for the determination and demonstration of adequate response capability are discussed in detail in Section III.F of this preamble.

2. Owner or Operator Participation in RA Determination

EPA considered several options for allowing the owner or operator to participate in the RA's determination process. Under one option, the Agency would allow an owner or operator to appeal the RA's determination that a facility poses a threat of "substantial harm" or "significant and substantial harm." Under this option, the Agency would use the procedures described in § 112.4(f) of the existing regulation. The appeal would have to be made to the EPA Administrator in writing within 30 days of notification by the RA that the facility could cause "substantial harm" or "significant and substantial harm" to the environment. The appeal would have to contain a clear and concise statement of why the facility does not pose a threat of "substantial harm" or "significant and substantial harm" and could contain other information the owner or operator believes to be relevant to the determination. The EPA Administrator or his or her designee would then render a decision on the appeal and would notify the owner or operator of the decision.

Under a second option, EPA would allow no formal Agency appeals process for determinations of "substantial harm" or "significant and substantial harm." As a third option, EPA would select an intermediate approach that would allow the facility owner or operator to provide information and data and to consult with the RA about the determination. Following this consultation, the RA would make a final determination on whether the facility could cause "substantial harm" or "significant and substantial harm" to the environment. The Agency solicits comment on an appeals process for determinations of "substantial harm" and "significant and substantial harm" by the RA. Also, the Agency requests comment on a process to allow an owner or operator of a facility that could cause "significant and substantial harm" to appeal a decision by the RA not to approve a facility response plan.

3. Plan Resubmittal—Section 112.20(d)

As discussed above, the RA would periodically review approved facility response plans from facilities determined to have the potential to cause "significant and substantial harm" to the environment. Proposed § 112.20(d)(1) would require the owner or operator to resubmit the plan for approval within 60 days of each material change in the plan. A material change is one that could affect the adequacy of a facility's response capabilities, such as the ability to respond to a worst case discharge.

Examples of material changes include: a significant change in facility capacity, configuration, or type of oil handled; changes in the capability or availability of response contractors; and changes in spill prevention equipment or response procedures which may affect the potential for a discharge to cause "significant and substantial harm" to the environment. In addition, CWA section 311(j)(5)(C) requires that a facility response plan be consistent with the ACP. Therefore, a review of the ACP (when it is made available and annually thereafter) might prompt changes to the facility response plan that could trigger plan resubmittal (e.g., identification of sensitive environments that could be affected by a discharge from the facility). Plan revisions that affect only names or phone numbers (e.g., changes to the emergency notification list) would not require resubmission for approval under proposed § 112.20(d)(2). EPA proposes in § 112.20(d)(2), however, that owners or operators submit changes to the notification list to the appropriate RA, as the revisions occur. The Agency requests comment on the proposed requirement to submit changes in the call-down list to the RA.

4. Facilities Not Posing "Substantial Harm" to the Environment—Section 112.20(e)

Facilities that are determined not to have the potential to cause "substantial harm" would not be required to prepare and submit a response plan as described in proposed § 112.20. Such facilities, however, that have determined that the installation of structures or equipment listed in § 112.7(c)(1) is not practicable are required under the existing regulation to prepare but not submit "a strong oil spill contingency plan." As discussed in section V of this preamble, EPA proposes to clarify the existing requirement to provide "a strong oil spill contingency plan" by referencing the proposed response plan requirements contained in § 112.20.

EPA proposes in § 112.20(e) to require that owners or operators of those regulated facilities not submitting response plans complete and maintain at the facility with the SPCC Plan a certification form (see appendix C) that indicates that the facility is determined not to have the potential to cause "substantial harm" to the environment as indicated by the "substantial harm" flowchart published in appendix C.

B. Selection Criteria—§ 112.20(f) and Appendix C

The following paragraphs present a discussion of the criteria that would be used to select "substantial harm" and "significant and substantial harm" facilities. The criteria proposed in § 112.20(f) to determine facilities that could cause "substantial harm" to the environment include: Type of marine transfer operation; oil storage capacity; lack of secondary containment; proximity to environmentally sensitive areas; proximity to public drinking water intakes; and spill history. For self-selection purposes under § 112.20(a), the "substantial harm" criteria in proposed § 112.20(f)(1) have been

arranged in a flowchart (see appendix C to the rule) to be used by owners and operators in determining if they must submit a response plan to the Agency for their facility. The proposed flowchart is a decision tree that indicates the combinations of these criteria that would lead to the determination that a facility could cause "substantial harm" to the environment. Appendix C also provides additional information in Attachment C–III (i.e., distance calculations) that is used to apply the criteria in the flowchart. EPA recognizes that the owner or operator of a regulated facility may determine that a facility has the potential to cause substantial harm to the environment without having to assess every criterion in the flowchart.

RAs would apply general "substantial harm" factors in § 112.20(f)(2), which are broader than the specific criteria set forth for owners or operators in making their determination of a facility's potential to cause "substantial harm" to the environment. In addition to the "substantial harm" factors, RAs would be able to consider additional factors in making their determination of a facility's potential to cause "significant and substantial harm" to the environment, including: The age of a facility's tanks; proximity to navigable waters and environmental areas of concern; spill frequency; as well as other facility-specific and Regional-specific information (e.g., local impacts on public health). The Agency requests comment on the appropriateness and relative importance of the following factors in the determination of "substantial harm" through self-selection or RA determination.

"Substantial Harm" Criteria

Type of Transfer Operation. Because of the complex nature of their operations, marine transfer facilities are more likely to experience spill events into navigable waters and adjoining shorelines than other facilities. Such facilities are immediately adjacent to navigable waters and transfer oil on a regular basis. Moreover, transfers to or from vessels (e.g., barges) at these facilities often involve large quantities of oil. As such, spills that do occur often enter directly into navigable waters and may involve significant quantities of oil. Therefore, EPA proposes in § 112.20(f)(1)(i) that any regulated facility that transfers oil products over water to or from vessels, and that has a total oil storage capacity greater than or equal to 42,000 gallons, has the potential to cause "substantial harm" to the environment and must submit a facility response plan.

Many sites at which oil is transferred in bulk to or from a vessel are likely to include both transportation-related transfer facilities regulated by the USCG and non-transportation-related oil storage facilities regulated by EPA. This combination of transportation-related and non-transportation-related facilities will be considered a complex and will be subject to multi-agency jurisdiction. EPA and the USCG have coordinated to ensure that "substantial harm" selection criteria are similar in nature for both agencies. This cooperation will lead to consistency between the agencies in the determination of "substantial harm" for facilities that transfer oil products to or from vessels over water. EPA and the USCG would use similar criteria, including transfers over water of oil to or from a vessel to determine "substantial harm." Thus certain facilities regulated by EPA (oil storage facilities) and the USCG (marine transfer facilities) would be determined to have the potential to cause "substantial harm" to the environment under both EPA and USCG regulations. EPA requests comment on the appropriateness of this substantial harm criterion as it may apply to facilities that fuel vessels.

Oil Storage Capacity. The oil storage capacity of the facility is another factor that would be considered in evaluating the potential for "substantial harm" posed by facilities. The larger the quantity of oil present, the larger the potential spill and the resulting environmental impact. Large discharges are also more likely to escape secondary containment and may damage nearby tanks, as occurred during the Ashland Oil spill. Weakened tank integrity is of greater concern for tanks with large storage capacities where the resulting forces on the tank (created by large fluid volumes) are greater. The Agency proposes in § 112.20(f)(1)(ii) that any facility with a total oil storage capacity greater than or equal to one million gallons in combination with one of the following four "substantial harm" criteria would be determined under the self-selection process to have the potential to cause "substantial harm" to the environment: lack of secondary containment, proximity to environmentally sensitive areas, proximity to public drinking water intakes, or spill history.

Lack of Secondary Containment. The importance of secondary containment as a means of preventing spills from reaching navigable waters is well documented. In a 1989 incident in Port Arthur, Texas, nearly 6 million gallons of crude oil were released from a storage tank, but none of the oil reached nearby navigable waters because of the presence of adequate secondary containment. Such incidents, where the entire amount of oil released from the tank remains within a secondary containment structure, are not reportable spills under 40 CFR part 110. Secondary containment structures, which meet the standard of good engineering practice for purposes of 40 CFR part 112, can take many forms including berms, dikes, retaining walls, curbing, culverting, gutters, or other drainage systems. As described in § 112.7(e)(2)(ii), secondary containment at bulk storage facilities must be able to hold the entire contents of the largest single tank plus have sufficient freeboard to allow for precipitation.

The central role of secondary containment as a preventive mechanism is underscored by the existing provision in § 112.7(d) that requires a facility owner or operator to provide a strong oil spill contingency plan when it is determined that the installation of structures or equipment to prevent discharged oil from reaching navigable waters is not practicable. Given the importance of secondary containment, the Agency proposes in § 112.20(f)(1)(ii)(A) that any facility with an oil storage capacity greater than or equal to one million gallons, which lacks secondary containment for all storage tanks, would be determined to have the potential to cause "substantial harm" to the environment.

Proximity to Environmentally Sensitive Areas. A facility's proximity to environmentally sensitive areas increases the potential for a spill to reach and damage these areas, in the event secondary containment measures fail.

Therefore, such proximity is an important consideration in the assessment of the existence of a threat of "substantial harm." The Agency proposes in § 112.20(f)(1)(ii)(B) that any facility with an oil storage capacity greater than or equal to one million gallons that is located at a distance such that a discharge could cause injury to (e.g., damage or negatively affect productivity or ability to propagate) an environmentally sensitive area would be determined to have the potential to cause " substantial harm" to the environment.

EPA proposes in § 112.2 to define "injury" as a measurable adverse change, either long- or short-term, in the chemical or physical quality or the viability of a natural resource resulting either directly or indirectly from exposure to a discharge of oil, or exposure to a product of reactions resulting from a discharge of oil. This

definition is derived from the definition of "injury" in the Natural Resources Damage Assessments Final Rule at 43 CFR part 11 (51 FR 27727. August 1, 1986), which encompasses the phrases "injury," "destruction," and "loss." The language proposed at 40 CFR 112.2 differs only in that hazardous substances are not included in the definition because today's response plan rulemaking does not address hazardous substances. The definition of "injury" is applied by natural resource trustees to assess the damage to natural resources from oil spills. Because natural resource trustees have extensive experience in evaluating the impacts of oil spills on natural resources based on this definition, the Agency believes that the definition is an appropriate gauge to assess the potential to cause substantial harm to the environment. EPA requests comment on the appropriateness of defining "injury" in such a manner.

Appendix D identifies areas that may be considered environmentally sensitive. As discussed in section III.A of this preamble, the owner or operator would be required to apply the "substantial harm" criteria in conjunction with the flowchart contained in appendix C. For purposes of self-selection, Attachment C–III to appendix C provides formulas that owners or operators could use to determine appropriate distances from the facility for environmentally sensitive areas. Owners or operators may use an alternative formula(s) as long as it achieves results consistent with the purposes of this requirement and is considered acceptable to the RA. EPA considers an acceptable alternative formula to be one that is equivalent in terms of reliability and analytical soundness. As proposed at § 112.20(a)(3), owners or operators that use an alternative formula would be required to provide documentation with the response plan cover sheet on the reliability and analytical soundness of the formula. EPA does not anticipate that extensive documentation will be necessary to assess the appropriateness of alternative formulas. Accordingly, owners or operators need only provide basic information on the origin and nature of the formula as well as an example of how it was used to determine the appropriate distance for a particular facility. Owners or operators that use an alternative formula should consider the formula acceptable unless notified otherwise by the appropriate RA.

Appendix C to this part contains several different distance calculations based on oil transport on different types of media (i.e., fast-moving waters, still lakes and ponds, and land). EPA expects that the distance calculation for a fast-moving water body will apply to most of the facilities that complete the substantial harm screen. This calculation is based on the velocity of the water body and the time intervals for the arrival of response resources. The flow velocity of the water body has a direct effect on how far the oil will travel before response actions can be employed to contain the release. For moving water bodies, velocity is determined through the use of an equation that models the flow of water in open channels. To calculate the velocity, owners or operators would need to obtain information on river characteristics from the sources listed in Table 2 of appendix C. Similarly, the more time it takes for emergency response personnel and equipment to arrive on-scene and deploy containment measures, the farther downstream the released oil will travel from the origin of the spill. In highly populated areas, where a significant volume of marine traffic is present, response resources will be able to arrive on-scene more quickly than in remote areas. The response times provided in Attachment C–III of appendix C are consistent with the response times guidelines of the USCG for spill response contractors to arrive on-scene. A three-hour time period has been added to factor in the deployment of equipment. Facilities with oil storage capacities of greater than or equal to 1 million gallons are believed to have the potential to discharge oil in quantities that could cause injury to a sensitive environment located within the downstream distance calculated by the formula. For owners or operators of facilities that could discharge into a still water body, EPA has provided an alternative formula to determine the relevant distance. In addition, appendix C provides information on how owners or operators should consider overland flow in the distance calculations. EPA requests data and comment on the appropriateness of the distance calculations in appendix C for inland areas. In addition, the Agency requests comment on the appropriateness of using specified distances from the facility (e.g., 40 miles downstream) in the determination of proximity to these areas.

Proximity to Public Drinking Water Intakes. A facility's proximity to drinking water intakes increases the potential for a spill to reach and contaminate or render inoperable these intakes. The OPA Conference Report states that the criteria developed to determine "substantial harm" and "significant and substantial harm" facilities should include location of potable water supplies (see H.R. Rep. No. 101–653, 101st Cong. 2d Sess. 1991 at p. 150). Therefore, EPA has included proximity to drinking water intakes as a factor to consider in the determination of the potential to cause "substantial harm" to the environment.

An example of a discharge that affected potable water supplies is the January 1988 spill in Floreffe, Pennsylvania, when the rupture of an aboveground storage tank allowed 750,000 gallons of diesel oil to escape containment, flow into a storm drain located in an adjacent parking lot, and subsequently reach the nearby Monongahela River. As a result of the spill, more than 70 communities in three States stopped drawing water from the river. Such an interruption of public drinking water supplies can threaten the health and safety of affected communities.

The Agency proposes in § 112.20(f)(1)(ii)(C) that any facility with an oil storage capacity greater than or equal to one million gallons that is located such that a discharge would shut down a public drinking water intake would be determined to have the potential to cause "substantial harm" to the environment. EPA would define public drinking water intakes as those covered by the Safe Drinking Water Act. The Agency solicits comment on whether private drinking water supplies should be included in the criteria for the determination of "substantial harm." As previously discussed for environmentally sensitive areas, Attachment C–III to appendix C provides formulas that owners or operators could use in calculating appropriate distances from the facility for purposes of the assessment of the risk of affecting public drinking water intakes. EPA proposes that an alternative distance formula(s) acceptable to the RA could also be used in this determination. As discussed above for environmentally sensitive areas, owners or operators that use an alternative formula would be required to provide documentation on the reliability and analytical soundness of the formula.

Spill History. Spill history is an important factor to consider in the assessment of risk to the environment posed by a particular facility. Because larger spills can cause greater damage to the environment, the size of past spills may be an indication of the potential for a facility to cause "substantial harm" to the environment. EPA proposes in § 112.20(f)(1)(ii)(D) that any facility that has a total oil storage capacity greater

than or equal to one million gallons and that in the past five years has had a reportable spill greater than or equal to 10,000 gallons would be determined to have the potential to cause "substantial harm" to the environment. The Agency requests comments as well as data on the appropriateness of the use of a spill size of 10,000 gallons for this criterion, as well as information on alternate spill sizes.

Additional Criteria for Use by the Regional Administrator in the Determination of "Significant and Substantial Harm"

Discussed below are factors proposed in § 112.20(f)(3) that may be used by the RA, in addition to those contained in § 112.20(f)(2), to determine whether a facility could cause "significant and substantial harm" to the environment. For purposes of determining "substantial harm," the RA would consider whether a facility meets one of the factors in § 112.20(f)(2). Facilities that meet one or more of the "substantial harm" criteria, in combination with any of the additional factors discussed below, can present a greater risk of harm to the environment. For purposes of making the "significant and substantial harm" determination, therefore, the RA would consider whether a facility meets one or more of the "substantial harm" factors in combination with the following factors. EPA solicits comment on the appropriateness of the RA's use of the following factors for the determination of "significant and substantial harm."

Frequency of Past Spills. In addition to the size of previous spills (as discussed under the section on "substantial harm" criteria), the frequency of spill events is another important factor in assessing the potential for causing harm to the environment. A facility that has experienced multiple spills in the last five years may pose a greater risk of experiencing a spill event in the future than those facilities that have not had a spill. Multiple spills in a relatively short time period may have a cumulative effect on the impacted environment. Moreover, frequency of spills may be an indication of poor operating practices or a lack of training or prevention measures. Examples of facilities that have had several spills in a single year include a facility in Baltimore, Maryland that reported 44 separate spill incidents from 1989 to 1990 and a facility in Tupman, California that reported 14 spills in 1990 ranging in volume from 504 gallons to 3,780 gallons.

Proximity to Environmental Areas of Concern. To assist owners or operators, appendix D identifies areas that may be environmentally sensitive for purposes of the substantial harm determination. Appendix D also identifies additional areas of concern that the RA may consider to identify "significant and substantial harm" facilities.

Proximity to Navigable Waters. The proximity of a facility to navigable waters often directly influences the probability that a discharge, which escapes secondary containment, will reach such waters. Often, the most environmentally damaging spills, such as the Ashland Oil spill, occur at facilities whose boundaries border navigable waters. For example, all 20 worst case spills documented in the Technical Background Document which supports the Phase Two rulemaking occurred at facilities whose closest opportunity for discharge was located within one-half mile of navigable waters.

Tank Age. EPA has identified tank age as an additional factor that may be related to the potential for a facility to cause "significant and substantial harm" to the environment. Older tanks tend to have weakened structural integrity, depending on the maintenance history of the tank, increasing the risk of a spill. American Petroleum Institute (API) Standard 653 requires that the internal inspection intervals of tanks must not exceed 20 years. This limit on the inspection interval reflects the age at which structurally related failures are more likely to occur.

Criteria EPA Considered but is not Proposing. Natural hazards and high-risk environments may be other important factors in the assessment of the risk of a facility posing "substantial harm" to the environment. Facilities that are located in areas prone to natural hazards (i.e., floods, hurricanes, and earthquakes) may pose a greater threat to the environment. Case studies from the Technical Background Document which support this proposed rulemaking indicate that facilities susceptible to such events are more likely to have multiple tank failures and may have greater spill volumes than comparable facilities located outside these areas. For example, in November 1990, heavy rains and flooding washed away two aboveground storage tanks at a facility in Alaska and caused a 16,000 gallon spill into Diomede Harbor. Examples of large spills that involve facilities located in hurricane zones are well documented. Most recently, on September 17, 1989, Hurricane Hugo destroyed five 4.2 million gallon oil storage tanks on the south coast of St. Croix, U.S. Virgin Islands. Over 420,000 gallons of crude and No. 6 oil were discharged from the damaged tanks, with 42,000 gallons of oil reaching the waters of Limetree Bay.

In addition to risks posed by natural hazards, proximity to high-risk environments may be another important factor to consider in assessing the potential for a facility to cause harm to the environment. Karst and unstable terrains and areas with ground water concerns (e.g., recharge zones) are examples of such high-risk environments that may deserve consideration. For example, a tank located on unstable terrain, such as a sink hole could fail, releasing its contents to the ground water, if the substrate providing a foundation for the tank were to shift suddenly by a significant amount. For tanks located near certain ground water zones that have a direct connection to surface waters, discharges that enter the ground water have the potential to reach surface waters.

EPA does not have sufficient data available in a form that will substantiate including natural hazards and high-risk environments among the criteria for "substantial harm" determination and is therefore not proposing them in today's rulemaking. The Agency requests comment and supporting data on natural hazard factors and high-risk environments as indicators for "substantial harm" determination.

The Agency also considered proximity to cooling water intakes for electric utilities (including nuclear power plants), as a risk factor for use in the determination of the threat of "substantial harm." Utilities need substantial lead time in the event of a spill to shut down operations or implement alternative cooling mechanisms. Failure to shut down operations prior to contamination could lead to significant public health risks. EPA requests comments and supporting data on whether cooling water intakes or other intakes, such as those for commercial process water or irrigation water should be considered in the assessment of the potential for a facility to cause "substantial harm" to the environment. In addition, EPA solicits comment on other criteria, such as the type of product stored, throughput, and number and size of transfer operations, that should be included in the self-selection process or that the RA should consider in making determinations of "substantial harm" and "significant and substantial harm" for specific facilities. The Agency requests comment on whether more specific criteria should be used by the RA to identify those

facilities that could cause significant and substantial harm to the environment.

C. Environmentally Sensitive Areas—Appendix D

The proposed rule provides that facilities and RAs must consider proximity to environmentally sensitive areas to determine the potential for a facility to cause "substantial harm" to the environment. These areas may include: wetlands, National and State parks, critical habitat for endangered/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 resources areas. An interagency "Sensitive Environments Technical Workgroup" provided input to ensure that consistent criteria were applied in identifying areas that may be of concern for facility-specific plans and ACPs.

As ACP development proceeds, Area Committees will identify and prioritize specific locations within the boundaries of their areas. These newly-identified environmentally sensitive areas will eventually be incorporated into the ACPs. Many ACPs may not be established prior to the OPA deadline for response plan submission. Thus, EPA proposes in § 112.20(g)(2) that, upon completion of the ACP (for the Area in which the facility is located), facility owners or operators must review and, as necessary, revise their facility response plan to incorporate information, such as additions to the list of sensitive areas and the designation of priority areas for protection as reflected in the ACP.

In addition, the RA would have the authority to determine, on a case-by-case basis, additional areas that possess ecological value (e.g., unique local areas or habitats). The Agency requests comment on whether additional areas should be considered, such as shallow aquifers used as drinking water supplies or critical habitats closely hydrological linked to surface water that are subject to contamination by discharges of oil. EPA is particularly interested in receiving comment on whether the list should include wellhead protection areas as defined in section 1428 of the Safe Drinking Water Act.

The Agency believes that in some areas of the country there is anecdotal information indicating problems in ground water caused by oil spills from onshore facilities. This could be especially true for areas with high water tables. EPA requests that commenters provide us examples of this type of ground water contamination. In addition, EPA would like commenters to provide comments on what action, if any, the Agency should take to address such oil spills.

EPA has compiled information in appendix D (Attachments D–I, D–II, and D–III) to help owners and operators identify specific geographical areas which may be among sensitive environments. Attachment D–I provides a list of the Federal agencies responsible for management of the environmentally sensitive areas. For more information on the various types of areas listed (including maps), owners or operators can contact the responsible agency. Attachments D–II and D–III would help owners and operators identify sensitive environments by providing information on designated critical habitats for National Marine Fisheries Service species and marine sanctuary and estuarine reserves and also may be useful to owners and operators in preparing response plans if they are required.

In addition, EPA has included in appendix D other reference information on sensitive environments that may be useful to facility owners or operators during plan preparation. Specifically, attachments D–IV and D–V are intended to help owners and operators prioritize sensitive areas according to their vulnerability to damage from oil spills for purposes of planning the deployment of response resources.

EPA recognizes that those areas defined as environmentally sensitive will change as the various Federal and State agencies responsible for designating the areas periodically update their lists. Owners and operators are expected to ensure that facility response plans reflect the listings of sensitive environments published to a point in time 6 months prior to plan submission. For example, plans submitted to meet the February 18, 1993, deadline would need to consider sensitive environments designated by the responsible agencies (see Attachment D–I of appendix D) as of August 18, 1992. A 6-month cutoff point for considering environmentally sensitive areas would also apply in situations where plans are periodically updated or resubmitted for approval of a material change. Six months is believed to be a reasonable period to incorporate new information on sensitive environments and is consistent with other time frames related to the submission of materials to EPA under the Oil Pollution Prevention regulation. The Agency requests comments on the appropriateness of a 6-month cutoff point for the consideration of sensitive environments.

D. Definition of Worst Case Discharge—Appendix E

OPA section 4202(a) requires that the President issue regulations providing that owners and operators of tank vessels, offshore facilities, and certain onshore facilities prepare and submit response plans for responding, to the maximum extend practicable, to a worst case discharge of oil or a hazardous substance. Today's proposal would identify the onshore, nontransportation-related facilities that would be subject to this requirement, as described in section I.B of this preamble.

OPA section 4201(b) defines "worst case discharge" as: (1) In the case of a vessel, a discharge in adverse weather conditions of its entire cargo, and (2) in the case of an onshore or offshore facility, the largest foreseeable discharge in adverse weather conditions. The OPA Conference Report (H.R. Rep. No. 101–653, 101st Cong., 2d Sess. 1991) states that, in the case of facilities, a more general definition of worst case is used because it is difficult to describe the entire capacity of some fixed facilities, such as pipelines. According to the Conference Report, Congress intends facility owners or operators to prepare plans for responding to discharges that are worse than either the largest spill to date at the facility or the maximum probable spill for that facility type.

Options for Regulatory Definition

In § 112.2, EPA proposes a regulatory definition of worst case discharge for onshore facilities. Specifying the definition is important because to prepare a response plan for a worst case discharge, a facility owner or operator must determine a planning quantity that corresponds to the amount of oil that could be discharged under worst case circumstances. The facility's worst case discharge volume will significantly affect the resources necessary to implement the plan.

EPA considered three options for defining worst case discharge: (1) A discharge equal in amount to the aboveground storage capacity of the entire site or installation; (2) a discharge equal in amount to the capacity of the largest single tank within a secondary containment area or the combined capacity of a group of aboveground tanks permanently manifolded together within a common secondary containment area lacking internal

subdivisions,[1] whichever is greater; and (3) a discharge equal in amount to the capacity of the largest single tank within a secondary containment area or the combined capacity of a group of aboveground tanks permanently manifolded together within a common secondary containment area lacking internal subdivisions, whichever is greater, plus an additional quantity based on several parameters, including the adequacy of secondary containment and proximity to navigable waters.

EPA proposes Option 3 to determine a facility's worst case discharge for response planning. Option 3 would allow the definition of worst case discharge to reflect differences among facilities based on location and the presence of secondary containment. The Agency concludes that these factors best reflect the flexibility represented by the definition of a worst case discharge for a facility (i.e., the largest foreseeable discharge in adverse weather conditions), and best reconcile the differences between worst case discharges for vessels and facilities. The definition reflects the fact that a facility with adequate secondary containment, as defined in existing § 112.7(e)(2)(ii), is not likely to discharge its entire capacity in adverse weather conditions, as opposed to a vessel which may lose its entire cargo since there is little to prevent all of the released oil from a vessel from directly entering the water. Finally, this option is consistent with the intent of the OPA. The legislative history of the OPA states that the worst case discharge for a facility should describe a discharge "that is worse than either the largest spill to date or the maximum probable spill for that facility type." See H.R. Rep. No. 101–653, 101st Cong. 2d Sess. 1991 at p. 147).

The Agency proposes in § 112.2 to define "adverse weather" as the weather conditions that make it difficult for response equipment and personnel to cleanup or remove spilled oil. These conditions include significant wave height, ice, extreme temperatures, weather-related reduced visibility, and fast currents. EPA has included guidelines in appendix F (see Table 1 of appendix F) to the rule to assist owners or operators in evaluating the operability of response equipment (i.e., oil recovery devices and boom) for various sea states and wave heights. ACPs also may contain information concerning other conditions in the area that are significant factors in evaluating the operability of equipment.

Although Option 1, which defines a worst case discharge as a discharge equal to the total aboveground storage capacity at the site, is comparable to the definition of worst case specified in the OPA for vessels (i.e., the entire cargo), there are no documented spills of the entire capacity of a multi-tank facility with secondary containment into navigable waters.

For purposes of this determination, Option 2 would define the worst case discharge as an amount equal to the capacity of the largest single tank within a secondary containment area or the combined capacity of a group of aboveground tanks permanently manifolded together within a common secondary containment area lacking internal subdivisions, whichever is greater. For many regulated facilities (those with only one tank), the option is identical to Options 1 and 3. Evidence from case studies, however, suggests that spills caused by flooding, hurricanes, and earthquakes at multi-tank sites may involve discharges of oil greater than the capacity of the single largest tank; spills caused by natural disasters often involve releases of oil from more than one tank. Although the planning quantity for worst case discharge could be described by the combined capacity of a group of aboveground tanks permanently manifolded together within a common secondary containment area lacking internal subdivisions, EPA recognizes that a multiple tank failure may involve tanks from distinct secondary containment systems, and the definition described above is merely a planning quantity.

Worst Case Discharge Calculation Worksheets

Under proposed Option 3, facility owners or operators would calculate the worst case discharge volume for their facilities, using worksheets developed by EPA. This approach is consistent with the concept in the OPA Conference Report that planning for a worst case discharge involves a facility-specific determination. These proposed worksheets are provided in appendix E of 40 CFR part 112. Part A of appendix E contains the worst case discharge calculation for storage facilities. A separate worksheet has been developed for production facilities (part B of appendix E), because of the added concerns associated with production volumes at such facilities. Unlike storage facilities, which handle a set amount of oil, production facilities must consider throughput and the potential for oil contained in the underground natural reservoir to escape containment during extraction operations. EPA proposes in § 112.20(h)(5)(i)(A) that if the RA determines that the worst case discharge volume calculated by a facility is not appropriate or that the parameters in the worksheet are not appropriate for a particular type of facility, the RA may specify the worst case discharge amount to be used for response planning at that facility. The RA could make such a case-by-case determination during the review of response plans prepared by facilities.

In the event the RA finds it necessary to determine the worst case discharge volume, the RA will consider the same factors addressed by the worksheet (i.e., secondary containment and proximity to navigable waters), in the specific context of the facility in question as well as other facility-specific circumstances that may be relevant to the calculation. An example of how the RA might tailor the criteria to the specific circumstances at a facility involves a regulated facility with underground storage tanks. Completely buried storage tanks, such as those at service stations, may have the potential to cause spills to surface waters when tanks are overfilled. The RA would consider the quantity of product stored, as well as the proximity to surface waters in arriving at a worst case discharge volume.

For owners and operators of storage facilities with a single aboveground tank, the worst case discharge volume would be the entire storage capacity of the tank. To assist owners and operators of other onshore storage facilities and production facilities in calculating a worst case discharge volume, the worksheets integrate the use of secondary containment and proximity to navigable waters. For production facilities, the presence of storage tanks and the production volume for exploratory wells and production wells must also be considered in the calculation. The worst case scenario is influenced by the extent of spill prevention and containment measures in place. A spill at a facility with secondary containment structures may have negligible environmental impact, while a comparable spill at a facility without such structures may result in the entire capacity of the facility reaching navigable waters. The presence of secondary containment at a facility, therefore, influences the final calculated worst case discharge volume. Proximity

[1] Tanks that are permanently manifolded together are defined as tanks that are designed, installed, and/or operated in such a manner that the multiple tanks function as one storage unit. As such failure of a single tank in the system could lead to the release of the capacity of more than a single interconnected tank. Tanks permanently manifolded together within a common secondary containment area are considered to be single tanks for purposes of this calculation, if each tank is separated by internal dividing structures.

to navigable waters is also an important factor in the assessment of the worst case discharge volume. Based on the goals of the OPA and the Oil Pollution Prevention regulation, the definition of what constitutes a worst case spill is directly influenced by the potential for the spill to reach navigable waters.

To complete the worksheets in appendix E for production facilities and multiple tank storage facilities, owners or operators would first determine whether secondary containment, as described in § 112.7 of the existing regulation, is present for each storage tank or group of tanks at the facility. If such secondary containment is not present, a final worst case discharge volume is calculated based in part on the total aboveground storage capacity without secondary containment (for storage facilities) or total aboveground storage capacity without secondary containment plus the production volume of the well with the highest output at the facility[2] (for production facilities). If secondary containment is present for some tanks, the owner or operator calculates a potential worst case volume based on whether the facility is adjacent to navigable waters. If the facility is not adjacent to navigable waters, the worst case discharge amount is the capacity of the largest single tank within a secondary containment area or the combined capacity of a group of aboveground tanks permanently manifolded together within a common secondary containment area lacking internal subdivisions, whichever is greater, plus an additional quantity for any tanks without secondary containment. For purposes of this calculation, tanks within a common secondary containment area that have adequate internal subdivisions are considered single tanks whose capacity would not be combined. If the facility is adjacent to navigable waters the worst case discharge amount is adjusted upwards by a factor of 10 percent of the capacity of tanks with secondary containment. EPA solicits comment on the overall approach and specific factors in the proposed worksheets in appendix E.

As discussed above, tanks that are permanently manifolded together are tanks with common piping that are designed, installed, and/or operated as a single storage unit. Because the potential discharge amount is greater for a system of tanks permanently manifolded together, EPA proposes that the worst case discharge planning amount be increased to reflect the combined capacity of all tanks in the system. EPA recognizes that certain tank systems where tanks are connected by piping may not be operated as a single unit. Owners or operators of facilities with tanks that are connected by common piping or piping systems that can demonstrate to EPA that the system does not operate as a single unit would not have to plan for the combined capacity of all tanks in the system but the capacity of the single largest tank. EPA proposes to require that such evidence be provided to the RA in the model response plan under the discussion of worst case discharge in the discharge scenarios section.

EPA requests comment on allowing a reduction in the worst case discharge planning amount from 100 percent (110 percent for facilities adjacent to navigable waters) of the capacity of the largest single tank or group of tanks down to 50 percent for facilities with adequate secondary containment in place for oil storage containers.[3] The Agency also requests comment on the appropriateness of further reductions in the worst case discharge volume (i.e., up to 100 percent) for facilities with adequate secondary containment for all storage containers. Under this approach, the presence of secondary containment would allow the owner or operator to reduce the worst case discharge planning amount and the corresponding amount of response resources. EPA specifically solicits comment on the implication for response capability of a reduction in the worst case discharge planning amount and data on the potential cost savings associated with any such reductions in planning quantity.

As proposed in appendix E, the production volume for each production well (producing by pumping) would be determined from the pumping rate of the well multiplied by 1.5 times the number of days the facility is unattended. For each exploratory well (and production well producing under pressure) 10,000 feet deep or less, the production volume refers to the maximum 30-day forecasted well rate. For each exploratory well (and production well producing under pressure) deeper than 10,000 feet, the production volume refers to the maximum 45-day forecasted well rate. EPA specifically requests comment and data on the appropriateness of using a 30-day forecasted well rate (for wells less than or equal to 10,000 feet deep) or 45-day forecasted well rate (for wells greater than 10,000 feet deep) as production volumes in the calculation of the worst case discharge amount at facilities with exploratory wells and production wells producing under pressure.

EPA realizes that under the proposed self-selection process, smaller facilities, including many small production facilities are unlikely to screen as having the potential to cause "substantial harm" to the environment. RAs, however, may determine that any regulated facility, regardless of its storage capacity could cause substantial harm to the environment. Thus, the worksheets for production facilities may be necessary under circumstances in which the RA selects, for example, a production facility storing relatively small amounts of oil, a marine transfer facility with less than 42,000 gallons, or a facility with a storage capacity of less than 1 million gallons.

Worst Case Discharge Calculation for Complexes

As discussed in section III.B of this preamble, a complex is a facility that has both transportation-related and non-transportation-related components and is therefore subject to the response plan requirements of more than one authority. Each component of a complex would have an associated worst case discharge amount. The Agency expects, however, that the likelihood of each component experiencing a worst case discharge simultaneously is small. EPA proposes in § 112.20(h)(5)(i)(C) that a worst case discharge volume at a complex be the larger of the amounts calculated pursuant to the respective regulations that apply for each component of the facility. The Agency requests comment on the appropriateness of this method in the determination of a worst case discharge for a complex.

E. Tiered Response Planning

The Agency proposes in § 112.20(h)(5) that facility owners and operators prepare plans for responding to lesser discharges, as appropriate, in addition to a worst case discharge as required by the OPA. This tiered response planning by facilities that are determined to have the potential to cause "substantial harm" to the environment will help ensure protection of public health and welfare and the environment by facilitating effective response to discharges to navigable waters or adjoining shorelines. Proposal of a

[2] As defined, onshore oil production facilities may include all wells, flowlines, separation equipment, storage facilities, gathering lines, and auxiliary non-transportation-related equipment and facilities in a single geographical oil or gas operated by a single operator.

[3] Only tanks with secondary containment would be eligible for this reduction; for tanks without secondary containment, the entire capacity of the tanks would be included in the worst case discharge amount.

tiered planning approach is consistent with other agencies' (such as the USCG's) implementation of OPA response planning requirements.

EPA considered proposing that owners or operators prepare response plans for responding to worst case discharges only. The Agency concluded that a plan only for a response to a worst case discharge would not necessarily be effective in a response to a lesser discharge and that lesser discharges may pose a serious threat to navigable waters, especially from the cumulative effects of several discharges. Over 70 percent of all spills reported to the Federal government in 1989 and 1990 (approximately 48,000 incident reports were received by the National Response Center during that time) were less than 100 gallons and over 90 percent were less than 1,000 gallons. Preparing for an appropriate response to such smaller spills could lead to better overall protection of the nation's navigable waters. In addition, various sizes of discharges could require different types and amounts of equipment, products, and personnel. Planning for various levels of spills would allow facility owners or operators to begin to respond to any size discharge prior to the arrival of personnel and resources under contract with the facility and would provide insight into the most likely spill situations and should reveal many potential problems that could surface during actual discharges. Planning for these problems would enable facility or contractor response personnel to respond quickly and appropriately to a range of spill events.

The Agency recognizes that this tiered planning approach may not be appropriate for all facilities, including those where the range of possible spill scenarios is small. For example, responding to a worst case discharge at a small, one-tank facility (release of entire capacity of the tank) may be similar in approach to responding to a lesser spill (release of a portion of the capacity of the tank) at that facility. These responses would not require a significantly different response strategy or level of response resources. Owners and operators of large, multi-tank storage and production facilities, however, are among those who would be required to plan for spill events of different sizes, because the range of spill scenarios could vary greatly at such facilities. For example, although small spills could be handled by company response personnel, large spills may require the resources of outside parties.

The Agency examined several options for the determination of these additional planning quantities. One approach would be to use facility-specific planning quantities by basing the amount on actual operations and spill history at a facility. Although this option would account for the tremendous diversity of regulated facilities, it cannot be applied in a simple manner by owners and operators. A second option would be to establish standard amounts for the entire regulated community. A third option, which EPA proposes today in § 112.20(h)(5), would establish limited ranges for alternate discharge amounts. Although large facilities would still need to plan for three discharge amounts under this method, a small facility may only need to plan for two scenarios or a single scenario if its worst case discharge falls within one of the ranges.

In addition to planning for a worst case discharge, under proposed § 112.20, facility owners and operators would be required to plan for (1) a small spill, defined as any spill volume less than or equal to 2,100 gallons, but not to exceed the calculated worst case discharge; and (2) a medium spill, defined as any spill volume greater than 2,100 gallons, and less than or equal to 36,000 gallons or 10 percent of the capacity of the largest tank at the facility, whichever is less, but not to exceed the worst case discharge. For facilities whose worst case discharge is a medium spill, the owner or operator would plan for two amounts, a worst case spill and a small spill. Similarly, for facilities whose worst case discharge is a small spill, the owner or operator would plan only for a worst case discharge.

EPA realizes that under the proposed self-selection process, smaller facilities are unlikely to qualify as having the potential to cause "substantial harm" to the environment. RAs, however, may determine that any regulated facility, regardless of its storage capacity and number of tanks, could cause "substantial harm" to the environment. Thus, the collapsing nature of the proposed tiered planning approach may be relevant under circumstances in which the RA selects a facility storing relatively small amounts of oil (i.e., less than 36,000 gallons).

For complexes (i.e., facilities regulated by both EPA and USCG), the owner or operator would first determine a medium planning quantity for the transportation-related and non-transportation-related components at the facility. The owner or operator would then compare the medium planning amounts for each component of the facility. Following this comparison, the owner or operator would select the larger of the quantities as the medium tiered planning amount for the overall facility.

The ranges for these alternate planning quantities were determined through a statistical analysis of spills reported to the Emergency Response Notification System (ERNS) data base. A discharge of 1,300 gallons is the average reported discharge in ERNS. For a small spill, an amount up to 2,100 gallons is believed to represent a realistic planning quantity that will allow owners or operators to prepare for operational-type spills that occur relatively frequently. Selection of 36,000 gallons was based on the 99.5th quantile. This means that 99.5 percent of future spills are expected to be less than approximately 36,000 gallons. To provide greater flexibility in establishing a medium planning amount, EPA proposes in § 112.20(h)(5)(i) to allow owners or operators to plan for 36,000 gallons or 10 percent of the capacity of the largest tank at the facility, whichever is less. Planning for a spill of this size represents a practical and realistic intermediary planning level. The Agency solicits comment on the selection of these standard planning amounts, including information on other methods to identify standard amounts, such as being planning quantities on the definition of minor, medium, and major discharges in 40 CFR part 300. Under the NCP a minor oil discharge means a discharge to the inland waters of less than 1,000 gallons or a discharge to coastal waters of less than 10,000 gallons; a medium oil discharge means a discharge to the inland waters of 1,000 to 10,000 gallons or a discharge to coastal waters of 10,000 to 100,000 gallons; and a major oil discharge means a discharge to the inland waters of 10,000 to 100,000 gallons or a discharge to coastal waters of more than 100,000 gallons. To the extent that response resources are currently geared to spills of these sizes, such ranges may be appropriate for establishing tiered planning amounts. Also, EPA requests comments on the option of using facility-specific planning quantities as well as information from other options in the determination of these alternate amounts.

F. The Determination and Demonstration of Adequate Response Capability

1. The Determination of Response Resources—Appendix F

To ensure the availability of private personnel and equipment necessary to

respond, to the maximum extent practicable, to a worst case discharge, contracts or other approved means (as proposed in § 112.2 of today's proposed rule) may include:

- A written contractual agreement with a response contractor. The agreement must identify and ensure the availability of the necessary personnel or equipment within appropriate response times;
- Certification that the necessary personnel and equipment resources, owned and operated by the facility owner or operator, are available to respond to a discharge within appropriate response times;
- Active membership[4] in a local or regional oil spill removal organization, which has identified and ensures adequate access through membership to necessary personnel and equipment within appropriate response times in the specified geographic areas; or
- Other specific arrangements approved by the RA upon request of the owner or operator.

In appendix F to the rule, EPA provides guidelines for the types and amounts of equipment and response times that are needed to respond to spill of a given size. Similar guidelines were originally developed by the USCG for vessel response plans and facility response plans for marine transportation-related onshore facilities. EPA has adapted the USCG's proposed guidelines for use by non-transportation-related onshore facilities (i.e., facilities regulated by 40 CFR part 112) in complying with the OPA requirement to identify and ensure adequate resources. The guidelines describe procedures for determining the "maximum extent practicable" quantity of resources and response times for responding to a worst case discharge and other discharges, as appropriate. These procedures identify practical and technical limits on response capabilities that an individual facility owner or operator can contract for in advance and on response times for resources to arrive on scene. The guidelines are intended to assist owners or operators of facilities in preparing response plans and EPA in reviewing plans. The Agency requests comment on the procedures contained in appendix F of the rule for the determination and evaluation of required response resources. In addition, EPA solicits comment on whether the guidelines are appropriate for planning for inland spills by facilities regulated by the Oil Pollution Prevention regulation.

EPA proposes at § 112.2 a definition of "maximum extent practicable" to mean the limitations used to determine oil spill planning resources and response times for on-water recovery and shoreline protection and cleanup for worst case discharges from onshore non-transportation-related facilities in adverse weather. EPA interprets the phrase "to the maximum extent practicable" to include considerations such as the technological limitations associated with oil discharge removal (e.g., boom effectiveness and equipment recovery rates in adverse weather), and the practical and technical limits of response capabilities of individual owners or operators. This interpretation is consistent with the OPA Conference Report (H.R. Rep. No. 101–653, 101st Cong., 2d Sess. 1991 at p. 150). To address these limitations, the guidelines in appendix F establish operability criteria for oil recovery devices and boom as well as caps on response resources that facility owners or operators should identify and ensure as being available, through contract or other approved means. The caps reflect an estimate of the response capability at a given facility that is considered a practical nationwide target to be met by 1993. Recognizing that the OPA Conference Report suggests a significant increase in commercial removal resources may be needed in most areas of the country to comply with the national planning and response system, EPA is soliciting comment on the anticipated effects this provision may have on the oil spill response industry.

2. Verification of Response Capability

As previously discussed, plan drafters would need to identify and verify response resources when preparing plans. EPA would evaluate such arrangements during the plan review stage, to ensure the contractual availability of equipment and personnel from contractors identified in response plans to provide response resources. This process would require that evidence of contracts or agreements with response contractors be included in the response plan so that the availability of resources can be verified during plan review. Agency reviewing officials may need to take additional steps to determine that contractors or cooperatives do possess, and maintain in a ready condition, the necessary response inventory to handle the size of spills for which they contract.

One option to provide review officials with more information would be to establish a contractor certification or approval program. The State of Washington has instituted a contractor certification program and the USCG is considering the development of contractor approval procedures for spill response contractors under a separate rulemaking. Among the relevant factors in the assessment of contractor arrangements might be proximity to the facility as it affects response times, the adequacy of equipment and personnel resources, the contractor's past performance and safety record, and the number of additional facilities the contractor has agreed to support. The Agency requests comment on the criteria for evaluating contractor agreements, a mechanism for approving response contractors, and the advisability of establishing a response contractor approval process.

G. Response Plan Elements—§§ 112.20(g) and (h), and Appendix G

The elements for response planning proposed in § 112.20 of this rule are designed to guide a facility owner or operator in gathering the information needed to write a response plan for the facility's worst case discharge and, as described in section III.E of this preamble, for discharges smaller than a worst case discharge. The proposed response plan elements address requirements under CWA section 311(j)(5) (as amended by the OPA), as well as additional elements that EPA has determined are necessary to ensure the integrity of the response plan. The OPA Conference Report suggests that facility response plans should be consistent with but not duplicative of plans prepared under other Federal programs, and EPA encourages owners or operators to incorporate into the response plan information required by other Federal programs. Some of these programs are discussed in Section IV of this preamble. Owners or operators need not prepare a separate plan to comply with the Oil Pollution Prevention regulation if they have already prepared a plan for the State in which the facility is located, provided that the State plan addresses the requirements and includes all the elements described in § 112.20(h) and is cross-referenced appropriately. Proposed § 112.20(h) would require that response plans contain an emergency response action plan to be kept at the front of the response plan binder or under a separate cover that accompanies the overall plan.

EPA considered a requirement for certification by a Registered Professional Engineer for certain portions of the response plan, such as determination of worst case discharge, and solicits

[4] Membership in a spill response cooperation must ensure ready access to the organization's response resources for the arrangement to be acceptable to the RA for the purposes of this regulation.

comment on this option. The contents of a response plan would be subject to review during routine inspections by On-Scene Coordinators (OSCs) or during State inspections. In addition, the RA would review the contents of response plans from facilities identified as posing a threat of "significant and substantial harm," before granting approval. EPA solicits comment on which professions may be suitable for evaluating and certifying the contents of the response plan if EPA determines a certification requirement is appropriate. In particular, the Agency requests comment on the suitability of Certified Hazardous Materials Managers to perform the plan certification function.

In accordance with CWA section 311(j)(5), proposed § 112.20(g) would require that a facility response plan be consistent with the NCP and with ACPs described in section IV of this preamble. For example, the OPA requires amendments to the NCP that establish procedures and standards for removing a worst case discharge of oil and for mitigating or preventing a substantial threat of such a discharge. Also, the OPA requires the preparation of ACPs designed to augment the capabilities for responding to worst case discharges when implemented in conjunction with the NCP. The discussion of worst case discharge in a facility response plan should be consistent with the procedures and standards laid out under these broader plans. To ensure such consistency, EPA proposes in § 112.20(g)(2) to require that owners or operators, review on an annual basis appropriate parts of the NCP (e.g., subparts A through D) and, when available, the applicable ACP and revise the response plan as necessary. As discussed in section III.C of this preamble, ACPs may not be available in time for owners or operators to review them before initial response plan preparation. Owners or operators are encouraged to obtain from local or Regional sources (e.g., Regional Response Teams (RRTs) or OSCs) the details of the ACP for the area in which their facility is located, and develop their facility response plans accordingly. Proposed § 112.20(g) also states that facility owners or operators should coordinate with the local emergency planning committee (LEPC) and State emergency response commission (SERC) when developing their facility response plans to ensure consistency with the local emergency response plan required under section 303 of title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA Title III).

Model Response Plans

Today, EPA includes in appendix G to the rule a model response plan to assist owners and operators in addressing the required elements outlined in proposed § 112.20(h). The organization of the model plan and the information to be contained in it are representative of the format and level of detail needed to address the required response plan elements in an acceptable manner. A response plan, as shown in appendix G, would be required for facilities that are determined to have the potential to cause "substantial harm" to the environment. EPA recognizes that, in certain cases, information required in the model response plan is similar to information currently maintained in the facility's SPCC Plan. In these cases, owners or operators can simply reproduce the information and include a copy in the response plan.

As discussed in section III.A of this preamble, EPA proposes in § 112.20(a)(2)(i)–(iv) to require that all facilities submitting a response plan must complete and return to EPA a Response Plan Cover Sheet with the response plan. The cover sheet is intended to provide the Agency with basic information concerning the facility and would be used by Regions to check the "substantial harm" self-determination process. A copy of the cover sheet is included as Attachment G–II of appendix G along with instructions for completion of the form. The cover sheet provides space for: Basic facility information, responses to the "substantial harm" flowchart contained in appendix C, worst case discharge amount, additional facility characteristics (i.e., latitude and longitude, and proximity to navigable waters), and certification.

A blank copy of a model response plan is included as appendix G of 40 CFR part 112. Affected facilities (those that could cause "substantial harm") would prepare (1) a response plan that meets the requirements of §§ 112.20(g) and (h) as reflected in the model response plan provided in appendix G; or (2) a comparable State or other Federal agency response plan that is appropriately cross-referenced and meets the requirements of §§ 112.20(g) and (h). A facility response plan would include a discussion of the following elements:

Emergency Response Action Plan—§ 112.20(h)(1). In order to facilitate response actions, EPA proposes that facility owners or operators be required to compile key sections of the overall response plan into an emergency response action plan that is maintained in an accessible location. The sections of the action plan may be photocopies or condensed versions of the forms included in the associated sections of the overall response plan. EPA proposes that the following information be included in the action plan in format specified in proposed § 112.20(h)(1):

- Emergency Response Coordinator Information—from the Facility Information Section;
- Emergency Notification Phone List—from the Emergency Response Section;
- Spill Response Notification Form—from the Emergency Response Section;
- Equipment List and Location—from the Emergency Response Section;
- Facility Response Team—from the Emergency Response Section;
- Evacuation Plan—from the Emergency Response Section;
- Immediate Action—from the Plan Implementation Section; and
- Facility Diagram—from the Diagrams Section.

The action plan is designed to provide the facility owner or operator with information on critical steps to stabilize the source of the spill, notify the appropriate people, and prevent the spread of spilled oil. The action plan would be kept in the front of the overall facility response plan or in a separate binder that accompanies the overall plan.

Facility Information—§ 112.20(h)(2). The requirement in CWA section 311(j)(5) to designate a facility emergency response coordinator is addressed in proposed § 112.20(h)(2). The facility information section of the model response plan provides space to identify a qualified individual having full authority, including contracting authority, to implement removal actions. The Agency requests comment on whether facility owners and operators should be required to designate an alternate emergency response coordinator. This section also provides space to include additional facility information, much of which may be obtained from the facility's existing SPCC Plan. Other items include general facility information such as the facility name, address, telephone number, owner and operator, and longitude and latitude in minutes and degrees.

Emergency Response—§ 112.20(h)(3). The model plan contains space in the emergency response section to address the CWA section 311(j)(5) requirement that the emergency response coordinator be able to immediately communicate with the appropriate Federal official and the persons providing personnel and equipment (e.g., a spill response contractor). To facilitate compliance

with this requirement, the section contains space for a telephone list of people or organizations to contact in the event of a discharge, including the National Response Center, the facility's own and/or contracted response teams, local response teams, local hospitals, and local radio stations (if evacuation is necessary). Notification of the National Response Center is required under regulations implementing CWA section 311(b). (See 33 CFR part 153, 40 CFR part 300, and 40 CFR 117.21.) The contact list should be accessible to all facility employees to ensure that, in case of a discharge, any employee on site could immediately notify the appropriate parties. A notification checklist also is included in this section of the model plan. The checklist outlines the information to relay to response officials, such as information on the spill amount, material, impact of the spill, and response actions.

The CWA requires that a facility response plan describe the response actions of persons at the facility. This requirement is addressed in the emergency response section of the model plan, which provides space to include a detailed description of the duties of the emergency response coordinator and other response personnel during a response to a discharge.

Pursuant to CWA section 311(j)(5), owners or operators must identify and ensure by contract or other means acceptable to EPA (e.g., participation in a spill response cooperative in lieu of an individual contract) the availability of private personnel and equipment necessary to respond, to the maximum extent practicable, to a worst case discharge. The OPA Conference Report indicates Congress contemplated creating a system in which private parties supply the bulk of equipment and personnel needed for response to large oil spills. See OPA Conference Report, H.R. Rep. No. 101–653, 101st Cong., 2d Sess. 1991 at p. 148. The model response plan provides space to identify companies that will provide such personnel and equipment. Evidence of contracts or agreements with response contractors must be included in this section so that the availability of resources can be identified. As discussed in Section III.F of this preamble, the contract or response agreement will be subject to review by the appropriate EPA Regional office to ensure that the agreement provides adequately for response, mitigation, and prevention.

Response capability may also be provided through the use of internal response personnel and equipment resources. The model plan provides space for a list of the facility's response personnel and response equipment, including its location and operational status and the date the equipment was last tested.

Also included in the emergency response section of the model plan are guidelines for preparing evacuation plans for the facility and surrounding community. Additional information on the guidelines that may be helpful in the preparation of an evacuation plan can be obtained from the Handbook of Chemical Hazard Analysis Procedures prepared by EPA, DOT, and the Federal Emergency Management Agency (FEMA). Evacuation routes must be shown on a diagram of the facility.

Hazard Evaluation—§ 112.20(h)(4). A hazard evaluation section is included in the model response plan. Hazard evaluation is a widely used industry practice that allows owners or operators to develop a complete understanding of potential hazards and the response actions necessary to address these hazards. The Handbook of Chemical Hazard Analysis Procedures, prepared by EPA, DOT, and FEMA and the Hazardous Materials Emergency Planning Guide (NRT–1), prepared by the National Response Team are good references for conducting a hazard analysis. The hazard evaluation will provide information for developing discharge scenarios for a worst case discharge and medium and small discharges. This section of the response plan provides space for a hazard identification, a vulnerability analysis, and an analysis of the potential for a discharge. This information allows the facility owner or operator to evaluate day-to-day operations for potential discharges and to change standard operating procedures if a potential for a discharge is discovered.

As part of the hazard evaluation, EPA proposes that owners or operators identify what the potential effects of the discharges would be on the affected environment. To assess the range of areas potentially affected, owners or operators shall consider the distances calculated in the substantial harm determination process discussed in section III.B of this preamble. Those owners or operators that have made a substantial harm determination without performing the distance calculation should use the appropriate formula in appendix C or an alternative method to quantitatively evaluate the appropriate range of potentially affected areas.

Also in the hazard evaluation section of the model response plan, the owner or operator would provide information on the facility's discharge history (if any have occurred) including dates, causes, amounts discharged, and response actions. Information collected for purposes of meeting the existing § 112.4(a) requirements may be used to document spill history in the response plan.

Discussion of Tiered Planning Scenarios—§ 112.20(h)(5). The discharge scenario section provides for discussions of specific discharge scenarios. As discussed in section III.E of this preamble, EPA proposes a tiered approach to response planning that considers smaller, more probable discharge quantities in addition to the worst case discharge specified in the OPA. Therefore, in addition to the development of a scenario which uses the "worst case discharge" amount calculated from the worksheet in Appendix E, the owner or operator of a facility must plan and prepare for small and medium discharge quantities, as appropriate. When describing each discharge scenario, the owner or operator would consider facility operations and factors that effect the response effort, such as the potential direction of the discharge and impact on the surrounding area.

As discussed in section III.E of this preamble, owners or operators of complexes would determine planning quantities for the transportation-related and non-transportation-related components of the facility. The owner or operator would then compare the corresponding worst case discharge and medium planning amounts, as appropriate, for each component of the facility. In each case, the owner or operator would select the larger of the two amounts as the appropriate planning quantity.

Discharge Detection—§ 112.20(h)(6). The prompt discovery of a discharge and the initiation of effective response actions are critical to minimize the damage caused by a discharge. The discharge detection section provides space for describing the discharge detection systems, human or automated, in use at the facility. Often, the choice of a human or automated system depends on the size and complexity of facility operations.

Plan Implementation—§ 112.20(h)(7). The CWA requirement that facility owners or operators describe response actions to ensure the safety of the facility and to mitigate or prevent discharges, or substantial threats of discharges, is proposed in § 112.20(h)(7). The plan implementation section of the model response plan contains space for describing such response actions, including the steps facility personnel would follow to

mitigate and respond to each discharge described in § 112.20(h)(5); the amount of personnel and equipment that will be needed to respond to the specific discharge under consideration; plans to dispose of contaminated materials, debris, and recovered product; required Federal or State permits (e.g., Resource Conservation and Recovery Act (RCRA) permits for disposal of contaminated materials); and measures to provide for containment and drainage.

As discussed in section III.F of this preamble, EPA has provided guidelines in appendix F of the rule to establish appropriate personnel and equipment levels and response times for given spill sizes. Owners and operators are encouraged to use these guidelines to determine the quantity of resources that must be identified and available, through contract or other approved means, for responding to a worst case discharge and other discharges.

Facility Self-Inspection, Training, and Meeting Logs—§ 112.20(h)(8). In the model plan, the facility self-inspection, training, and meeting logs section provides space to include inspection checklists for tanks, secondary containment, and response equipment and logs for discharge prevention meetings. Much of the recordkeeping information contained in this section is required by the existing Oil Pollution Prevention regulation. Therefore, portions of the self-inspection, training, and meeting logs section may be completed by compiling information from other parts of existing SPCC Plan. Moreover, information collected for purposes of meeting § 112.4(a) requirements may be used to document spill history in the response plan.

The CWA also requires owners or operators to describe training and periodic unannounced drills to be carried out under the response plan. In the model plan, the training section provides space to include a series of logs for recording unannounced or "mock alert" drills and staff training related to emergency response. The model response plan in appendix G provides recommendations for planning mock alert drills. The Agency requests comment on how frequently such unannounced drills should be conducted.

Diagrams—§ 112.20(h)(9). This section of the model response plan describes diagrams for the site plan and the drainage plan. Such diagrams help facility personnel identify the nearest opportunity for a discharge to reach navigable waters and help responders visualize location and layout information so they can act promptly during time critical situations.

Security—§ 112.20(h)(10). A security section is included in the model response plan and provides space to address existing Oil Pollution Prevention provisions contained in 40 CFR 112.7, as well as several additional items being proposed in the Phase One rule. This section provides for a description of the facility's security and should, as appropriate, include items such as emergency cut off locations, fencing, guards, lighting, valve and pump locks, and pipeline connection caps.

The Agency requests public comment on the appropriateness and level of detail of the information required in the model response plan as well as other information that may be necessary for an effective response plan. For more information on the organization of the model response plan and specific information to be included in the plan, see the "Technical Background Document to Support the Phase Two Oil Pollution Prevention Rulemaking," available for inspection in room M2427 at the U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 [Docket Number SPCC–2P].

IV. Relationship of Facility Response Plan Requirements to Other Programs

1. USCG, Minerals Management Service (MMS), and Other Federal Agencies

In developing this proposed rule, EPA has coordinated with the DOT (including the USCG) and the Minerals Management Service (MMS) throughout this rulemaking process to ensure that the response plans for transportation-related facilities and non-transportation-related offshore facilities are consistent, to the degree possible, with the plans for non-transportation-related onshore facilities required under this regulation. This coordination should help avoid any duplication of effort on the part of the regulated community in complying with these regulations. For example, a complex described in section III.B of this preamble as an onshore site or installation that has both transportation-related and non-transportation-related components (e.g., a marine transfer facility with above ground storage tanks), need prepare only one response plan with separate sections addressing each component. Separate sections may be needed in the plan to address different regulatory provisions or various definitions that may apply to the different components.

EPA would allow USCG OSCs the opportunity to review response plans of non-transportation-related onshore facilities subject to 40 CFR part 112. Specifically, a USCG OSC would be given an opportunity to review and comment on any submitted facility response plan (whether transportation-related or non-transportation-related) for a facility geographically located within the USCG's area of responsibility, as the predesignated OSC. For response purposes, the NCP divides the United States into inland and coastal zones. The USCG and EPA are assigned responsibility for predesignating OSCs for the coastal and inland zones, respectively. Final approval of the response plan would remain with EPA for facilities subject to 40 CFR part 112. Any objection to the response plan raised by a USCG OSC would be considered by the RA for final approval of the plan and any issues would be quickly resolved through interagency discussions.

The Agency also has worked with members of DOI, NOAA, the Fish and Wildlife Service, and the National Park Service to define sensitive environments. Coordination with other departments and agencies in this area is critical given the anticipated changes to the NCP and the relationship of those proposed changes to facility response planning requirements.

2. The NCP and ACPs

Section 311(j)(5)(C) of the CWA requires that facility response plans be consistent with the requirements of the NCP and ACPs. The NCP provides the general organizational structure and procedures for addressing discharges of oil and hazardous substances under the CWA, as well as releases of hazardous substances, pollutants, and contaminants under CERCLA. Among other things, the NCP specifies responsibilities among Federal, State, and local governments; describes resources available for response; summarizes State and local emergency planning requirements under the Emergency Planning and Community Right-to-Know Act (EPCRA or SARA Title III); and establishes procedures for undertaking removal actions under the CWA. Until a revised NCP is published, as mandated under OPA section 4201(c), facility response plans should be consistent with the current NCP.

ACPs, mandated under CWA section 311(j)(4) and prepared by Area Committees comprised of qualified personnel of Federal, State, and local agencies, are required to ensure, when implemented in conjunction with other elements of the NCP, the removal of a worst case discharge from a facility operating in or near the area covered by the plan. ACPs will cover discharges affecting all U.S. waters and adjoining shorelines. EPA and the USCG are

responsible for developing ACPs for the inland and coastal zones, respectively. Until ACPs have been developed, facility response plans should be consistent with existing OSC contingency plans in the coastal zone and Federal RCPs in the inland zone.

3. RCRA

EPA regulations in 40 CFR part 264 (Subpart D) promulgated under RCRA establish requirements for owners and operators of hazardous waste facilities to use in developing facility-specific contingency plans. The plans must include response procedures; a list of all persons qualified to act as a facility emergency coordinator; a list of all emergency equipment and, when required, decontamination equipment at the facility; evacuation plans, when evacuation could be necessary; and arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services. In addition, newly promulgated 40 CFR part 279 establishes facility-specific contingency planning and emergency procedure requirements for used oil at re-processing and refining facilities. To avoid duplication of effort, owners or operators of facilities subject to the regulations in 40 CFR parts 264 and 279 may incorporate these RCRA provisions and the response-planning requirements of other applicable Federal regulations, into their facility-response plans.

4. EPCRA or SARA Title III

EPCRA requires LEPCs to develop local emergency response plans for their community and review them at least annually. Under EPCRA, facilities are required to notify the SERC and LEPC if they have "extremely hazardous substances" present above threshold planning quantities. In addition, upon request of the SERC or LEPC, the facility is required to provide the LEPC with any information necessary to develop and implement the LEPC plan. Because of this requirement that certain facilities participate in emergency planning under EPCRA, it is likely that some overlap may exist with response plan requirements outlined in today's proposal.

The OPA Conference report stated that owners or operators of facilities subject to this regulation should ensure that facility response plans are consistent with plans required by other programs. See OPA Conference Report, H.R. Rep. No. 101–653, 101st Cong., 2d Sess. 1991 at p. 151. Therefore, a facility response plan should be consistent with the LEPC plan for the community in which the facility is located. To ensure such coordination, facility owners or operators should review the appropriate LEPC plan. In addition, upon request of the LEPC or SERC, the facility should provide a copy of the response plan to the LEPC.

5. Clean Air Act

Under section 112(r) of the Clean Air Act (CAA), as amended, owners and operators of facilities with "regulated substances" above a specified threshold quantities will be required to prepare risk management plans (RMPs), which must include a hazard assessment (including, among other things, an evaluation of worst-case accidental releases), a prevention program, and a response program. Owners and operators are to provide a copy of the RMPs to the State, local planning and response authorities, and the Chemical Safety and Hazard Investigation Board.

Section 112(r)(7) of the CAA requires that the hazard assessment evaluate worst case accidental releases, estimate potential release quantities, and determine downwind effects including potential exposures to affected populations. Owners or operators must also develop an emergency response program that includes specific actions to be taken in response to a release including procedures for notifying the public and response agencies, emergency health care, and employee training measures. EPA is currently developing regulations to implement the new CAA requirements, including a list of regulated substances and threshold quantities.

EPA anticipates that facilities affected by both regulations can prepare one response plan that meets the Oil Pollution Prevention regulation requirements for oil and the Clean Air Act requirements for chemicals. EPA plans to develop guidance to assist facilities in this respect and requests comment from facilities affected by both regulations on whether the planning requirements can be met in a single plan.

V. Proposed Revisions to Existing 40 CFR Part 112 Plan Requirements

EPA proposes to clarify the requirement at § 112.7(d) for a facility owner or operator to provide a strong oil spill contingency plan when the installation of appropriate containment or diversionary structures or equipment to prevent discharged oil from reaching U.S. waters is determined to be impracticable. As proposed in § 112.7(d)(1), reference to a strong oil spill contingency plan is replaced with reference to the facility response plan as described in proposed § 112.20. A response plan prepared under such circumstances need not be submitted to the RA unless otherwise required by the rest of today's proposed rule, but, would be maintained at the facility with the SPCC Plan. No change is proposed to the circumstances that trigger the requirement to provide such a plan.

The Agency proposes several additional regulatory changes recommended in the May 13, 1988, report by the interagency SPCC Task Force formed in response to the Ashland Oil spill and a subsequent report by the General Accounting Office (GAO) entitled "Inland Oil Spills" (GAO/RCED–89–65). These proposed changes include requiring the SPCC Plan to address training and methods of ensuring against brittle fracture. In addition, the Agency proposes revisions to: (1) Give RAs authority to require amendment, modification, and submission of a Plan when it does not meet the requirements of 40 CFR part 112; (2) give RAs authority to require preparation of Plans by owners or operators of previously exempted facilities when necessary to achieve the goals of the CWA; and (3) require submission of the Plan when an owner or operator invokes a waiver to certain technical requirements of this regulation. The proposed revisions would apply to all regulated facilities unless otherwise noted, not just those facilities that are subject to the proposed response plan requirements under new CWA section 311(j)(5) (i.e., "substantial harm" facilities).

For more information on the basis for the proposed regulatory changes discussed below, see the "Technical Background Document to Support the Phase Two Oil Pollution Prevention Rulemaking," available for inspection in room M2427 at the U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 [Docket Number SPCC–2P].

A. Prevention Training

Data from ERNS indicate that a significant number of oil discharges are caused by operator error. In 1989, ERNS spill report data show that human error was the cause of 12.3 percent of all spills at fixed facilities. Operator error can take many forms. One of the most common operating errors is failure to close valves, which can lead to large spills when oil products are subsequently transferred in bulk. For example, in 1988, over 336,000 gallons of oil were released as a result of a valve that was left open by a facility worker at an Ashland Chemical Company facility in Arkansas Pass, Texas.

Overfilling due to operator error during transfers is another common cause of spills. The overfilling of a tank at the Colonial Pipeline facility in Greensboro, GA in 1989 resulted in an oil release of 210,000 gallons.

EPA believes that operator error is more likely to be a factor in causing spills where operations regularly involve transfers of oil products (e.g., filling of tanks and related equipment, and loading and unloading of vehicles, tank cars, and vessels to or from tanks). Incidents that involve operator error where large quantities of oil products are transferred can lead to greater amounts of oil being released to navigable waters.

Proper training of employees involved with transfer operations at oil storage and handling facilities can reduce the occurrence of operator-related spills and reduce the severity of impacts from spills that do occur. Training, therefore, is important for the safe and proper functioning of a facility and encourages up-to-date planning for spill control and response. Training courses help sharpen operating and response sills, introduce the latest ideas and techniques, and promote interaction with the emergency response organization and familiarity with the SPCC Plan. Furthermore, sections 311(f)(5) and 311(j)(7) of the CWA, added by the OPA, reinforce the importance of training. EPA recognizes that the amount of facility-specific training should vary depending on the complexity of operations (e.g., number of tanks and transfer points, throughput, presence of sophisticated pumping or switching equipment, etc.) at regulated facilities. For certain types of regulated facilities, characterized by small-scale, relatively simple operations involving aboveground storage tanks, the need for extensive facility-specific training is less critical.

The current Oil Pollution Prevention regulation provides that owners or operators are responsible for properly instructing their personnel in the operation and maintenance of equipment to prevent discharges of oil and in applicable pollution control laws and regulations. The Phase One NPRM proposes requiring all personnel to participate in yearly training exercises. It also proposes to require that training be administered to new personnel within one week of beginning work. Additionally, the Occupational Safety and Health Administration (OSHA) requires that personnel who are expected to respond to and control hazardous materials discharges undergo formal worker health and safety training before starting work and receive refresher training at regular intervals. OSHA considers petroleum products and gases to be hazardous materials.

EPA proposes in § 112.7(f) to require that owners or operators of facilities that transfer or receive greater than or equal to 10,000 gallons of oil in a single operation more than twice per month on average or greater than or equal to 50,000 gallons in a single operation more than once per month on average would be required to initiate a training program as follows:

- All employees who are involved in oil-handling activities, such as the operation or maintenance of oil storage tanks or the operation of equipment related to storage tanks, would be required to receive 8 hours of facility-specific training within one year of the effective date of this regulation or the date that the facility becomes subject to this requirement.
- In subsequent years, employees would be required to undergo 4 hours of refresher training.
- Employees hired after the training program has been initiated, however, would be required to receive 8 hours of facility-specific training within one week of starting work and 4 hours each subsequent year.

The proposed facility-specific training includes, but is not limited to, the following areas: training in correct equipment operation and maintenance, general facility operations, discharge prevention laws and regulations, and the contents of the facility's SPCC Plan. Such facility training would be documented in the facility response plan.

These proposed training requirements are in addition to any health and safety training requirements that regulated facilities may be subject to under OSHA regulations at 29 CFR 1910.120 and under identical worker protection standards at 40 CFR part 311 that apply to employees in States without OSHA-approved State plans.

EPA regards 8 hours of facility-specific training as a minimum training requirement for facilities characterized by complex operations involving the transfer and storage of oil. For these facilities, additional facility-specific training may be necessary to ensure that employees are adequately prepared to respond to spills.

EPA recognizes that many facilities already have spill prevention training programs that meet or exceed the levels proposed in § 112.7(f). Such facilities would not be required to implement additional training measures.

As proposed, the training requirements would apply only to facilities that transfer large quantities of oil on a regular basis and not to smaller or less active transfer facilities, where the risk of the discharge of significant quantities of oil to navigable waters may be less. EPA requests comment on the appropriateness of the transfer frequency and amount criteria for a facility to be subject to the proposed training requirements. EPA also requests comment on the appropriateness of restricting the training requirements to those facilities determined to have the potential to cause "substantial harm" to the environment as discussed in Section III.A of this preamble. The Agency solicits information on the current practices at various types of regulated facilities and comment about the amount of facility-specific training that is appropriate for personnel at different types and sizes of facilities. In addition, EPA requests comment on whether the 8-hour minimum requirement for new employees is too high for certain types of facilities, such as service stations. Also, EPA requests comment on the appropriate level of annual refresher training at small facilities that experience little or no employee turnover from year to year.

EPA considered allowing facilities to maintain current training practices, with no mandatory minimum training hour requirements. However, this option may not be sufficient to alleviate the problem of spills related to human error.

In addition, employees are required to participate in unannounced drills, which tests the facility response plan, on an annual basis. Drill organizers should limit the number of people who know about the exercise. Drills should be carefully planned out and response teams notified in advance of sounding appropriate alarms. The actions taken by the response team during the drill should be noted and addressed in a debriefing session to follow the exercise. EPA proposes that such unannounced drills shall be recorded in the facility response plan.

B. Ensuring Against Brittle Fracture

The failure of Ashland Oil Company's four million gallon aboveground storage tank in January 1988 was the result of brittle fracture. As illustrated by the collapse of this tank, brittle fracture may cause sudden and catastrophic tank failure, resulting in potentially serious damage to the environment and loss of oil. In the aftermath of the Ashland Oil spill, EPA and industry representatives identified a basic set of conditions that seek to identify risk of brittle fracture, including shell temperature, the level of tank contents, and the presence of existing surface flaw. Reported cases of tank failure due to brittle fracture have occurred after tank erection, during the

performance of a hydrostatic test (such as the failure of a storage tank at ESSO's refinery in Fawley, U.K., in 1952), during the first filling in cold weather, after a change to lower temperature service, such as was the case in the Ashland Oil spill, or after a repair or alteration. (see p. 5–28 the "Technical Background Document to Support the Phase Two Oil Pollution Prevention Rulemaking," available for inspection in room M2427 at the U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 [Docket Number SPCC–2P].

Consequently, EPA proposes in § 112.7(i) to require facility owners or operators to evaluate their field-constructed tanks for the risk of failure due to brittle fracture, by adhering to appropriate industry standards contained in API Standard 653 entitled Tank Inspection, Repair, Alteration, and Reconstruction. Section 112.7(i) incorporates by reference section 3 (Brittle Fracture Consideration) of API Standard 653. This incorporation by reference will be submitted for approval to the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of API Standard 653 may be inspected at the Superfund Docket, U.S. Environmental Protection Agency, 401 M Street, SW., room M2427, Washington, DC. Also, EPA proposes in § 112.7(j) a conforming change to reflect the addition of the proposed brittle fracture requirements in § 112.7(i).

The evaluation for the risk of failure due to brittle fracture would be triggered by a repair or alteration to the tank, or a change in service. As defined in § 112.2 of the proposed rule, "repair" means any work necessary to maintain or restore a tank or related equipment to a condition suitable for safe operation. Typical examples include the removal and replacement of material (such as roof, shell, or bottom material, including weld metal) to maintain tank integrity; the re-leveling or jacking of a tank shell, bottom, or roof; the addition of reinforcing plates to existing shell penetrations; and the repair of flaws, such as tears or gouges, by grinding or gouging followed by welding. As defined in § 112.2 of the proposed rule, "alteration" means any work on a tank or related equipment involving cutting, burning, welding, or heating operations that changes the physical dimensions or configuration of a tank. Typical examples include the addition of manways and nozzles greater than 12-inch nominal pipe size and an increase or decrease in tank shell height.

Under API standard 653, evaluation of the potential hazard for brittle fracture involves a review of a tank's construction materials, operational history, repairs, material stored, and other factors identified as useful in predicting a tank's performance. The evaluation also could result in more extensive testing (such as a hydrostatic test). A flowchart of brittle fracture considerations contained in API Standard 653 is shown in Appendix H to the rule. In accordance with API Standard 653 and good engineering practice, if the evaluation indicates that the tank is at risk of failure due to brittle fracture, the owner or operator would be required to rerate the tank or modify the tank's operation to prevent failure. The Agency proposes the approach described above because it is consistent with current industry standards and will apply to a greater range of industry tanks at risk.

EPA does not propose to require that shop-fabricated tanks be evaluated for brittle fracture. Such tanks are generally not as susceptible to brittle fracture failure after a change in service because design criteria are tailored to meet the needs of many operating conditions including variances in pressures, material stored, and temperature. In addition, shop-fabricated tanks are generally much smaller ranging in capacity from 3,000 to 31,500 gallons, and therefore are less prone to suffer catastrophic failure due to brittle fracture. Field-constructed tanks are usually designed and built to meet a specific type of operating condition and can be much larger in size. Shop-fabricated tanks may present a lower risk of causing substantial harm to the environment as a result of discharges to U.S. waters or adjoining shorelines than larger, field-constructed tanks. The Agency requests comments and data on the proposed requirement to evaluate field-constructed tanks for the risk of failure due to brittle fracture under certain circumstances.

As an alternative, the Agency considered requiring all tanks to undergo a full hydrostatic test to determine their potential for brittle fracture. Under this option, a hydrostatic test would have to be performed even on tanks that are not considered prone to brittle fracture by industry standards. Moreover, existing tanks would have to be taken out of service during testing, causing potential disruption to facility operations. Also, EPA considered not requiring facilities to perform any additional evaluations or tests beyond those required for other regulations. No other regulations were identified, however, that require tests to specifically evaluate the potential for brittle fracture.

C. SPCC Plan Amendment

Section 112.4 of the current Oil Pollution Prevention regulation requires the owner or operator of a facility to submit the facility's SPCC Plan to the RA when the facility has experienced either a discharge of more than 1,000 gallons or two reportable spill events within a twelve month period. The RA can then review the Plan and may require that the Plan be amended. Under current § 112.3(e), a facility owner or operator must make the Plan available to the Agency for on-site review, but the rule does not provide explicit authority for the RA to require Plan amendment except under the circumstances described in § 112.4. Because Plan amendment may be necessary to protect navigable waters and adjoining shorelines even before spill events occur, EPA proposes to give the RA specific authority to require Plan submission and amendment at any time. Proposed § 112.4(d) amends the existing language to incorporate this provision and states that the RA may require Plan amendment whenever the Plan does not meet the requirements of 40 CFR part 112 or when Plan amendment is necessary to prevent and control discharges. This broader authority would include the right of the RA to require amendment following plan review; the rule would clarify the RA's authority to require amendments in other situations not specified under the existing regulation.

D. Authority To Require Preparation of Plans

Although the CWA provides EPA broad authority to regulate non-transportation-related onshore facilities, current § 112.1(d) exempts certain facilities. Under the proposed Phase One rule, the § 112.1(d) exemptions would be broadened to include totally buried underground storage tanks subject to the requirements of EPA's underground storage tank regulation at 40 CFR part 280. Under today's proposal, § 112.1(g) would be added to allow the RA to require otherwise exempted facilities, on a case-by-case basis, to prepare and implement SPCC Plans where needed to protect navigable waters and adjoining shorelines. Thus, a facility that would be exempted from the Oil Pollution Prevention regulation on the basis of its underground storage tanks being subject to 40 CFR part 280 may nevertheless have to comply with the requirements of the Oil Pollution Prevention regulation at the discretion of the RA. The RA would exercise this discretionary authority when necessary to carry out the purposes of the CWA.

The determination would be based on the presence of environmental concerns not adequately addressed under the UST regulation.

Based on the requirements in the UST regulation, EPA expects that it will be necessary for the RA to exercise this authority in very few cases. Moreover, some of the SPCC Plan requirements that apply to aboveground tank systems would not represent good engineering practice for certain underground tanks. For example, the requirement for secondary containment as described in current § 112.7(c) is not considered good engineering practice for completely buried underground tanks.

Following a preliminary determination, the RA will provide a written notice to the facility owner or operator stating the reasons why the facility needs to prepare a SPCC Plan. The owner or operator would have the opportunity to provide information and data and to consult with the Agency about the need to prepare and submit a plan. Following this consultation, the RA will make a final determination on whether the facility is required to prepare and implement a SPCC Plan. If the RA makes a final determination that a SPCC Plan is necessary to carry out the purposes of the CWA, the owner or operator must prepare the plan within six months of the RA's decision and implement the Plan as soon as possible, but not later than one year after the final determination has been made.

E. Submission of Plans That Contain a Waiver of Technical Requirements

Under the proposed Phase One regulation, a facility's SPCC Plan need not conform to certain technical requirements of 40 CFR part 112 if equivalent protection is provided. No provision was made in the Phase One proposal, however, for notification to EPA when a facility owner or operator invokes this waiver. Proposed § 112.7(a)(2) of today's proposed rule would require the owner or operator to submit the Plan to the RA in this circumstance. Thus, EPA staff will have the opportunity to review the Plan and determine whether the measures described in the Plan do indeed provide equivalent protection. The Agency solicits comment on whether submission of the entire plan for the RA to make this determination is necessary.

VI. Other Technical Considerations Not Proposed

EPA is examining several additional recommendations made in the SPCC Task Force Report and the GAO report on inland oil spills, including provisions relating to: Plant security; corrosion protection; lightning strike protection; leak detection; and certification of tank installation plans. EPA is not proposing regulatory changes at this time but is soliciting comment and cost information on these considerations.

Improvement of plant security can reduce the number of discharges that occur as a result of vandalism. Section 112.7(e)(9) of the current Oil Pollution Prevention regulation contains a number of requirements concerning plant security, including provisions on fencing and lighting. The Agency requests comment on the need for additional measures to mitigate potential environmental harm posed by discharges from different types of facilities, and whether certain provisions should be discretionary for any or all facilities.

Metallic aboveground storage tanks are susceptible to corrosion, which may lead to leakage or the discharge of a tank's entire contents. For metallic aboveground tanks, the primary corrosive concern involves tank bottoms and the types of foundations constructed for them. The UST regulation at 40 CFR 280.20 requires owners or operators of underground storage tanks to ensure that releases due to corrosion are prevented for as long as the tank system is used to store regulated substances, such as petroleum products. Cathodic protection is a common method used to protect USTs from corrosion (40 CFR 280.31). The Agency solicits comment and cost data on the use of cathodic protection to prevent corrosion on aboveground storage tanks. EPA also requests comment and cost effectiveness data on other methods of preventing leaks due to corrosion.

Lightning strikes on aboveground storage tanks and fires resulting from the strikes can contribute to discharges of oil. Although various industry groups have published recommended practices and precautionary measures for owners or operators to follow to avoid lighting strikes, there are currently no Federal regulations in effect concerning lightning strike protection for aboveground storage tanks. EPA requests comment on the costs and benefits of installing lightning protection systems, such as an air terminal system, overhead ground wire system, the Faraday Cage system, or combinations of these systems on aboveground storage tanks.

Early detection of small oil leaks from above ground storage tanks may alert owners or operators to needed repairs or other spill prevention or mitigation measures and thus prevent substantial environmental damage and save the expense of cleaning up larger quantities of oil that may subsequently leak from the tanks. Section 112.7(e)(2)(vi) of the current Oil Pollution Prevention regulation requires operating personnel to frequently observe the outside of a tank for signs of deterioration, leaks, or accumulation of oil inside diked areas. Small leaks near the bottom of a tank, however, often are hard to detect visually. The Agency is therefore requesting comment and cost effectiveness information on other leak detection methods for aboveground tanks, such as ultrasonic testing and inventory reconciliation. Also, the Agency requests comment on the appropriateness of testing underground piping for leaks and data on methodologies.

The current Oil Pollution Prevention regulation requires facility owners or operators to have a Professional Engineer review and certify that their SPCC Plans have been prepared in accordance with good engineering practices. This requirement, however, does not address specific facility procedures such as tank installation. UST regulations at 40 CFR 280.20(e), on the other hand, require certification of compliance with proper installation practices and of the qualifications of tank installers. The Agency requests comment on appropriate methods to ensure that aboveground tanks are properly installed, such as certification of installation plans and/or installation monitoring by a professional engineer or other qualified individual.

VII. Regulatory Analyses

A. Executive Order 12291

Executive Order (E.O.) 12291 requires that regulations be classified as major or non-major for purposes of review by the Office of Management and Budget (OMB). According to E.O. 12291, major rules are regulations that are likely to result in:

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

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

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

An economic analysis performed by the Agency, available for inspection in room M2427 at the U.S. Environmental Protection Agency, 401 M Street, SW.,

Washington, DC 20460, shows that this proposed rule is major because it would result in estimated costs to affected facilities of approximately $140.6 million during the first year that the rule is in effect and approximately $60.9 million in each subsequent year. At a 10-percent interest rate over 10 years, the annualized costs are $73.2 million. Of the total estimated costs, $93.7 million of the first-year costs and $54.0 million of the subsequent-year costs result from the facility response plan requirements proposed in § 112.20. Approximately $12.6 million of the first-year costs and $6.3 million of the subsequent-year cost are attributable to the other technical requirements. The proposed revisions pertaining to enforcement of the Oil Pollution Prevention regulation (i.e., amendments to the SPCC Plan, notification of a waiver of technical requirements, and preparation of SPCC Plans by previously exempted facilities) are estimated to result in costs of $2.3 million in the first year and $0.5 million in subsequent years. In addition, it is estimated that facilities will expend $32.0 million in the first year to read and understand the proposed revisions. This economic analysis estimates costs and benefits for facilities currently subject to the Oil Pollution Prevention regulation. The first-year, subsequent-year, and annualized costs of the proposed revisions to affected facilities are presented in Table 1. The estimates presented assume that facility response plans reduce the costs and damages caused by oil spills by 30 percent, which is one of the key assumptions in the analysis.

TABLE 1.—TOTAL COST TO AFFECTED FACILITIES OF THE PROPOSED RULEMAKING

Proposed revision	First-year costs	Subsequent-year costs	Annualized value of total costs
Rule familiarization	$32.0 million	$0	$5.2 million.
Facility response plan	$93.7 million	$54.0 million	$59.9 million.
Training	$11.0 million	$4.7 million	$5.7 million.
Brittle fracture	$1.6 million	$1.6 million	$1.6 million.
Amendments to SPCC plan	$12,900	$12,900	$12,900.
Notification of waiver of technical requirements	$1.5 million	$147,250	$0.3 million.
Preparation of SPCC plans by previously exempted facilities.	$0.8 million	$0.3 million	$0.4 million.
Total	$140.6 million	$60.9 million	$73.2 million.

EPA also is estimated to incur costs to process, review, and approve facility response plans and to process and review SPCC Plans and other information submitted as a result of the three proposed revisions related to enforcing the regulation. EPA estimates that it will process approximately 6,500 response plans and review and approve approximately 2,000 response plans in the first two years after the revisions take effect at a cost of $1.2 million in the first year and $1.1 million in the second year. EPA also will incur costs of $3.1 million in the first year and $0.5 million each year thereafter to implement the other proposed revisions. At a 10-percent interest rate over 10 years, the annualized costs to EPA are $1.2 million.

The Regulatory Impact Analysis (RIA) prepared in support of this rule also includes an assessment of the environmental benefits associated with the proposed revisions. This benefit estimate includes only the benefits of avoided clean-up costs, value of lost product, and avoided natural resource damages as a result of the prevention of oil spills or the mitigation of the severity of spills that do occur. Other damages caused by oil spills, such as damage to private property, lost profit by business, public health risks, and foregone existence/option value have not been quantified. EPA recognizes that the methodologies to value certain benefits of avoiding oil spills or mitigating their effects are contentious and new or revised methodologies currently are under study by other government agencies. For illustrative purposes, the Agency has presented monetary estimates of these benefits of the proposed rule in the Regulatory Impact Analysis based on currently available data. The cost effectiveness of the proposed revisions also are presented in terms of the total estimated cost to society per unit volume of spilled oil addressed by the proposed revisions. This measure of cost effectiveness is calculated by dividing the total estimated costs to affected facilities and the government by the total number of barrels (or gallons) of oil that is estimated not to be spilled as a result of the proposed revisions or, if spilled, is addressed more effectively as a result of the proposed revisions. Table 2 presents the cost effectiveness of the proposed revisions based on the assumption that facility response plans reduce the costs and damages caused by oil spills by 30 percent.

TABLE 2.—COMPARISON OF ESTIMATED TOTAL ANNUALIZED COSTS AND BENEFITS

Proposed revision	Estimated costs per avoided volume of spilled oil at 30 percent level of effectiveness for response plans	Estimated costs per avoided barrel of spilled oil at 57 percent level of effectiveness for response plans
Rule familiarization	Not Estimated	Not Estimated.
Facility response plan	$30/gallon	$16/gallon.
	$1,271/barrel	$669/barrel.
Training $81/gallon	$81/gallon	
$3,401/barrel	$3,415/barrel	
Brittle fracture [6]	$31/gallon	$31/gallon.
	$1,297/barrel	$1,303/barrel.
Amendments of SPCC plan	Not Estimated	Not Estimated.

TABLE 2.—COMPARISON OF ESTIMATED TOTAL ANNUALIZED COSTS AND BENEFITS—Continued

Proposed revision	Estimated costs per avoided volume of spilled oil at 30 percent level of effectiveness for response plans	Estimated costs per avoided barrel of spilled oil at 57 percent level of effectiveness for response plans
Notification of waiver of technical requirements	Not Estimated	Not Estimated.
Preparation of SPCC plans by previously exempted facilities	Not Estimated	Not Estimated.

Alternative assumptions about the effectiveness of facility response plans yield different estimates of the net benefits. For example, estimated costs of facility response plans equal estimated benefits at a 57 percent effectiveness level. At levels of effectiveness less than 57 percent, estimated costs of the response plan requirement exceed estimated benefits. Conversely, at effectiveness levels greater than 57 percent, estimated benefits of the response plan requirement exceed the estimated costs. The cost effectiveness of the proposed revisions also is presented in Table 2 at an assumed effectiveness level of 57 percent. This proposed rule has been submitted to OMB for review as required by E.O. 12291.

B Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 requires that a Regulatory Flexibility Analysis be performed for all rules that are likely to have a "significant impact on a substantial number of small entities." To determine whether a Regulatory Flexibility Analysis was necessary for this proposed rule, a preliminary analysis was conducted. The results of the preliminary analysis indicate that this proposed rule will not have significant adverse impacts on small businesses because small businesses are unlikely to be affected by the facility response planning, training, or brittle fracture requirements, which account for the majority of the total costs of the proposed rulemaking (see the "Regulatory Impact Analysis of the Proposed Phase Two Revisions of the Oil Pollution Prevention Regulation," Chapter 8, September 1992, available for inspection in room M2427 at the U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460). Therefore, EPA certifies that this proposed rule is not expected to have a significant impact on small entities, and therefore that no Regulatory Flexibility Analysis is necessary.

C Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. An Information Collection Request (ICR) has been prepared by EPA (ICR No. 1630.01) and a copy may be obtained from Sandy Farmer, Information Policy Branch (PM–223Y); U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, or by calling (202) 260–2740.

The collection of information required to prepare facility response plans is estimated to have a public reporting burden varying from 1 to 256 hours per response in the first year, with an average of 5 hours per response, and to require an average of 0.65 hours per recordkeeper annually. This includes time to review instructions and guidance, search existing data sources, gather and maintain the data needed, and complete and review the collection of information. In subsequent years, the facility response plan requirement is estimated to have a public reporting burden that varies from 0–99 hours per response, with an average of 1 hour per response, and to require an average of 0.6 hours per recordkeeper annually.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch (PM–223Y), U.S. Environmental Protection Agency; 401 M Street SW., Washington, DC 20460, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

List of Subjects in 40 CFR Part 112

Fire prevention, Flammable materials, Materials handling and storage, Oil pollution, Oil spill response, Petroleum, Reporting and recordkeeping requirements, Tanks, Water pollution control, Water resources.

Dated: January 19, 1993.

William K. Reilly,

Administrator.

For the reasons set out in the preamble, part 112, title 40, chapter I of the Code of Federal Regulations, as proposed to be revised at 56 FR 54630, October 22, 1991, is proposed to be amended as follows:

PART 112—OIL POLLUTION PREVENTION

1. The authority citation for part 112 is revised to read as follows:

Authority: 33 U.S.C. 1321 and 1361; E.O. 12777 (3 CFR, 1991 Comp., p. 351).

2. Section 112.1, as proposed at 56 FR 54630, is amended by revising paragraphs (d) introductory text and (d)(4), and by adding paragraph (g) to read as follows:

§ 112.1 General applicability and notification.

* * * * *

(d) Except as provided in paragraphs (e) and (g) of this section and the first sentence of § 112.7(a)(3), this part does not apply to:

* * * * *

(4) Underground storage tanks, as defined in § 112.2(v), at any facility, where such tanks are subject to the technical requirements of 40 CFR part 280, except that such tanks shall be marked on the facility diagram as provided in § 112.7(a)(3).

* * * * *

(g) Notwithstanding paragraph (d) of this section, the Regional Administrator may require any facility subject to the jurisdiction of EPA under section 311(j) of the CWA to prepare and implement an SPCC Plan or applicable parts thereof.

(1) Following a preliminary determination, the Regional Administrator will provide a written notice to the facility owner or operator stating the reasons why the facility owner or operator needs to prepare an SPCC Plan.

(2) The owner or operator may provide information and data and may consult with the Agency about the need to prepare and submit a Plan.

(3) Following this consultation, the Regional Administrator will make a final determination regarding whether the facility is required to prepare and implement an SPCC Plan.

(4) If the Regional Administrator makes a final determination that an SPCC Plan is necessary to carry out the purposes of the CWA, the owner or operator must prepare the Plan within six months of that determination and implement the Plan as soon as possible, but not later than one year after the final determination has been made.

3. Section 112.2, as proposed at 56 FR 54630, is amended by removing the paragraph designations (a) through (y), and inserting the following new definitions in alphabetical order, to read as follows:

§ 112.2 Definitions.

* * * * *

Adverse weather means the weather conditions that make it difficult for response equipment and personnel to cleanup or remove spilled oil.

Alteration means any work on a tank or related equipment involving cutting, burning, welding, or heating operations that changes the physical dimensions or configuration of a tank.

* * * * *

Complex means a facility possessing a combination of transportation-related and non-transportation-related components that is subject to the jurisdiction of more than one Federal agency under section 311(j) of the CWA.

* * * * *

Contracts or other approved means include:

(1) A written contractual agreement with a response contractor that identifies and ensures the availability of the necessary personnel or equipment within appropriate response times;

(2) A written certification by the owner or operator that the necessary personnel and equipment resources, owned or operated by the facility owner or operator, are available to respond to a discharge within appropriate response times;

(3) Active membership in a local or regional oil spill removal organization that has identified and ensures adequate access through such membership to necessary personnel and equipment to respond to a discharge within appropriate response times in the specified geographic areas; or

(4) Other specific arrangements approved by the Regional Administrator upon request of the owner or operator.

* * * * *

Injury means a measurable adverse change, either long- or short-term, in the chemical or physical quality or the viability of a natural resource resulting either directly or indirectly from exposure to a discharge of oil, or exposure to a product of reactions resulting from a discharge of oil.

Maximum extent practicable means the limitations used to determine oil spill planning resources and response times for on-water recovery, shoreline protection, and cleanup for worst case discharges from onshore non-transportation-related facilities in adverse weather. The appropriate limitations for such planning are available technology and the practical and technical limits on an individual facility owner or operator.

* * * * *

Repair means any work necessary to maintain or restore a tank or related equipment to a condition suitable for safe operation.

* * * * *

Worst case discharge for an onshore non-transportation-related facility means the largest foreseeable discharge in adverse weather conditions, based on the factors described in appendix E to this part.

4. Section 112.4, as proposed at 56 *FR* 54633, is amended by redesignating paragraph (d) as paragraph (d)(1), by revising newly designated paragraph (d)(1), and by adding a new paragraph (d)(2) to read as follows:

§ 112.4 Amendment of Spill Prevention, Control and Countermeasures Plan by Regional Administrator.

* * * * *

(d) (1) The Regional Administrator may require the owner or operator of any facility subject to this part to submit the information listed in paragraphs (a)(1) through (a)(8) of this section and such other information as the Regional Administrator may request. After review of the information submitted, or after on-site review of a facility's Plan, the Regional Administrator may require the owner or operator of such facility to amend the Plan if the Plan does not meet the requirements of this part or if amendment of the Plan is necessary to prevent or control discharges of oil from such facility into or upon the waters described in § 112.1(a) of this part.

(2) After review of the materials submitted by the owner or operator of a facility as required in § 112.7(d) of this part, the Regional Administrator may approve the Plan or require amendment of the Plan.

* * * * *

5. Section 112.7, as proposed at 56 FR 54634, is amended by revising paragraphs (a)(2), the introductory text of paragraph (d), and paragraphs (d)(1), (f)(1), and (i) and by adding a new paragraph (j) to read as follows:

§ 112.7 Spill Prevention, Control, and Countermeasures Plan general requirements.

(a) * * *

(2) The Plan may deviate from the requirements in paragraph (c) of this section and §§ 112.8, 112.9, 112.10, and 112.11, where applicable to a specific facility, provided equivalent protection is provided by some other means of spill prevention, control, or countermeasures. Where the Plan does not conform to the applicable requirements of paragraph (c) of this section or §§ 112.8, 112.9, 112.10, and 112.11, the Plan shall state the reasons for nonconformance and describe in detail alternate methods and how equivalent protection will be achieved. The owner or operator of the facility shall submit the Plan to the Regional Administrator together with a transmittal letter describing how the Plan contains equivalent protection measures in lieu of certain requirements in 40 CFR part 112. If the Regional Administrator determines that the measures described in the Plan do not provide equivalent protection, the Regional Administrator may require amendment of the Plan, following the procedures in § 112.4 (e) and (f).

* * * * *

(d) When it is determined that the installation of structures or equipment listed in § 112.7(c) to prevent discharged oil from reaching the navigable waters is not practicable from any facility, the owner or operator shall clearly demonstrate such impracticability; conduct integrity testing of tanks every five years at a minimum; conduct integrity and leak testing of the valves and piping every year at a minimum; and providing the following:

(1) The facility response plan described in § 112.20.

* * * * *

(f) *Personnel, training, and spill prevention procedures.* (1) Owners or operators of facilities, which transfer or receive greater than or equal to 10,000 gallons of oil in a single operation more than twice per month on average, or greater than or equal to 50,000 gallons in a single operation more than once per month on average, shall be responsible for the proper instruction of their personnel in the operation and maintenance of equipment to prevent discharges of oil and in applicable pollution control laws, rules, and regulations.

(i) All personnel who are involved in oil-handling activities shall receive at least 8 hours of training by [insert date one year after the effective date of the final rule], and at least 4 hours in subsequent years. Such training

includes, but is not limited to, subjects such as correct equipment operation and maintenance, general facility operations, discharge prevention laws and regulations, and the contents of the facility's SPCC Plan.

(ii) In the case of new employees, 8 hours of training shall be given to such personnel within the first week of their employment.

(iii) All such personnel shall also participate in unannounced drills, to be conducted at least annually.

* * * * *

(i) If a field-constructed aboveground tank undergoes a repair, alteration, or a change in service, the facility owner or operator shall evaluate the tank for risk of failure due to brittle fracture, and, as necessary, take appropriate action in accordance with Section 3 of Tank Inspection, Repair, Alteration, and Reconstruction, January 1991, American Petroleum Institute, API Standard 653 This incorporation by reference will be submitted for approval to 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 the American Petroleum Institute, 1220 L Street NW., Washington DC 20005. Copies may be inspected at the Superfund Docket, U.S. Environmental Protection Agency, 401 M Street, SW., room M2427, Washington, DC. A flowchart of brittle fracture considerations contained in API Standard 653 is contained in appendix H to this part.

(j) In addition to the minimal prevention standards listed under § 112.7 (c), (e), (f), (g), (h), and (i), sections of the Plan shall include a complete discussion of conformance with the applicable requirements and other effective spill prevention and containment procedures listed in §§ 112.8, 112.9, 112.10, and 112.11 (or, if more stringent, with State rules, regulations, and guidelines).

6. Section 112.20 is added to read as follows:

§ 112.20 Facility response plans.

(a) (1) The owner or operator of any non-transportation-related onshore facility that, because of its location, could reasonably be expected to cause substantial harm to the environment by discharging oil into or on the navigable waters or adjoining shorelines shall prepare a facility response plan and shall submit a response plan that satisfies the requirements of this section to the Regional Administrator.

(2) A facility shall be subject to the requirements of paragraph (a)(1) of this section if it satisfies the criteria in paragraph (f)(1) of this section or if the Regional Administrator makes a determination pursuant to paragraph (b) of this section.

(i) For a facility that is in operation on or before February 18, 1993, and is required to prepare and submit a response plan based on the criteria in paragraph (f)(1) of this section, the owner or operator shall submit the response plan, along with a completed version of the response plan cover sheet contained in appendix G to this part, to the Regional Administrator on or before February 18, 1993.

(ii) For a newly constructed facility that commences operation after February 18, 1993, and is required to prepare and submit a response plan based on the criteria in paragraph (f)(1) of this section, the owner or operator shall submit the response plan, along with a completed version of the response plan cover sheet contained in appendix G to this part, to the Regional Administrator prior to the start of operations.

(iii) For a facility required to prepare and submit a response plan after February 18, 1993, as a result of a planned change in design, construction, operation, or maintenance that renders the facility subject to the criteria in paragraph (f)(1) of this section, the owner or operator shall submit the response plan, along with a completed version of the response plan cover sheet contained in appendix G to this part, to the Regional Administrator before the portion of the facility undergoing change commences operations.

(iv) For a facility required to prepare and submit a response plan after February 18, 1993, as a result of an unplanned event or change in facility characteristics that renders the facility subject to the criteria in paragraph (f)(1) of this section, the owner or operator shall submit the response plan, along with a completed version of the response plan cover sheet contained in appendix G to this part, to the Regional Administrator within six months of the unplanned event or change.

(3) In the event the owner or operator of a facility that is required to prepare and submit a response plan uses an alternative formula to one contained in appendix C to this part to evaluate the criterion in paragraph (f)(1)(ii)(B) or (f)(1)(ii)(C) of this section, the owner or operator shall attach documentation to the response plan cover sheet contained in appendix G to this part that demonstrates the reliability and analytical soundness of the alternative formula.

(b)(1) The Regional Administrator may at any time require the owner or operator of any non-transportation-related onshore facility to prepare and submit a facility response plan under this section based on the factors in paragraph (f)(2) of this section. If the Regional Administrator notifies in writing the owner or operator of the requirement to prepare and submit a response plan under this section, the owner or operator of the facility shall submit the response plan to the Regional Administrator within six months after such written notification.

(2) The Regional Administrator shall review plans submitted by such facilities to determine whether the facility could cause significant and substantial harm to the environment by the discharge of oil.

(c)(1) The Regional Administrator shall determine whether a facility, because of its location, could reasonably be expected to cause significant and substantial harm to the environment by discharging into or on the navigable waters or adjoining shorelines, based on the factors in paragraph (f)(3) of this section. If a facility is determined to have the potential to cause significant and substantial harm to the environment, the Regional Administrator shall notify in writing the owner or operator of the facility and:

(i) Promptly review the facility response plan;

(ii) Require amendments to any response plan that does not meet the requirements of this section;

(iii) Approve any response plan that meets the requirements of this section; and

(iv) Review each response plan periodically thereafter.

(2) A facility owner or operator who is notified in writing that the facility's response plan will require review and approval by the Regional Administrator and that such approval will not be forthcoming by August 18, 1993, may operate the facility without an approved response plan for up to two years from the date of plan submission in compliance with statutory requirements, provided that:

(i) The facility owner or operator certifies in writing within 30 days of such notification to the Regional Administrator that the owner or operator 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 the substantial threat of such a discharge from the facility; and

(ii) The contracts or agreements cited in the facility's certification are valid and enforceable by the parties.

(d)(1) The owner or operator of a facility determined to have the potential

to cause significant and substantial harm to the environment pursuant to paragraph (f)(3) of this section shall revise and resubmit the response plan for approval within 60 days of each facility change that materially may affect the potential for a discharge to cause significant and substantial harm to the environment, including:

(i) A change in the facility's configuration that materially alters the information included in the response plan;

(ii) A change in the type of oil handled, stored, or transferred that materially alters the required response resources;

(iii) A change in the oil spill removal organizations that provide equipment and personnel to respond to spills described in paragraph (h)(5) of this section and/or a material change in their capabilities;

(iv) A material change in the facility's spill prevention and response equipment or emergency response procedures;

(v) Any other changes that materially affect the implementation of the response plan.

(2) Except as provided in paragraph (d)(1) of this section, amendments to personnel and telephone number lists included in the response plan do not require prior approval by the Regional Administrator. Facility owners or operators shall provide a copy of such changes to the appropriate Regional Administrator as the revisions occur.

(e) If the owner or operator of a facility determines pursuant to paragraph (a)(2) of this section that its facility does not have the potential to cause substantial harm to the environment, the owner or operator shall complete and maintain at the facility the certification form contained in appendix C to this part and, in the event an alternative formula to one contained in appendix C to this part is used to evaluate the criterion in paragraph (f)(1)(ii)(B) or (f)(1)(ii)(C) of this section, the owner or operator shall attach documentation to the certification form that demonstrates the reliability and analytical soundness of the alternative formula and shall notify the Regional Administrator in writing that an alternative formula was used.

(f) (1) A facility shall be deemed to have the potential to cause substantial harm to the environment pursuant to paragraph (a) of this section, if it meets any of the following criteria applied in accordance with the flowchart contained in appendix C to this part:

(i) The facility transfers oil over water to or from vessels and has a total storage capacity greater than or equal to 42,000 gallons; or

(ii) The facility's total oil storage capacity is greater than or equal to 1 million gallons, and one of the following is true:

(A) The facility does not have secondary containment for each aboveground storage area sufficiently large to contain the capacity of the largest aboveground storage tank within each storage area;

(B) The facility is located at a distance (as calculated using the appropriate formula in appendix C to this part or an alternative formula considered acceptable by the Regional Administrator) such that a discharge from the facility could cause injury to an environmentally sensitive area as described in appendix D to this part;

(C) The facility is located at a distance (as calculated using the appropriate formula in appendix C to this part or an alternative formula considered acceptable by the Regional Administrator) such that a discharge from the facility would shut down a public drinking water intake; or

(D) The facility has had a reportable spill in an amount greater than or equal to 10,000 gallons within the last 5 years.

(2)(i) To determine whether a facility could cause substantial harm to the environment pursuant to paragraph (b) of this section, the Regional Administrator may consider the following:

(A) Type of transfer operation;

(B) Oil storage capacity;

(C) Lack of secondary containment;

(D) Proximity to "environmentally sensitive areas" defined in Appendix D to this part and other areas determined by the Regional Administrator to possess ecological value;

(E) Proximity to drinking water intakes;

(F) Spill history; and

(G) Other site-specific characteristics and environmental factors that the Regional Administrator determines to be relevant to protecting the environment from harm by discharges of oil into navigable waters or adjoining shorelines.

(ii) Any person who believes a facility subject to this section may cause substantial harm to the environment from a discharge of oil may petition the Regional Administrator to determine whether the facility meets the criteria in paragraph (f)(2)(i) of this section. Such petition shall include a discussion of how the criteria in paragraph (f)(2)(i) of this section apply to the facility in question.

(3) To determine whether a facility could cause significant and substantial harm to the environment, the Regional Administrator may consider the factors in paragraph (f)(2) of this section as well as the following:

(i) Proximity to environmental areas of concern defined in Appendix D to this part;

(ii) Frequency of past spills;

(iii) Proximity to navigable waters:

(iv) Age of oil storage tanks; and

(v) Other facility-specific and Region-specific information, including local impacts on public health.

(g)(1) All facility response plans shall be consistent with the requirements of the National Oil and Hazardous Substance Pollution Contingency Plan (40 CFR part 300) and applicable Area Contingency Plans, and shall be updated periodically. The facility response plan should be coordinated with the local emergency response plan developed by the local emergency planning committee under section 303 of Title III of the Superfund Amendments and Reauthorization Act of 1986. Upon request, the owner or operator should provide a copy of the facility response plan to the local emergency planning committee or State emergency response commission.

(2) The owner or operator shall review relevant portions of the National Oil and Hazardous Substance Pollution Contingency Plan and applicable Area Contingency Plan annually and revise the facility response plan to ensure consistency with these plans.

(h) A response plan shall follow the format of the model facility-specific response plan included in appendix G to this part, unless an equivalent response plan has been prepared to meet State or other Federal requirements. A response plan that does not follow the specific format in appendix G to this part shall have an emergency response action plan as specified in paragraph (h)(1) to this part and be supplemented with a cross-reference section to identify the location of the elements listed in paragraphs (h)(2) through (h)(10) of this section. In order to meet the requirements of this part, a response plan shall address the following elements, as reflected in appendix G to this part:

(1) *Emergency Response Action Plan.* The response plan shall include an emergency response action plan in the format specified below that is maintained in the front of the response plan, or as a separate document accompanying the response plan, and that includes the following information:

(i) The identity and telephone number of an emergency response coordinator who is the qualified individual having full authority, including contracting

authority, to implement removal actions;

(ii) The identity of individuals or organizations to be contacted in the event of a discharge so that immediate communications between the emergency response coordinator and the appropriate Federal official and the persons providing response personnel and equipment can be ensured;

(iii) A description of information to pass to response personnel in the event of a reportable spill;

(iv) A description of the facility's response equipment and its location;

(v) A description of response personnel capabilities, including the duties of persons at the facility during a response action and their response times and qualifications;

(vi) Plans for evacuation of the facility and surrounding communities;

(vii) A description of immediate measures to provide adequate containment and drainage of spilled oil; and

(viii) A diagram of the facility.

(2) *Facility information.* The response plan shall identify and discuss the location of the facility, the identity and tenure of the present owner and operator, and the identity of an emergency response coordinator.

(3) *Information about emergency response.* The response plan shall include:

(i) The identity of private personnel and equipment necessary to remove to the maximum extent practicable a worst case discharge and other discharges of oil described in paragraph (h)(5) of this section, and to mitigate or prevent a substantial threat of a worst case discharge;

(ii) Evidence of contracts or other approved means for ensuring the availability of such personnel and equipment;

(iii) The identity and the telephone number of individuals or organizations to be contacted in the event of a discharge so that immediate communications between the emergency response coordinator and the appropriate Federal official and the persons providing response personnel and equipment can be ensured;

(iv) A description of information to pass to response personnel in the event of a reportable spill;

(v) A description of response personnel capabilities, including the duties of persons at the facility during a response action and their response times and qualifications;

(vi) A description of the facility's response equipment, the location of the equipment, and equipment testing;

(vii) Plans for evacuation of the facility and surrounding communities,

(viii) A diagram of evacuation routes; and

(ix) A description of the duties of the emergency response coordinator identified in paragraph (h)(1) of this section, that include:

(A) Activate internal alarms and hazard communication systems to notify all facility personnel;

(B) Notify all response personnel, as needed;

(C) Identify the character, exact source, amount, and extent of the release, as well as the other items needed for notification;

(D) Notify and provide necessary information to the appropriate Federal, State, and local authorities with designated response roles, including the National Response Center, State Emergency Response Commission, and Local Emergency Planning Committee;

(E) Assess the interaction of the spilled substance with water and/or other substances stored at the facility and notify response personnel at the scene of that assessment;

(F) Assess the possible hazards to human health and the environment due to the release. This assessment must consider both the direct and indirect effects of the release (i.e., the effects of any toxic, irritating, or asphyxiating gases that may be generated, or the effects of any hazardous surface water runoffs from water or chemical agents used to control fire and heat-induced explosion);

(G) Assess and implement prompt removal actions to contain and remove the substance released;

(H) Coordinate rescue and response actions as previously arranged with all response personnel;

(I) Obtain authority to immediately access company funding to initiate cleanup activities; and

(J) Direct cleanup activities until properly relieved of this responsibility;

(x) Guidelines that describe procedures to identify response resources to meet the facility response plan requirements of this section are provided in appendix F to this part.

(4) *Hazard evaluation.* The response plan shall discuss the facility's known or reasonably identifiable history of discharges reportable under 40 CFR part 110 for the entire life of the facility and shall identify areas within the facility where discharges could occur and what the potential effects of the discharges would be on the affected environment. To assess the range of areas potentially affected, owners or operators shall, where appropriate, consider the distance calculated in paragraph (f)(1)(ii) of this section to determine whether a facility is located such that a discharge could cause substantial harm to the environment.

(5) *Tiered planning scenarios.* The response plan shall include discussion of specific scenarios for:

(i) A worst case discharge, as calculated using the appropriate worksheet in appendix E to this part. In cases where the Regional Administrator determines that the worst case discharge volume calculated by the facility is not appropriate, the Regional Administrator may specify the worst case discharge amount to be used for response planning at the facility. For complexes, the worst case planning quantity shall be the larger of the amounts calculated for each component of the facility;

(ii) A discharge of 2,100 gallons or less, provided that this amount is less than the worst case discharge amount; and

(iii) A discharge greater than 2,100 gallons and less than or equal to 36,000 gallons or 10 percent of the capacity of the largest tank at the facility, whichever is less, provided that this amount is less than the worst case discharge amount. For complexes, this planning quantity shall be the larger of the amounts calculated for each component of the facility.

(6) *Discharge detection systems.* The response plan shall describe the procedures and equipment used to detect discharges.

(7) *Plan implementation.* The response plan shall describe:

(i) Response actions to be carried out by facility personnel or contracted personnel under the response plan to ensure the safety of the facility and to mitigate or prevent discharges described in paragraph (h)(5) of this section or the substantial threat of such discharges;

(ii) A description of the equipment to be used for each scenario;

(iii) Plans to dispose of contaminated cleanup materials; and

(iv) Measures to provide adequate containment and drainage of spilled oil

(8) *Self-inspection, training, and meeting logs.* The response plan shall include:

(i) A checklist and record of inspection for tanks, secondary containment, and response equipment;

(ii) A description and record of training exercises and periodic unannounced drills to be carried out under the response plan; and

(iii) Logs of discharge prevention meetings.

(9) *Diagrams.* The response plan shall include site plan and drainage plan diagrams.

(10) *Security systems.* The response plan shall include a description of facility security systems.

7. Part 112, as proposed to be revised at 56 FR 54630, is amended by adding Appendices C through G to read as follows:

Appendix C to Part 112—Determination of Substantial Harm

1.0 Introduction

The flowchart provided in Attachment C–I shows the decision tree by which owners and operators will decide whether their facility "could reasonably be expected to cause substantial harm to the environment by discharging into or on the navigable waters, adjoining shorelines, or the exclusive economic zone." In addition, the Regional Administrator (RA) has the discretion to identify facilities that must prepare and submit facility-specific response plans to EPA regardless of the self-determination results. The owner or operator or a regulated facility may determine that a facility has the potential to cause substantial harm to the environment without having to assess every criteria in the flowchart.

2.0 Flowchart for the Determination of Substantial Harm

Facilities that meet one or both of the following two criteria are identified as posing a potential risk of substantial harm to the environment in the event of a discharge and must prepare and submit a facility-specific response plan to EPA in accordance with appendix G of this part:

(1) The facility transfers oil over water to or from vessels and has a total storage capacity greater than or equal to 42,000 gallons.

(2) The facility's total oil storage capacity is greater than or equal to one million gallons, and one of the following is true:

- The facility does not have secondary containment for each aboveground storage area sufficiently large to contain the capacity of the largest aboveground storage tank within each storage area;
- The facility is located at a distance (as calculated using the appropriate formula in Attachment C–III or an alternative formula considered acceptable by the RA) such that a discharge from the facility could cause injury to an environmentally sensitive area, as defined in appendix D of this part;
- The facility is located at a distance (as calculated using the appropriate formula in Attachment C–III or an alternative formula considered accpetable by the RA) such that a discharge from the facility would shut down a public drinking water intake; or,
- The facility has had a reportable spill in an amount greater than or equal to 10,000 gallons within the last five years.

2.1 Description of Screening Criteria for the Substantial Harm Flowchart

(1) *Transportation-Related Facilities Greater Than or Equal to 42,000 Gallons Where Operations Include Over-Water Transfer of Oil*—A transportation-related facility with a total storage capacity greater than 42,000 gallons that transfers oil over water to or from vessels must submit a response plan to EPA. Daily oil transfer operations at these types of facilities occur between barges and vessels and onshore bulk storage tanks over open water.

(2) *Lack of Secondary Containment at Facilities With a Total Storage Capacity Greater Than or Equal to One Million Gallons*—Any facility with a total storage capacity greater than or equal to one million gallons without secondary containment sufficiently large to contain the capacity of the largest tank within each storage tank area must submit a response plan to EPA. A secondary containment area that is "sufficiently large" must contain the maximum capacity of the largest tank within a single containment area plus an allowance for precipitation. Secondary containment structures, which meet the standard of good engineering practice for the purposes of this part, include berms, dikes, retaining walls, curbing, culverting, gutters, or other drainage systems.

(3) *Proximity to Environmentally Sensitive Areas at Facilities With a Total Storage Capacity Greater Than or Equal to One Million Gallons*—A facility with a total storage capacity greater than or equal to one million gallons must submit its response plan if it is located at a distance such that a discharge from the facility could cause injury to an environmentally sensitive area, as defined in appendix D of this part. "Injury" is defined in § 112.2 of this part. This definition of "injury" is derived from the Natural Resource Damage Assessments rule at 43 CFR part 11.

Owners or operators may determine the distance at which an oil spill could cause injury to an environmentally sensitive area using the appropriate formula presented in Attachment C–III of this appendix or an alternative formula considered acceptable by the RA.

(4) *Proximity to Public Drinking Water Intakes at Facilities With a Total Storage Capacity Greater Than or Equal to One Million Gallons*—A facility with a total storage capacity greater than or equal to one million gallons must submit its response plan if it is located at a distance such that a discharge from the facility would shut down a drinking water intake. The distance at which an oil spill from an SPCC-regulated facility would shut down a drinking water intake may also be calculated using the appropriate formula presented in Attachment C–III or an alternative formula considered acceptable by the RA.

(5) *Facilities That Have Experienced Reportable Spills in an Amount Greater Than or Equal to 10,000 Gallons Within the Past Five Years and That Have a Total Storage Capacity Greater Than or Equal to One Million Gallons*—A facility's spill history within the past five years shall be considered in the evaluation for substantial harm. Any facility with a total storage capacity greater than or equal to one million gallons that has experienced a reportable spill in an amount greater than or equal to 10,000 gallons within the past five years must submit a response plan to EPA.

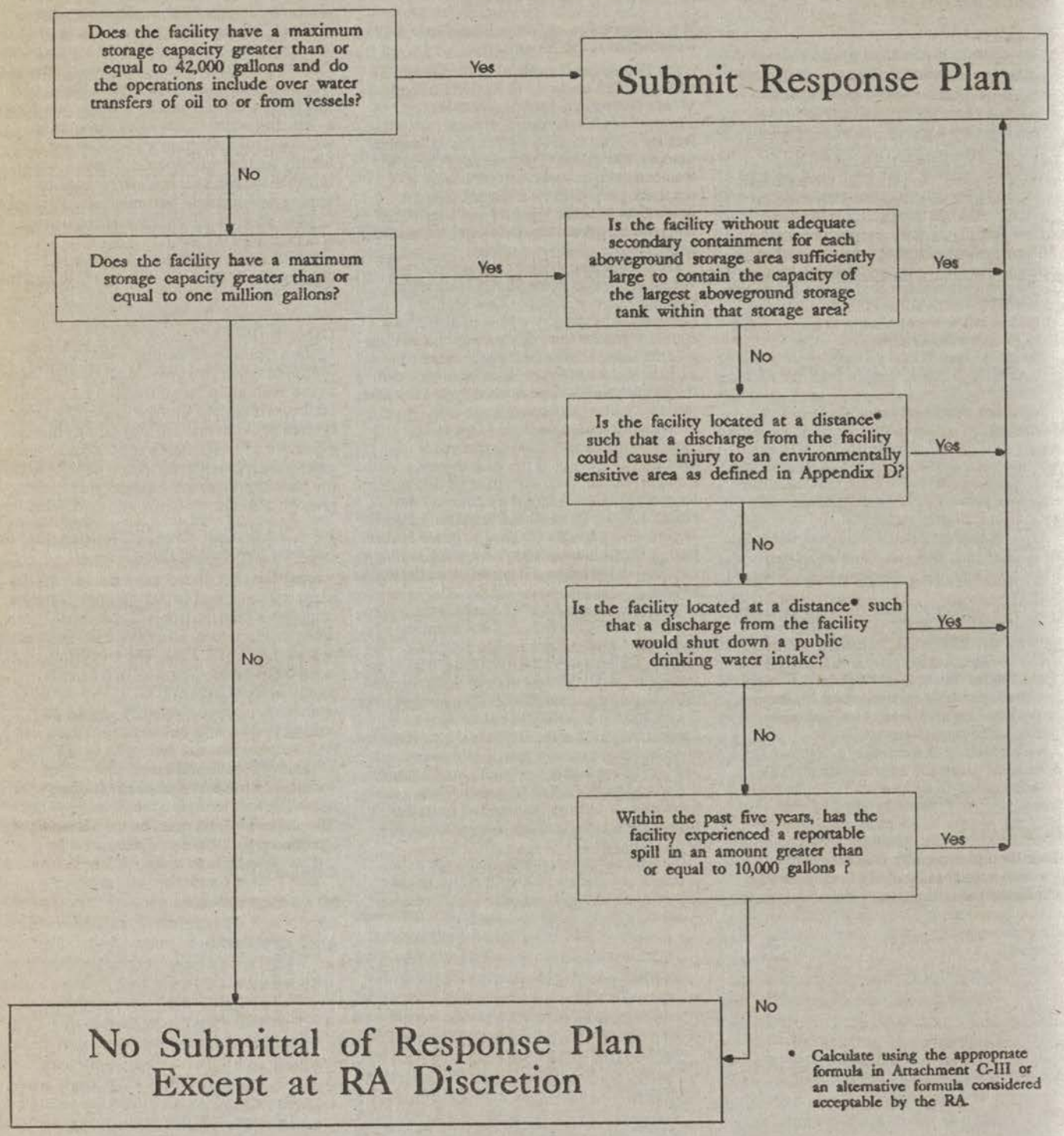
3.0 Certification Form for Facilities That Do Not Pose Substantial Harm

Facilities that do not meet the substantial harm criteria listed in Attachment C–I must complete a certification of substantial harm determination form and maintain the form as part of their SPCC Plan. The certification of substantial harm determination form is provided in Attachment C–II. The owner or operator is required to notify the RA in writing that an alternative formula was used to determine that the facility does not pose a threat of substantial harm. The documentation that demonstrates the reliability and analytical soundness of the alternative formula must be maintained at the facility.

Attachment C–I

BILLING CODE 6560–50–P

Flowchart for the Determination of Substantial Harm



* Calculate using the appropriate formula in Attachment C-III or an alternative formula considered acceptable by the RA.

BILLING CODE 6560-50-C

Attachment C–II.—Certification of Substantial Harm Determination Form

Facility name: _____

Facility address: _____

1. Does the facility have a maximum storage capacity greater than or equal to 42,000 gallons *and* do the operations include over water transfers of oil to or from vessels?

   Yes_____ No_____

2. Does the facility have a maximum storage capacity greater than or equal to one million (1,000,000) gallons *and* is the facility without secondary containment for each aboveground storage area sufficiently large to contain the capacity of the largest aboveground storage tank within the storage area?

   Yes_____ No_____

3. Does the facility have a maximum storage capacity greater than or equal to one million (1,000,000) gallons *and* is the facility located at a distance (as calculated using the appropriate formula in Attachment C–III or an alternative formula[1] considered acceptable by the RA) such that a discharge from the facility could cause injury to an environmentally sensitive area as defined in Appendix D?

   Yes_____ No_____

4. Does the facility have a maximum storage capacity greater than or equal to one million (1,000,000) gallons *and* is the facility located at a distance (as calculated using the appropriate formula in Attachment C–III or an alternative formula[1] considered acceptable by the RA) such that a discharge from the facility would shut down a public drinking water intake?

   Yes_____ No_____

5. Does the facility have a maximum storage capacity greater than or equal to one million (1,000,000) gallons *and* within the past 5 years, has the facility experienced a reportable spill in an amount greater than or equal to 10,000 gallons?

   Yes_____ No_____

CERTIFICATION

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document, and that based on my inquiry of those individuals responsible for obtaining this information, I believe that the submitted information is true, accurate, and complete.

_____

Signature

_____

Name (please type or print)

_____

Title

_____

Date

[1]If an alternative formula is used, documentation of the reliability and analytical soundness of the alternative formula must be attached to this form.

Attachment C–III.—Calculation of the Planning Distance

As part of the substantial harm determination, the facility owner or operator must evaluate whether the facility is located at a distance which could cause injury to an environmentally sensitive area or disrupt operations at a drinking water intake. To quantify that distance, EPA considered oil transport mechanisms over land and on still and moving navigable waters. After assessing oil transport over land, the primary concern for calculation of a planning distance is the transport of oil in navigable waters. Therefore, two formulas have been developed to determine distances for planning purposes, from the point of discharge at the facility to the potential site of impact on moving and still waters, respectively. The formula for oil transport on moving navigable water is based on the velocity of the water body and the time interval for arrival of response resources. The still water formula accounts for the spread of discharged oil over the surface of the water.

EPA's formulas were designed to be simple to use. However, facilities may calculate planning distances using more sophisticated formulas, which take into account broader scientific or engineering principles, or local conditions. Such alternative formulas may result in different planning distances than EPA's formulas. If an alternative formula is used to establish the appropriate distance to sensitive environments or drinking water intakes and it is determined that the facility does not pose substantial harm, the owner or operator is required to notify the RA in writing. Documentation must be maintained at the facility to demonstrate the reliability and analytical soundness of the alternative formula. Those facilities that meet the substantial harm criteria and use an alternative formula to determine the planning distance must attach the documentation that demonstrates the reliability and analytical soundness of the alternative formula to the response plan cover sheet in appendix G of this part. The owner or operator of a regulated facility may determine that a facility has the potential to cause substantial harm to the environment without having to perform a planning distance calculation. For facilities that meet the substantial harm determination because of inadequate secondary containment or spill history, as listed in the flowchart in Attachment C–I, calculation of the planning distance is unnecessary. For facilities that do not meet the substantial harm criteria for secondary containment and spill history listed in the flowchart, calculation of a planning distance for proximity to sensitive environments and drinking water intakes is required, unless it is clear that these areas would be impacted without performing the calculation.

Alternative formulas are subject to review by the RA. However, such formulas shall be deemed adequate unless the RA notifies the owner or operator in writing of specific technical objections.

The planning distance formula for transport on moving waterways contains three variables: The velocity of the navigable water (v), the response time interval (t) and a conversion factor (c). The velocity, v, is determined by using the Chezy-Manning equation, which models the flow of water in open channels. The Chezy-Manning equation contains three variables which must be determined by facility owners and operators. Manning's Roughness Coefficient, n, can be determined from Table 1. The hydraulic radius, r, can be evaluated using the average mid-channel depth from charts provided by the sources listed in Table 2. The average slope of the river, s, can be determined using topographic maps that can be ordered from the U.S. Geological Survey, as listed in Table 2. For further information on fluid flow, refer to Open Channel Hydraulics by V.T. Chow, published by McGraw Hill in 1959.

Table 3 contains specified time intervals for arrival of response resources at the scene of a discharge. The response times listed in Table 3 are consistent with the U.S. Coast Guard's (USCG) proposed rulemaking for response plans. Response resources should be prepositioned to arrive at the discharge site within 12 hours of the discovery of an oil discharge in Higher Volume Port Areas and Great Lakes; and 24 hours in all other river, inland and nearshore areas as defined in this attachment. The specified time intervals have been adjusted upward to include a three hour time period for deployment of booms and other response equipment. The designated Higher Volume Port Areas listed in the definitions section are example areas covered in the proposed USCG tank vessel response plan regulation. The RA may identify additional areas as appropriate.

Oil Transport on Moving Navigable Waters

The facility owner or operator should use the following formula to calculate the planning distance:

$d=v \times t \times c$; where

d: the distance downstream from a facility within which an environmentally sensitive area could be injured or drinking water intake would be shut down in the event of an oil discharge (in miles);

v: the velocity of the river/navigable water of concern (in ft/sec) as determined by Chezy-Manning's equation (see below and Tables 1 and 2);

t: the time interval specified in Table 3 based upon the type of water body and location (in hours); and

c: constant conversion factor 0.68 sec•mile/hr•ft (3600 sec/hr÷5280 ft/mile).

Chezy-Manning's equation is used to determine velocity:

$v=1.5/n \times r^{2/3} \times s^{1/2}$

where:

v=the velocity of the river of concern (in ft/sec);

n=Manning's Roughness Coefficient from Table 1

r=the hydraulic radius; the hydraulic radius can be approximated for parabolic channels by multiplying the average mid-channel depth of the river (in feet) by .667 (sources for obtaining the mid-channel depth are listed in Table 2)

s=the average slope of the river (unitless) obtained from topographic maps supplied by the U.S. Geological Survey listed in Table 2

TABLE 1.—MANNING'S ROUGHNESS COEFFICIENT FOR NATURAL STREAMS

Stream description	Roughness coefficient (n)
Minor streams (Top Width <100 ft.)	
Clean:	
Straight	0.03
Winding	0.04
Sluggish (Weedy, deep pools):	
No trees or brush	0.06
Trees and/or brush	0.10
Major streams (Top Width >100 ft.)	
Regular Section (no boulders/brush)	0.035
Irregular Section (brush)	0.05

Note: Coefficients are presented for high flow rates at or near flood stage.

TABLE 2.—SOURCES OF R AND S FOR THE CHEZY-MANNING EQUATION

All of the charts and related publications for navigational waters may be ordered from:
Distribution Branch
(N/CG33)
National Ocean Service
Riverdale, Maryland 20737–1199
Phone: (301) 436–6990
There will be a charge for materials ordered and a VISA or Mastercard will be accepted.

The mid-channel depth to be used in the calculation of the hydraulic radius (r) can be obtained directly from the following sources:
Charts of Canadian Coastal and Great Lakes Waters:
Canadian Hydrographic Service
Department of Fisheries and Oceans Institute
P.O. Box 8080
1675 Russell Road
Ottawa, Ontario KIG 3H6
Canada
Phone: (613) 998–4931
Charts and Maps of Lower Mississippi River
(Gulf of Mexico to Ohio River and St. Francis, White, Big Sunflower, Atchafalaya, and other rivers):
U.S. Army Corps of Engineers
Vicksburg District
P.O. Box 60
Vicksburg, Mississippi 39180
Phone: (601) 634–5000
Charts of Upper Mississippi River and Illinois Waterway to Lake Michigan:
U.S. Army Corps of Engineers
Rock Island District
P.O. Box 2004
Rock Island, Illinois 61204
Phone: (309) 788–6412
Charts of Missouri River:
U.S. Army Corps of Engineers
Omaha District

TABLE 2.—SOURCES OF R AND S FOR THE CHEZY-MANNING EQUATION—Continued

6014 U.S. Post Office and Courthouse
Omaha, Nebraska 68102
Phone: (402) 221–3900
Charts of Ohio River:
U.S. Army Corps of Engineers
Ohio River Division
P.O. Box 1159
Cincinnati, Ohio 45201
Phone: (513) 684–3002
Charts of Tennessee Valley Authority Reservoirs, Tennessee River and Tributaries:
Tennessee Valley Authority
Maps and Engineering Section
416 Union Avenue
Knoxville, Tennessee 37902
Phone: (615) 632–2921
Charts of Black Warrior River, Alabama River, Tombigbee River, Apalachicola River and Pearl River:
U.S. Army Corps of Engineers
Mobile District
P.O. Box 2288
Mobile, Alabama 36628–0001
Phone: (205) 690–2511

The average slope of the river (s) may be obtained from topographic maps:
U.S. Geological Survey
Map Distribution
Federal Center
Bldg. 41
Box 25286
Denver, Colorado 80225
Additional information can be obtained from the following sources:
(1) The State Department of Naval Resources (DNR) or the State Aids to Navigation office;
(2) A knowledgeable local marina operator; or
(3) A knowledgeable local water authority (i.e., State water commission)

The average slope of the river(s) can be determined from the topographic maps using the following steps:

- Locate the facility on the map.
- Find the Normal Pool Elevation at the point of release from the facility into the water (A).
- Find the Normal Pool Elevation of the drinking water intake or environmentally sensitive area located downstream (B) (Note: The owner or operator should use a minimum of 20 miles downstream as a cutoff to obtain the average slope if the location of a specific drinking water intake or environmentally sensitive area is unknown).
- If the Normal Pool Elevation is not available, the elevation contours can be used to find the slope. Determine elevation of the water at the point of release from the facility (A). Determine the elevation of the water at the appropriate distance downstream (B). The formula presented below can be used to calculate the slope.
- Determine the distance (in miles) between the facility and the drinking water intake or environmentally sensitive area (C).
- Use the following formula to find the slope, which will be a unitless value:

Average Slope=[(A − B) (ft)/C (miles)]× [1 mile/5280 feet]

If it is not feasible to determine the slope and mid-channel depth as required by the Chezy-Manning equation, the river velocity can be approximated on-site. A specific length, such as 100 feet, can be marked off along the shoreline. A float can be dropped into the stream above the mark, and the time required for the float to travel the distance can be used to determine the velocity in feet per second. However, this method will not yield an average velocity for the length of the stream, but a velocity only for the specific location of measurement. In addition, the flow rate will vary depending on weather conditions such as wind and rainfall. It is recommended that owners and operators repeat the measurement under a variety of conditions to obtain the most accurate estimate of the surface water velocity.

The planning distance calculations for moving and still navigable waters are based on discharges of persistent oils released in worst case discharge volumes. Persistent oils are of concern because they can remain in the water for significant periods of time and can potentially exist in large quantities downstream. Owners and operators of facilities that store persistent as well as non-persistent oils may use an alternative formula provided it is acceptable to the RA. The volume of oil discharged is not included as part of the planning distance calculation for moving navigable waters. Facility owners and operators that will complete this part of the substantial harm determination are those with facility capacities greater than or equal to one million gallons. It is assumed that these facilities are capable of having an oil discharge of sufficient quantity to cause injury to a sensitive environment or shut down a drinking water intake. While owners and operators of transfer facilities that store greater than or equal to 42,000 gallons are not required to use a planning distance formula for purposes of the substantial harm determination, they should use a planning distance calculation in the development of facility-specific response plans.

TABLE 3.—SPECIFIED TIME INTERVAL

	Higher volume port areas and Great Lakes	Other areas
Shoreline and Inland	12 hour arrival + 3 hour deployment = 15 hours	24 hours + 3 hour deployment = 27 hours.
Rivers	12 hours + 3 hour deployment = 15 hours.	24 hours + 3 hour deployment = 27 hours.

Definitions

Great Lakes: includes the Great Lakes (Superior, Michigan, Huron, Erie and Ontario) plus their connecting and tributary waters including the Calumet River as far as Thomas J. O'Brien Lock and Controlling Works (between mile 326 and 327), the Chicago River as far as the east side of the Ashland Avenue Bridge (between mile 321 and 322), and the Saint Lawrence River as far east as the lower exit of the Saint Lambert Lock.

Higher Volume Port Area: includes

(1) Boston, MA
(2) New York, NY
(3) Delware Bay and River, 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)
(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 and Sacramento River, CA
(14) Straits of Juan de Fuca and Puget Sound, WA
(15) Prince William Sound, AK
(16) others as specified by RA

Inland Area: the area shoreward of the boundary lines defined in 46 CFR Part 7, except in the Gulf of Mexico. In the Gulf of Mexico, inland areas include the area shoreward of the lines of demarcation (COLREG lines as defined in 33 CFR sections 80.740–80.850). The inland area does not include the Great Lakes or rivers and canals.

River and Canals: bodies of water confined within the inland area that have a controlled navigable depth of 12 feet or less, including the Intracoastal Waterway.

Example of the Planning Distance Calculation

The following example provides a sample calculation using the planning distance formula for a facility discharging into the Monongahela River:

(1) Solve for v by evaluating n, r, and s for the Chezy-Manning equation:

n=0.035 From Table 1 for a regular section of a major stream with a top width greater than 100 feet. The top width of the river can be found from the topographic map.

$s=1.3\times10^{-4}$ where A = 727 feet, B = 710 feet, and C = 25 miles.

Solving:

$[(727\text{ ft}-710\text{ ft})/25\text{ miles}]\times[1\text{ mile}/5280\text{ feet}]=1.3\times10^{-4}$

r=13.33 feet. The average mid-channel depth is found by averaging the mid-channel depth for each mile along the length of the river between the facility and the drinking water intake or the environmentally sensitive area (or 20 miles downstream if applicable). This value is multiplied by 0.667 to obtain the hydraulic radius. The mid-channel depth is found on the chart of the Monongahela River.

Solving:

r=0.667×20 feet=13.33 feet

Solve for v using

$v=1.5/n\times r^{2/3}\times s^{1/2}$;

$v=[1.5/0.035]\times(13.33)^{2/3}\times(1.3\times10^{-4})^{1/2}$

v=2.73 feet/second

(2) Find t from Table 3. For the Monongahela River, the resource response time is 27 hours.

(3) Solve for planning distance, d:

d=v×t×c

d=(2.73 ft/sec)×(27 hours)×(0.68 sec•mile/hr•ft)

d=50 miles

Therefore, 50 miles downstream is the appropriate planning distance for this facility.

Oil Transport on Still Water

For bodies of water including lakes or ponds which do not have a measurable velocity, the spreading of the oil over the surface must be considered. Owners and operators of facilities located next to still water bodies may use an alternative means of calculating the planning distance if it is acceptable to the RA. If an alternative formula is used, documentation of the reliability and analytical soundness of the alternative calculation must be attached to the response plan cover sheet. To assist those facilities which could potentially discharge into a still body of water, the following analysis was performed to provide an example of the type of formula that may be used to calculate the planning distance. For this example, a worst case discharge of 2,000,000 gallons is used.

The surface area covered by a spill on still water, A_1, can be determined by the following formula[1], where V is the volume of the spill in gallons:

$A_1=10^5V^{3/4}$

V=2,000,000 gallons×0.13368 ft^3/gallon=267,360 ft^3

$A_1=10^5\times(267,360)^{3/4}$

$A_1=1.18\times10^9\ ft^2$

The spreading formula is based on the theoretical condition that the oil will spread uniformly in all directions forming a circle. In reality, the outfall of the discharge will direct the oil to the surface of the water where it intersects the shoreline. Although the oil will not spread uniformly in all directions, it is assumed that the discharge will spread from the shoreline into a semi-circle (this assumption does not account for winds or wave action).

The area of a circle=πr^2

To account for the assumption that oil will spread in a semi-circular shape, the area of a circle is divided by 2 and is designated as A_2.

$A_2=(\pi r^2)/2$

Solving for the radius, r, using the relationship $A_1=A_2$:

$1.18\times10^9=(\pi r^2)/2$

∴ r=27,404 ft

27,404 ft÷5,270 ft/mile=5.2 miles

Assuming a 20 knot wind under storm conditions:

1 knot=1.15 miles/hour

20 knots×1.15 miles/hour/knot=23 m/hr

Assuming that the oil slick moves at 3% of the wind's speed[2]:

23 miles/hour×0.03=.69 miles/hour

To estimate the distance that the oil will travel, the time required for response resources to arrive at different geographic locations according to Table 3 is used:

For Higher Volume Port Areas and Great Lakes: 15 hrs×0.69 m/hr=10.4 miles

For other areas: 27 hrs×0.69 m/hr=18.6 miles

The total distance that the oil will travel from the point of release:

Higher Volume Port Areas and Great Lakes: 10.4+5.2 miles or approximately 16 miles

Other areas: 18.6+5.2 miles or approximately 24 miles

Oil Transport Over Land

Facility owners or operators must evaluate the potential for oil to be transported over land to waters of the United States. The owner or operator should evaluate the likelihood that portions of a worst case discharge would reach navigable waters via open channel flow or from sheet flow across the land, or be prevented from reaching navigable waters when trapped in natural or man-made depressions.

As discharged oil travels over land, it may enter a storm drain or open concrete channel intended for drainage. An evaluation of the flow of oil in concrete pipes and channels

[1] Huang, J.C. and Monastero, F.C., 1982. Review of the State-of-the-the Art of Oil Pollution Models. Final report submitted to the American Petroleum Institute by Raytheon Ocean Systems, Co., East Providence, Rhode Island.

[2] Oil Prevention & Control. National Spill Control School, Corpus Christi State University. Thirteenth Edition, May 1990.

reveals that the travel time through the length of the drain is virtually instantaneous.[3] For this reason, it is assumed that once oil reaches such an inlet, it will flow into the navigable water. During a storm event, it is highly probable that the oil will either flow into the drainage structures or follow the natural contours of the land and flow into the navigable water. Expected minimum and maximum velocities are provided as examples of open channel and pipe flow. The ranges listed below reflect minimum and maximum velocities used as design criteria. It is shown that the time required for oil to travel through a storm drain or open channel to navigable water is negligible and can be considered instantaneous. The velocities are:

For open channels:

maximum velocity=25 feet per second
minimum velocity=3 feet per second

For storm drains:

maximum velocity=25 feet per second
minimum velocity=2 feet per second

Assuming a length of ½ mile from the point of discharge through a open concrete channel or concrete storm drain to a navigable water, the travel times (distance/velocity) are:

1.8 minutes at a velocity of 25 feet per second
14.7 minutes at a velocity of 3 feet per second
22.0 minutes at a velocity of 2 feet per second

The distances that should be considered to determine the planning distance are illustrated in Figure 1. The relevant distances can be described as follows:

D1=Distance from the nearest opportunity for release, X_1, to storm drain or open channel leading to navigable water

D2=Distance through storm drain or open channel to navigable water

D3=Distance downstream from outfall within which an environmentally sensitive area could be injured or a drinking water intake would be shut down as determined by the planning distance formula

D4=Distance from the nearest opportunity for release, X_2, to an environmentally sensitive area not associated with navigable water

Facility owners and operators whose nearest opportunity for discharge is located within ½ mile of a navigable water should complete the planning distance calculation or an alternative formula acceptable to the RA. Facilities that are located at a distance greater than ½ mile from a navigable water should also calculate a planning distance if they are in close proximity to storm drains or environmentally sensitive areas.

Storm drains or concrete drainage channels that are located in close proximity to the facility provide a direct pathway to navigable waters. Figure 1 depicts the configuration of a facility and denotes the storm drain as D1. If D1 is less than or equal to ½ mile, a discharge from the facility could pose substantial harm since the travel time through the storm drain to the navigable water (D2) is instantaneous. Even if the facility is located at a distance greater than ½ mile from the navigable water, the storm drain provides direct access to the water, regardless of the length of the drainage pipe. In this case, the owner or operator should calculate a planning distance.

A facility's proximity to an environmentally sensitive area, as depicted in D4 of Figure 1 should also be considered, regardless of the distance from the facility to navigable waters. Factors to be considered in assessing oil transport over land to sensitive environments and storm drains should include the topography of the surrounding area, drainage patterns, man-made barriers (excluding secondary containment structures), and soil distribution and porosity.

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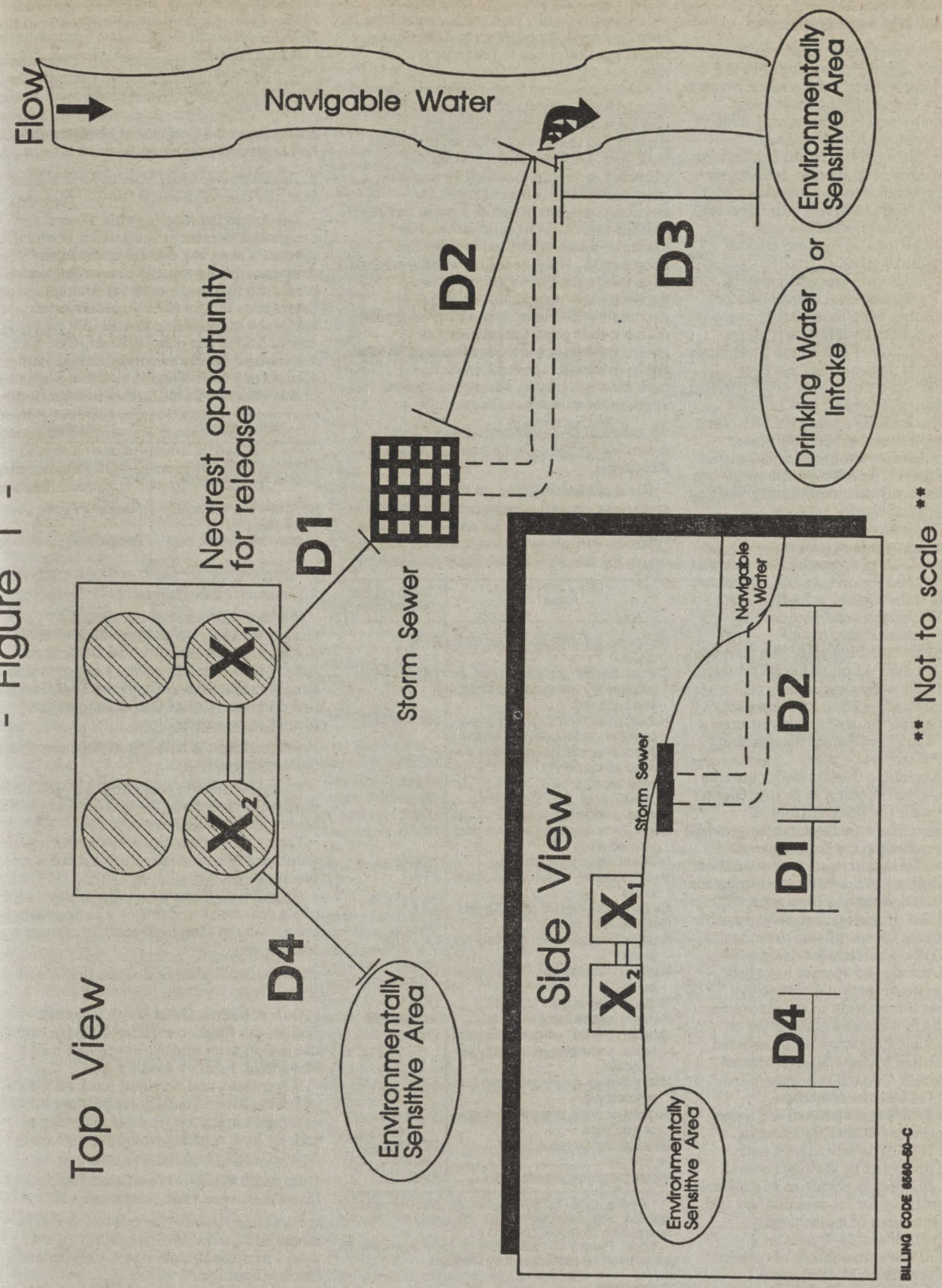
[3] The design velocities were obtained from Howard County, Maryland Department of Public Works' Storm Drainage Design Manual.

- Figure 1 -



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Appendix D to Part 112.—Environmentally Sensitive Areas

Proximity to environmentally sensitive areas has been identified as a factor in the substantial harm evaluation. To assist owners and 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/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 Regional Administrator (RA) 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 RA 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.

Attachment C–III of appendix C of this part provides a method for owners and operators to determine if the facility is located at a distance such that a discharge from the facility could cause injury to an environmentally sensitive area. The distance calculation is based on oil transport on fast moving and still waters and over land. "Injury" is defined in § 112.2 of this part. This definition of "injury" is derived from the Natural Resource Damage Assessments rule at 43 CFR part 11.

The attachments to this appendix provide environmental information to facility owners and operators for the development of response plans. The attachments also provide information regarding the boundaries of environmentally sensitive areas located near the facility and prioritize vulnerable areas for protection in the event of a discharge. Attachment D–I provides a list of responsible Federal agencies for specific environmental resources. Critical habitats for designated endangered/threatened species have been designated as environmentally sensitive areas. Further information to assist owners and operators to delineate boundaries on critical habitats for endangered/threatened species identified by the National Marine Fisheries Service (NMFS) is provided in Attachment D–II. National Marine Sanctuaries (NMS) and National Estuarine Research Reserves (NERR) are listed in Attachment D–III. The sanctuaries and reserves are protected by various Federal regulations. In order to prioritize and allocate sufficient resources for oil containment and recovery in the event of a discharge, Attachments D–IV and D–V present a comparison of the vulnerability of certain aquatic ecosystems to oil discharges. Attachment D–IV presents a list of aquatic habitats, their importance, and vulnerability to oil discharges. Attachment D–V ranks several aquatic habitats on their relative vulnerability to oil. This prioritized list will help owners and operators to direct their initial spill response to the most critical areas.

Areas considered as environmentally sensitive will change as the various Federal and State agencies responsible for designating the areas periodically update their lists. Owners and operators are expected to ensure that facility response plans reflect the listing of sensitive environments published to a point in time 6 months prior to plan submission. For example, plans submitted to meet the February 18, 1993, deadline would only need to consider sensitive environments designated by responsible agencies in Attachment D–I as of August 18, 1992. A 6-month cutoff point for considering environmentally sensitive areas would also apply in situations where plans are periodically updated or resubmitted for approval of a material change.

Attachment D–I.—Responsible Federal Agencies for Specific Environmental Resources

For more information on the following areas, owners and operators should contact the responsible agency listed below. These agencies will provide assistance, including maps, for the areas under their jurisdiction.

Areas	Responsible federal agency
Wetlands, as defined in 40 CFR 230.3.	EPA [1]
Critical habitat for designated or proposed endangered/threatened species.	NOAA/FWS
Habitat used by designated or proposed endangered/threatened species or marine mammals defined as depleted.	NOAA/FWS
Marine sanctuaries	NOAA
National parks	DOI/NPS
Federal wilderness areas	USDA
Coast Zone Management Act designated areas.	NOAA
National estuary program	NOAA
Near coastal waters program areas.	EPA [1]
Clean lakes program critical areas	EPA [1]
National monuments	DOT
National seashore recreational areas.	DOI/NPS
National lakeshore recreational areas.	DOI
National preserves	DOI
National wildlife refuges	NOAA/FWS
Coastal barrier resource system (units, undeveloped, partially developed).	FWS
National river reach designated as recreational.	EPA [1]
Federal or state designated scenic or wild river.	DOI
National conservation areas	DOI/BLM
Hatcheries	FWS
Waterfowl management areas	FWS

[1] Where EPA is designated as the responsible agency, the information will be provided by the appropriate Regional office.

NOTE: Please contact State or local agencies for information on resources they manage.

Acronyms

BLM—Bureau of Land Management
DOI—Department of Interior
EPA—Environmental Protection Agency
FWS—Fish and Wildlife Service
NOAA—National Oceanic and Atmospheric Administration
NPS—National Park Service
USDA—United States Department of Agriculture

Attachment D–II.—Critical Habitats and Endangered/Threatened Species

1. Designated Critical Habitat for National Marine Fisheries Service (NMFS) Species

The following locations have been designated as critical habitats for NMFS species. These habitats are considered environmentally sensitive areas and are preserved by the government. Habitat boundaries for the NMFS species listed below are identified in the 50 CFR parts 226 and 227. This list is not all-inclusive. Facility owners and operators should contact the appropriate NMFS region listed in Section 3 of this attachment for further information.

NMFS species	Location
Hawaiian monk seal	NW Hawaiian Islands.
Leatherback sea turtle	Sandy Pt., St. Croix, USVI.
35 Steller sea lion rookery sites.	Alaska/N. Pacific Coast.
Winter-run chinook salmon.	Sacramento River, CA.

2. Seasonal Critical Habitats

Primary seasonal habitat areas for endangered species as identified in recovery plans and other technical documents are listed below. Facility owners and operators should contact the appropriate NMFS region listed in Section 3 of this attachment for further information.

Northern Right Whale (Final Recovery Plan, December 1991)

Florida—Georgia coast from 28°N to 32°N during the months of December through March. Calving and nursery area.

Cape Cod—Massachusetts Bay during the months of March–September. Primary feeding areas.

Great South Channel on the western edge of Georges Bank and Jeffrey's Ledge during the months of March–September. Primary feeding area.

Humpback Whale—East Coast Population (Final Recovery Plan, November 1991)

Gulf of Maine, Great South Channel. Stellwagen Bank, and Jeffrey's Ledge during the period from mid-April through mid-November. Primary feeding area.

Silver Bank and Navidad Bank off the coast of Puerto Rico, coastal areas off the northwest coast of Puerto Rico, and the U.S. Virgin Islands from mid-December through early April. Calving and nursery area.

Humpback Whale—West Coast Population (Final Recovery Plan, November 1991)

Hawaiian Islands (Central North Pacific stock) and Guam (Western North Pacific stock) from December–April. Calving and nursery area.

Central and western Gulf of Alaska, including Prince William Sound, Shelikof Straight, Barren Islands and the southern

coastline of the Alaska peninsula during the months of May–November. Primary feeding area.

Inside Passage and coastal waters of the southeast Alaska panhandle from Yakutat Bay south to Queen Charlotte Sound during the months May–November. This area includes Glacier Bay, Ioy Straight, Stephens Passage/Frederick Sound, Seymour Canal, Sitka Sound, Cape Fairweather, Lynn Canal, Sumner Straight, Dixon Entrance, the west coast of Prince Wales Islands, and the Fairweather grounds which is an offshore bank. Primary feeding area.

Shortnose Sturgeon (NOAA Technical Report NMFS 14 and FAO Fisheries Synopsis No. 140)

The following east coast rivers and bays should be included: Kennebec River, Andrescoggin River, Montsweag Bay, Merrimack River, Connecticut River, Hudson River, Delaware River, Wacoamaw River (including Winyah Bay), Lake Marion-Wateree River, lower Savannah River, Altamaha River, Ocumulgee River, and St. Johns River.

Gray Whale (5 Year Status Review)

Northern Bering and southern Chukchi Seas. Primary feeding areas.

Unlike other whale species, the gray whale is particularly vulnerable during its migration period because it migrates very close to shore. In areas such as Monterey and Point Conception it migrates within two miles of shore. The entire west coast from Alaska to the Mexican border should be listed during the migration periods. Southbound migration is during the months of October–December, and northbound migration is from mid-February to April.

Sacramento River Winter-run Chinook Salmon should be revised to reflect the revised critical habitat proposal, 57 FR 36626–36632, August 14, 1992.

(1) Sacramento River from Keswick Dam (River Mile 302) to Chipps Island (River Mile 0) at the westward margin of Sacramento-San Joaquin Delta;

(2) all waters from Chipps Island westward to Carquinez Bridge, including Honker Bay, Grizzly Bay, Suisan Bay, and Carquinez Straight;

(3) all waters of San Pablo bay from San Pablo Bay to the Golden Gate bridge.

3. NOAA National Marine Fisheries Service Regional Offices

NMFS Northeast Region, Richard B. Roe, Director, One Blackburn Drive, Gloucester, MA 01930, Tel: (508) 281–9250

NMFS Southeast Region, Andrew Kemmerer, Director, 9450 Koger Blvd., St. Petersburg, FL 33702, Tel: (813) 893–3141

NMFS Northwest Region, Rolland Schmitten, Director, 7600 Sand Point Way NE, Seattle, WA 98115–0070, Tel: (206) 526–6150

NMFS Southwest Region, Gary Matlock, Acting Director, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213, Tel: (310) 980–4001

NMFS Alaska Region, Steven Pennoyer, Director, Post Office Box 21668, Juneau, AK 99802, Tel: (907) 586–7221.

Attachment D–III.—Marine Sanctuary and Estuarine Reserves

The following sanctuaries and reserves are protected by Federal regulations:

National marine sanctuaries (NMS)	Location	Regulation
Monitor NMS.	North Carolina.	15 CFR part 924.
Key Largo NMS.	Florida	15 CFR part 929.
Channel Islands NMS.	California	15 CFR part 935.
Point Reyes/Farallon Island NMS.	California	15 CFR part 936.
Looe Key NMS.	Florida	15 CFR part 937.
Gray's Reef NMS.	Georgia	15 CFR part 938.
Fagatele Bay NMS.	American Samoa.	15 CFR part 941.
Cordell Bank NMS.	California	15 CFR part 942.
Florida Keys NMS.	Florida	pending.[1]
Flower Garden Banks NMS.	Texas	15 CFR part 943.

National estuarine research reserve (NERR)	Area of concern
Wells NERR	Rachel Carson Refuge, ME.
Great Bay NERR	Durham, NH.
Waquoit Bay NERR	Massachusetts.
Narragansett Bay NERR	Rhode Island.
Hudson River NERR	New York.
Old Woman Creek NERR	Huron, OH.
Chesapeake Bay NERR, MD.	Annapolis, MD.
Chesapeake Bay NERR, VA.	Gloucester Pt., VA.
North Carolina NERR	Wilmington, NC.
Sapelo Island NERR	Georgia.
Jobos Bay NERR	Guayama, PR.
Apalachicola River NERR	Florida.
Rookery Bay NERR	Naples, FL.
Weeks Bay NERR	Fairhope, AL.
Tijuana River NERR	Imperial Beach, CA.
Elkhorn Slough NERR	Watsonville, CA.
South Slough NERR	Charleston, OR.
Padilla Bay NERR	Mt. Vernon, WA.
Waimanu Valley NERR	Oahu, HI.

Information on these sanctuaries and reserves can be found in the regulations:

—National Marine Sanctuary Program (15 CFR part 922)

—National Estuarine Research Reserve Program (15 CFR part 921)

[1] Currently designated a National Marine Sanctuary by the Office of Ocean and Coastal Resource Management, Sanctuaries and Reserves Division. Publication in Federal Register is pending.

For additional information on area boundaries for all sites, and proposed Sanctuaries and Estuarine Reserves contact: Office of Ocean and Coastal Resource Management, Sanctuaries and Reserves Division, 1825 Connecticut Avenue, NW., room 714, Washington, DC 20235.

Attachment D–IV.—Vulnerability of Aquatic Ecosystems

Habitat	Importance	Vulnerability to oil discharges
Intertidal shore:		
Sandy Beach		Moderate.
Rocky Shore		High.
Tidal Flat	Bird nesting and feeding.	High.
Intertidal wetlands:		
Marshes	Breeding for nursery grounds for fish and wildlife, erosion control, and nutrient trap.	Low-high.
Mangroves		High.
Subtidal systems:		
Seagrass	Fish feeding and nursery; sediment containment and stabilization.	High.
Coral Reef		High.
Soft Bottom		High.
Rocky		Moderate.
Fisheries:		
Offshore	Commercial fisheries.	Low (except spawning).
Nearshore		Moderate-High.
Coral Reef		High.
Freshwater:		
Fast Flowing	Fisheries	Moderate.
Large River	Fisheries	Moderate.
Ponds	Aquaculture	High.
Lakes	Fisheries	Low.
Tundra/Taiga		High.

SOURCE: United States Department of the Interior, Fish and Wildlife Service National Wetlands Research Center.

Attachment D–V.—Vulnerability Scale of Aquatic Habitats Impacted by Oil Spills

This attachment ranks aquatic habitats by their relative degree of vulnerability to oil spills. The most vulnerable habitats are those with the lowest number corresponding to the order of importance. Facility owners and operators should use the scale to direct initial recovery efforts to the most critical areas.

Order of importance	Habitat
1	Subtidal soft bottoms, seagrass communities and freshwater systems which once impacted may incur long-term damage.
1	Sheltered marshes and mangrove coasts; difficult to clean.
2	Sheltered estuarine tidal flats; natural cleansing may take years.
3	Sheltered rocky coasts; oil may not be washed off for months; residual toxicity low but may alter habitat and slow recovery process.
3–4	Coral Reefs.
4	Gravel beaches; oil penetrates up to 60 centimeters and persists as a mousse for long periods.
5	Mixed sand and gravel beaches; penetration of oil and rapid burial; oil may persist for year; mechanical cleanup may cause significant erosion.

Order of importance	Habitat
6	Exposed, compacted tidal flat; oil penetrates deeply.
7	Medium-coarse grained sand beaches; oil penetration likely.
8	Flat, fine-grained sand beaches; compaction prohibits oil penetration.
9	Eroding wave-cut platforms; good wave action.
10	Exposed or cliffed rock headlands; good wave action.

SOURCE: United States Department of the Interior, Fish and Wildlife Service National Wetlands Research Center.

Appendix E to Part 112—Determiantion of a Worst Case Discharge

Instructions

Owners and operators are required to complete this worksheet if it is determined (from appendix C of this part) that the facility could cause substantial harm to the environment by self-selection or RA determination. The calculation of a worst case discharge is use for emergency planning purposes, and is required in § 112.20 for facility owners and operators who must prepare a response plan. When planning for the amount of resources and equipment necessary to respond to the worst case discharge planning volume, adverse weather conditions should be taken into consideration. Owners and operators would be required to determine the facility's worst case discharge from either part A for onshore storage facilities, or part B for onshore production facilities. The worksheet integrates a facility's use of secondary containment and its proximity to navigable waters.

For onshore storage facilities and production facilities, permanently manifolded tanks are defined as tanks that are designed, installed, and/or operated in such a manner that the multiple tanks function as one storage unit. In a worst case discharge scenario, a single failure could cause the release of the contents of more than one tank. The owner or operator must provide evidence in the response plan that tanks with common piping or piping systems are not operated as one unit. If such evidence is provided and is acceptable to the RA, the worst case discharge volume would be based on the capacity of the largest tank within a common secondary containment area or the largest tank within a single secondary containment area, whichever is greater.

For permanently manifolded tanks that function as one storage unit, the worst case discharge would be based on the combined storage capacity of all manifolded tanks or the capacity of the largest single tank within a secondary containment area, whichever is greater. For purposes of this determination, permanently manifolded tanks that are separated by internal divisions for each tank are considered to be single tanks and individual manifolded tank volumes are not combined.

For production facilities, the presence of exploratory wells, production wells, and storage tanks must be considered in the calculation. Part B takes these additional factors into consideration and provides steps for their inclusion in the total worst case volume. Onshore oil production facilities may include all wells, flowlines, separation equipment, storage facilities, gathering lines, and auxiliary non-transportation-related equipment and facilities in a single geographical oil or gas field operated by a single operator. Although a potential worst case volume is calculated within each section of the worksheet, the final worst case amount is dependent on the risk parameter that results in the greatest volume.

Marine transportation-related transfer facilities that contain fixed aboveground onshore structures used for bulk oil storage are jointly regulated by EPA and the U.S. Coast Guard (USCG), and are termed "complexes." Because the USCG also requires response plans from transportation-related facilities to address a worst case discharge of oil, a separate calculation for the worst case discharge volume for USCG-related facilities is included in the interim final rule which amends 33 CFR part 154 (58 FR 7330; February 5, 1993). All "complexes" must compare both calculations for worst case discharge derived by EPA and USCG and plan for whichever volume is greater.

Part A. Worst Case Discharge Calculation for Onshore Storage Facilities [1]

Part A of this worksheet is to be completed by owners or operators of SPCC-regulated facilities (excluding oil production facilities) if it is determined that the facility could cause substantial harm to the environment by self-selection or RA determination, as presented in Appendix C of this part.

If you are the owner or operator of a production facility, please proceed to Part B.

A1. Single-Tank Facilities

For facilities containing only one aboveground storage tank, the worst case volume equals the capacity of the storage tank.

—Final Worst Case Volume:
_____Gal.
—Do not proceed further.

A2. Secondary Containment—Multiple Tank Facilities

Are all aboveground storage tanks or groups of aboveground storage tanks at the facility without adequate secondary containment? [2] _____(Y/N)

a. If the answer is yes, the final worst case volume equals the total aboveground oil storage capacity at the facility.

—Final Worst Case Volume:
_____Gal.
—Do not proceed further.

b. If the answer is no, calculate the total aboveground capacity of tanks without adequate secondary containment. If all aboveground storage tanks or groups of aboveground storage tanks at the facility have adequate secondary containment, ENTER "0" (zero). _____Gal.

—Proceed to question A3.

A3. Distance to Navigable Waters

a. Is the nearest opportunity for discharge (i.e., storage tank, piping, or flowline) adjacent to a navigable water? [3]
_____(Y/N)

b. If the answer is yes, calculate 110% of the capacity of the largest single aboveground storage tank within a secondary containment area or 110% of the combined capacity of a group of aboveground storage tanks permanently manifolded together, [4] whichever is greater, PLUS THE VOLUME DETERMINED IN QUESTION A2(b). [5]

—Final Worst Case Volume:
_____Gal.
—Do not proceed further.

c. If the answer is no, calculate the capacity of the largest single aboveground storage tank within a secondary containment area or the combined capacity of a group of aboveground storage tanks permanently manifolded together, whichever is greater, PLUS THE VOLUME FROM QUESTION A2(b).

—Final Worst Case Volume: [6]
_____Gal.

Part B. Worst Case Discharge Calculation for Onshore Production Facilities

Part B of this worksheet is to be completed by owners or operators of SPCC-regulated oil production facilities that are determined by the RA to have the potential to cause substantial harm and are required to prepare and submit a response plan. A production facility consists of all wells (producing and exploratory) and related equipment in a single geographical oil or gas field operated by a single operator.

B1. Single-Tank Facility

For facilities containing only one aboveground storage tank, the worst case

[1] "Storage facilities" represent all facilities subject to this part, excluding oil production facilities.

[2] Secondary containment is defined in § 112.7(e)(2) of 40 CFR Part 112, revised as of July 1, 1992. Acceptable methods and structures for containment are given in § 112.7(c)(1) of 40 CFR Part 112, revised as of July 1, 1992.

[3] Navigable waters are defined in 40 CFR Part 110.

[4] For one or more independent aboveground storage tanks within a secondary containment area, this amount is simply 110% of the capacity of the largest tank. Permanently manifolded tanks are defined as tanks that are designed, installed, and/or operated in such a manner that the multiple tanks function as one storage unit. The owner or operator must provide evidence in the response plan that tanks with common piping or piping systems are not operated as one unit. If such evidence is provided and is acceptable to the RA, the worst case discharge volume would be based on the capacity of 110% of the largest tank within a common secondary containment area or 110% of the largest tank in a single containment area, whichever is greater. For permanently manifolded tanks that function as one storage unit, the worst case discharge volume would be based on 110% of the combined storage capacity of all manifolded tanks or 110% of the largest single tank within a secondary containment area, whichever is greater. For purposes of this determination, permanently manifolded tanks that are separated by internal divisions for each tank are considered to be single tanks and individual manifolded tank volumes are not combined.

[5] If the volume determined in Question A3(b) is greater than the total aboveground storage capacity of the facility, fill in the lesser of these two volumes in the space provided.

[6] All "complexes" jointly regulated by EPA and USCG must also calculate the worst case discharge for the transportation-related portions of the facility and plan for whichever volume is greater.

volume equals the capacity of the aboveground storage tank plus the production volume of the well with the highest output (forecasted output for exploratory wells and production wells producing under pressure) at the facility.[7]

—Final Worst Case Volume:
_____ Gal.

—Do not proceed further.

B2. Secondary Containment—Multiple Tank Facilities

Are all aboveground storage tanks or groups of aboveground storage tanks at the facility without adequate secondary containment? _____ (Y/N)

a. If the answer is yes, the final worst case volume equals the total aboveground oil storage capacity without adequate secondary containment plus the production volume of the well with the highest output (forecasted output for exploratory wells and production wells producing under pressure) at the facility?[7]

—Final Worst Case Volume:
_____ Gal.

—Do not proceed further.

b. If the answer is no, calculate the total aboveground capacity of tanks without adequate secondary containment. If *all* aboveground storage tanks or groups of aboveground storage tanks at the facility have adequate secondary containment, ENTER "0" (zero). _____ Gal.

—Proceed to question B3.

B3. Distance to Navigable Waters

a. Is the nearest opportunity for discharge (i.e., storage tank, piping, or flowline) adjacent to a navigable water?
_____ (Y/N)

b. If the answer to the above question is yes, calculate 110% of the capacity of the largest single aboveground storage tank within a secondary containment area or 110% of the combined capacity of a group of aboveground storage tanks permanently manifolded together,[8] whichever is greater, plus the production volume of the well with the highest output (forecasted output for exploratory wells producing under pressure), PLUS THE VOLUME FROM QUESTION B2(b).[9]

—Final Worst Case Volume:
_____ Gal.

—Do not proceed further.

c. If the answer to the above question is no, calculate the capacity of the largest single aboveground storage tank within a secondary containment area or the combined capacity of a group of aboveground storage tanks permanently manifolded together, whichever is greater, plus the production volume[7] of the well with the highest output (forecasted output for exploratory wells producing under pressure), PLUS THE VOLUME FROM QUESTION B2(b).

—Final Worst Case Volume:[10]
_____ Gal.

Appendix F to Part 112—Guidelines for Determining and Evaluating Required Response Resources for Facility Response Plans

1. Purpose

1.1 The purpose of this appendix is to assist in the identification of response resources necessary to meet the requirements of § 112.20. These guidelines should be used by the facility owner or operator in preparing the response plan and by the Regional Administrator (RA) in reviewing facility response plans.

2. Equipment Operability and Readiness

2.1 All equipment identified in the response plan should be designed to operate in conditions based on location and season. As a result, it is difficult to identify a single catalogue of response equipment that will function effectively in each geographic location.

2.2 If applicable, facilities handling or storing oil in more than one operating environment, as indicated in Table 1, should identify equipment capable of successfully functioning in each operating environment.

2.3 When identifying equipment in the response plan, a facility owner or operator should consider the inherent limitations of the operability of equipment components and response systems. The criteria in Table 1 should 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 should be designed to function in the same conditions. For example, boats which deploy or support skimmers or boom should be capable of being safely operated in the significant wave heights listed for the applicable operating environment.

2.5 Facility owners or operators should refer to the applicable Area Contingency Plan (ACP), when available, to determine if ice, debris, and/or weather-related visibility are significant factors in evaluating the operability of equipment. The ACP may also identify the average temperature ranges expected in the facility's geographic area. All equipment identified in a response plan should be designed to operate within the specified conditions or ranges.

2.6 This appendix provides guidance on response resource mobilization and response times. The distance to the facility from the storage location of the response resources should be used in determining whether the resources can arrive on-scene within the time required. A facility owner or operator should include the time for notification, mobilization, and travel time of resources identified to meet the small, medium, and worst case discharge requirements in the response plan. An on-water speed of 10 knots and a land speed of 35 miles per hour should be assumed for calculating the travel time to the site of the discharge, unless the facility owner or operator can demonstrate otherwise.

2.7 In identifying equipment, the facility owner or operator should list the storage location, quantity, and manufacturer's make and model as required in appendix G of this part. For oil recovery devices, the effective daily recovery rate, as determined using section 6 of this appendix, should be included. A facility owner or operator is responsible for ensuring that the identified boom has compatible connectors.

3. Determining Response Resources Required for Small Discharges

3.1 A facility owner or operator should ensure that sufficient response resources are available for responding to a small discharge. A small spill is defined as any spill volume less than or equal to 2,100 gallons, but not to exceed the calculated worst case discharge.

3.2 "Complexes," which are facilities regulated by EPA and U.S. Coast Guard (USCG), must also consider planning quantities for the transportation-related transfer portion of the facility. The USCG planning level synonymous with the small discharge is termed the average most probable discharge. The USCG interim final rule which amends 33 CFR part 154 (58 FR 7330; February 5, 1993) defines the average most probable discharge as a discharge of 50 barrels (2,100 gallons). Because "complexes" must compare spill volumes for a small discharge (2,100 gallons) and an average most probable discharge (2,100 gallons), and the

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[7] The production volume for each production well (producing by pumping) is determined from the pumping rate of the well multiplied by 1.5 times the number of days the facility is unattended.

For each exploratory well (and production well producing under pressure) 10,000 feet deep or less, the production volume refers to the maximum 30-day forecasted well rate for the exploratory well or production well producing under pressure.

For each exploratory well (and production well producing under pressure) deeper than 10,000 feet, the production volume refers to the maximum 45-day forecasted well rate for the exploratory well or production well producing under pressure.

[8] For one or more independent aboveground storage tanks within a secondary containment area, this amount is simply 110% of the capacity of the largest tank. Permanently manifolded tanks are defined as tanks that are designed, installed, and/or operated in such a manner that the multiple tanks function as one storage unit. The owner or operator must provide evidence in the response plan that tanks with common piping or piping systems are not operated as one unit. If such evidence is provided and is acceptable to the RA, the worst case discharge volume would be based on the capacity of 110% of the largest tank within a common secondary containment area or 110% of the largest tank in a single containment area, whichever is greater. For permanently manifolded tanks that function as one storage unit, the worst case discharge volume would be based on 110% of the combined storage capacity of all manifolded tanks or 110% of the largest single tank within a secondary containment area, whichever is greater. For purposes of this determination, permanently manifolded tanks that are separated by internal divisions for each tank are considered to be single tanks and individual manifolded tank volumes are not combined.

[9] If the volume determined in Question B3(b) is greater than the total aboveground storage capacity of the facility, fill in the lesser of these two volumes in the space provided.

[10] All "complexes" jointly regulated by EPA and USCG must also calculate the worst case discharge for the transportation-related portions of the facility and plan for whichever volume is greater

two planning quantities are identical, complex facilities must plan for small spills less than or equal to 2,100 gallons.

3.3 Where applicable, the following resources should be available in the event of this type of discharge:

3.3.1 1,000 feet of containment boom and a means of immediate deployment.

3.3.2 Oil recovery devices with an effective daily recovery rate equal to the amount of oil discharged in a small spill, within two hours of the detection of an oil discharge.

3.3.3 Oil storage capacity for recovered oily material as indicated in section 8.2 of this appendix.

4. Determining Response Resources Required for Medium Discharges

4.1 A facility owner or operator should ensure that sufficient response resources are available for responding to a medium discharge of oil from a facility. This response will require resources capable of containing and collecting up to 36,000 gallons of oil or 10 percent of the capacity of the largest aboveground storage tank, whichever is less.

4.2 "Complexes" regulated by EPA and USCG must also consider planning quantities for the transportation-related transfer portion of the facility. The USCG planning level synonymous with the medium discharge is termed the maximum most probable discharge. The USCG interim final rule which amends 33 CFR part 154 (58 FR 7330; February 5, 1993) defines the maximum most probable as a discharge of 1,200 barrels (50,400 gallons) or 10 percent of the worst case discharge, whichever is less. Owners and operators of "complexes" must compare spill volumes for a medium discharge and a maximum most probable discharge and plan for whichever quantity is greater.

4.3 Oil recovery devices identified to meet the applicable medium discharge volume planning criteria, should be able to arrive on-scene within 6 hours in higher volume port areas and the Great Lakes, and within 12 hours in all other areas. Higher volume port areas and Great Lakes areas are defined in Attachment C–III of appendix C of this part.

4.4 Because rapid control, containment, and removal of oil is critical in reducing spill impact, the effective daily recovery rate for oil recovery devices should equal 50 percent of the planning volume applicable to the facility as determined in section 4.1 of this appendix. The effective daily recovery rate for oil recovery devices identified in the plan should be determined using the criteria in section 6 of this appendix.

4.5 In addition to oil recovery capacity, the plan should identify and ensure the availability of, through contract or other approved means, sufficient quantity of boom available within the recommended response times for oil collection and containment and protection of shoreline areas. The response plan should identify and ensure the availability of the quantity of boom available through contract or other approved means.

4.6 The plan should indicate the availability of temporary storage capacity to meet the requirements of section 8.2 of this appendix. If available storage capacity is insufficient to meet this requirement, then the effective daily recovery rate should be derated to the limits of the available storage capacity.

4.7 The following is an example of a medium discharge volume planning calculation for equipment identification in a higher volume port areas: The facility's largest aboveground storage tank volume is 840,000 gallons. Ten percent of this capacity is 84,000 gallons. Since 10 percent of the facility's largest tank, or 84,000 gallons, is greater than 36,000 gallons, 36,000 gallons is used as the planning volume. The effective daily recovery rate should be 50 percent of the planning volume, or 18,000 gallons per day. The ability of oil recovery devices to meet this capacity should be calculated using the procedures in section 6 of this appendix. Temporary storage capacity available on-scene should equal twice the daily recovery rate as indicated in section 8.2 of this appendix, or 36,000 gallons per day. The facility owner or operator would use this information to identify and ensure the availability of, through contract or other approved means, the required response resources. The facility owner should 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 should specify the availability of sufficient response resources to respond to the worst case discharge as calculated using appendix E of this part. Section 7 describes the method used in determining adequate response resources for a worst case discharge. A worksheet is provided as Attachment F–1 at the end of this appendix to simplify the procedures involved in calculating the planning volume for response resources for the worst case discharge.

5.2 "Complexes" regulated by EPA and USCG must also consider planning for the worst case discharge at the transportation-related portion of the facility. Because the USCG also requires response plans from transportation-related facilities to address a worst case discharge of oil in the interim final rule which amends 33 CFR part 154 (58 FR 7330; February 5, 1993), a separate calculation for the worst case discharge volume has been developed for USCG-related facilities. All complex facilities must compare both calculations of worst case discharge derived by EPA and USCG and plan for whichever volume is greater.

5.3 Oil spill recovery devices (i.e., equipment and resources) identified to meet the applicable worst case discharge planning volume should be able to arrive on the scene of a discharge within the time specified for the applicable response tier listed below:

	Tier 1 (hrs)	Tier 2 (hrs)	Tier 3 (hrs)
Higher volume port area	6	30	54
Great Lakes	6	30	54
All other river, inland, and nearshore areas	12	36	60

The three levels of response tiers apply to the amount of time in which response equipment and resources should arrive at the scene of a spill to respond to the worst case discharge planning volume. For example, at a worst case discharge in an inland area, the first tier of response resources should arrive at the scene of the spill within 12 hours; the second tier of response resources should arrive within 36 hours; and the third tier of response resources should arrive within 60 hours.

5.4 The effective daily recovery rate for oil recovery devices identified in the response plan should be determined using the criteria in section 6 of this appendix. The storage locations of all equipment used to fulfill the requirements for each tier should be identified. The owner or operator of a facility whose required daily recovery capacity exceeds the applicable contracting caps in Table 5 should identify sources of additional equipment, its location, and the arrangements made to obtain this equipment during a response. While general listings of available response equipment may be used to identify additional sources, the response plan should identify the specific sources and quantities of equipment that a facility owner or operator has considered in their planning.

5.5 In addition to oil spill recovery devices, a facility owner or operator should identify and ensure the availability of, through contract or other approved means, sufficient quantities of boom that can arrive on-scene within the required response times for oil containment and collection and protection of shorelines areas.

5.6 A facility owner or operator should identify the availability of temporary storage capacity to meet the requirements of section 8.2 of this appendix. If available storage capacity is insufficient to meet this recommendation, then the effective daily recovery rate should be derated to the limits of the available storage capacity.

6. Determining Effective Daily Recovery Rate for Oil Recovery Devices

6.1 Oil recovery devices identified by a facility owner or operator should include information on the manufacturer, model, and effective daily recovery rate. These rates should be used to determine whether there is sufficient capacity to meet, to the maximum extent practicable, the applicable planning criteria for a small discharge; medium discharge; and worst case discharge.

6.2 For the purposes of determining the effective daily recovery rate of oil recovery devices, the following method should be used. This method considers potential limitations due to available daylight, weather, sea state, and percentage of emulsified oil in the recovered material.

6.2.1 The following formula should be used to calculate the effective daily recovery rate:

$R = T \times 24 \text{ hours} \times E$

R—Effective daily recovery rate

T—Throughput rate in barrels per hour (nameplate capacity)

E—20% Efficiency factor (or lower factor as determined by RA)

6.2.2 For those devices in which the pump limits the throughput of liquid,

throughput rate should be calculated using the pump capacity.

6.2.3 For belt- or mop-type devices, the throughput rate should be calculated using the speed of the belt or mop; surface area of the belt or mop in contact with the water surface; and the oil encounter rate. For purposes of this calculation, the assumed thickness of oil should be ¼ inch.

6.3 As an alternative to 6.2, a facility owner or operator may provide adequate evidence that a different effective daily recovery rate should be applied for a specific oil recovery device. Adequate evidence is actual verified performance data in spill conditions or tests using American Society of Testing and Materials (ASTM) Standard F631–80, F808–83 (1988).

6.3.1 The following formula should be used to calculate the effective daily recovery rate under this alternative:

R=D×U

R—Effective daily recovery rate

D—Average oil recovery rate in barrels per hour (Item 26 in F808–83; Item 13.1.15 in F631–80; 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 should be used unless a facility owner or operator can demonstrate that the recovery operation can be sustained for longer periods.

6.4 A facility owner or operator submitting a response plan should provide data that supports the effective daily recovery rates 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).

T=267 gpm=381 barrels per hour

R=381×24×.2=1,829 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 resources available to support operations for 12 hours per day.

220 gpm = 314 barrels per hour

R = 314 × 12 = 3,768 barrels per day

The facility owner or operator will be able to use the higher rate if sufficient temporary oil storage capacity is available.

7. Calculating Planning Volumes for a Worst Case Discharge

7.1 A facility owner or operator shall plan for a response to the facility's worst case discharge volume of oil. The worst case discharge calculation worksheet appears in appendix E of this part. Planning for on-water recovery should 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 oil on the shoreline.

7.2 The procedures discussed in sections 7.2.1–7.2.4 should be used to calculate the planning volume for response resources used by a facility owner or operator in determining the required on-water recovery capacity:

7.2.1 The following should be determined: the worst case discharge volume of oil in the facility, the appropriate group(s) for the type of oil handled or stored at the facility [persistent (Groups 2, 3, 4) or non-persistent (Group 1)], and the geographic location of the facility. See Attachment F–2 for definitions of persistent and non-persistent oils. Facilities that handle or store oil from different oil groups should calculate each group separately. This information should be used with Table 2 to determine the percentages of the total volume required for removal capacity planning. Table 2 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 for response resources should be adjusted using the appropriate emulsification factor found in Table 3.

7.2.3 The adjusted volume is multiplied by the on-water oil recovery resource mobilization factor found in Table 4, resulting in total on-water oil recovery capacity in barrels per day that should be identified or contracted to arrive on-scene within the applicable time for each response tier. The on-water resource recovery mobilization factor depends on the operating area and the three response tiers. For higher volume port areas and the Great Lakes, as defined in Attachment C–III of appendix C, of this part, the contracted tiers of resources should be located so that they can arrive on-scene within 6 hours for tier 1, 30 hours for tier 2, and 54 hours for tier 3 of the discovery of an oil discharge. For all other river, inland, and near shore areas, response resources should arrive within 12, 36, and 60 hours for tiers 1, 2, and 3, respectively.

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 should be capable of sustaining operations for the time period specified in Table 2. A facility owner or operator should 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 specified in Table 5, then a facility owner or operator should contract only for the quantity of resources required to meet the cap, but should identify sources of additional resources as indicated in section 5.4 of this appendix. The owner or operator of a facility whose planning volume exceeds the cap in 1993 should make arrangements for additional capacity to be under contract by 1998. The process should be repeated in 1998 and 2003. For a facility that carries multiple groups of oil, the required effective daily recovery capacity for each group should be calculated before applying the cap.

7.3 The procedures discussed in sections 7.3.1–7.3.3 should be used to calculate the planning volume for response resources for identifying shoreline cleanup capacity:

7.3.1 The following should be determined: The worst case discharge volume of oil for the facility; the appropriate group(s) for the type of oil handled or stored at the facility [persistent (Groups 2, 3, 4) or non-persistent (Group 1)]; and the geographic area(s) in which the facility operates. For a facility storing oil from different groups, each group should be calculated separately. Using this information, Table 2 should be used to determine the percentages of the total volume of oil required for shoreline cleanup resource planning.

7.3.2 The shoreline cleanup planning volume for resource planning should be adjusted to reflect an emulsification factor using the same procedure as described in section 7.2.2.

7.3.3 The resulting volume should be used to identify response resources necessary for shoreline cleanup.

7.4 The following is an example of the procedure described above: A facility with a 270,000 barrel (11.3 million gallons) capacity for #6 oil (specific gravity .96) is located in a higher volume port area. The facility is on a peninsula and has docks on both the ocean and bay side. The facility has four aboveground storage tanks with a combined total capacity of 80,000 barrels (3.36 million gallons) and no secondary containment. The remaining facility tanks are inside secondary containment structures. The largest aboveground storage tank (90,000 barrels or 3.78 million gallons) has its own secondary containment. Two 50,000 barrel (2.1 million gallon) tanks (that are not connected by a manifold) are within a common secondary containment tank area, which is capable of holding 100,000 barrels (4.2 million gallons) plus sufficient freeboard.

The worst case discharge for the facility is calculated by adding the capacity of all aboveground storage tanks without secondary containment (80,000 barrels) plus 110% of the capacity of the largest aboveground tank inside secondary containment (110%×90,000 barrels=99,000 barrels). The additional 10 percent is added to the capacity of the tanks because the facility is located adjacent to navigable water. The resulting worst case discharge volume is 179,000 barrels or 7.52 million gallons.

Since the guidelines for tiers 1, 2, and 3 for inland and nearshore exceed the caps identified in Table 5, the facility owner should contract for 10,000 barrels per day (bpd) for tier 1, 20,000 bpd for tier 2, and 40,000 bpd for tier 3. Resources for the remaining 8,795 bpd for tier 1, 11,325 bpd for tier 2, and 10,120 bpd for tier 3 should be identified but not contracted for in advance. The facility owner or operator should also identify or contact for quantities of boom identified in their response plan for the environmentally sensitive areas within the area potentially impacted by a worst case discharge from the facility. Appendix D presents a listing of environmentally sensitive areas and Attachment C–III of appendix C provides a method for calculating a planning distance to sensitive areas and drinking water intakes which may be impacted in the event of a worst case discharge.

8. Additional Equipment Necessary to Sustain Response Operations

8.1 A facility owner or operator should ensure 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. A facility owner or operator is not required to list these resources, but should certify their availability.

8.2 A facility owner or operator should evaluate the availability of adequate temporary storage capacity necessary to meet the affective daily recovery rates from equipment identified in the plan. Because of the inefficiencies of oil spill recovery devices, response plans should identify daily storage capacity equivalent to twice the effective daily recovery rate required on scene. This capacity may be reduced if a facility owner or operator can demonstrate that the efficiencies of the oil recovery devices will reduce the overall volume of oily material that requires storage.

8.3 A facility owner or operator should ensure that their oil spill removal organization has the capability to arrange for disposal of recovered oil products. Specific disposal procedures will be addressed in the applicable ACP.

TABLE 1.—RESPONSE RESOURCE OPERATING CRITERIA OIL RECOVERY DEVICES

Operating environment		Significant wave height [1]	Sea state
River		≤1 foot	1.
Inland		≤3 feet	2.
Great Lakes		≤4 feet	2–3.
Boom Use:			
Boom property	River	Inland	Great Lakes
Significant wave height [1]	≤1	≤3	≤4.
Sea state	1	2	2–3.
Boom height—in. (draft plus freeboard)	6–18	18–42	18–42.
Reserve buoyancy to weight ratio	2:1	2:1	2:1.
Total tensile strength—lbs	4,500	15–20,000	15–20,000.
Skirt fabric tensile strength—lbs	200	300	300.
Skirt fabric tear strength—lbs	100	100	100.

[1] Oil recovery devices and boom should 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.—REMOVAL CAPACITY PLANNING TABLE

Spill location	Nearshore/inland Great Lakes			Rivers and canals		
Sustainability of on-water oil recovery	4 days			3 days		
Oil group	Percent natural dissipation	Percent recovered floating oil	Percent oil onshore	Percent natural dissipation	Percent recovered floating oil	Percent oil onshore
1—Non-persistent oils	80	20	10	80	10	10
2—Light crudes	50	50	30	40	15	45
3—Medium crudes and fuels	30	50	50	20	15	65
4*—Heavy crudes and fuels	10	50	70	5	20	75

* For planning purposes, non-petroleum oil must be considered a Group 4 persistent oil.

TABLE 3.—EMULSIFICATION FACTORS FOR PETROLEUM OIL GROUPS [1]

Non-persistent oil:	
Group 1	1.0
Persistent oil:	
Group 2	1.8
Group 3	2.0
Group 4	1.4

[1] See Attachment F–2 for group designations for non-persistent and persistent oils.

TABLE 4.—ON-WATER OIL RECOVERY RESOURCE MOBILIZATION FACTORS

Area	Tier 1	Tier 2	Tier 3
River	.30	.40	.60
Inland/Nearshore Great Lakes	.15	.25	.40

NOTE: These mobilization factors are for total resources mobilized, not incremental response resources.

TABLE 5.—RESPONSE CAPABILITY CAPS BY GEOGRAPHIC AREA

	Tier 1	Tier 2	Tier 3
February 18, 1993			
All except rivers and canals, Great Lakes	10K bbls/day	20K bbls/day	40K bbls/day.
Great Lakes	5K bbls/day	10K bbls/day	20K bbls/day.
Rivers and canals	1,500 bbls/day	3,000 bbls/day	6,000 bbls/day.
February 18, 1998			
All except rivers and 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	1.875 bbls/day	3,750 bbls/day	7,500 bbls/day.
February 18, 2003			
All except rivers and canals, Great Lakes	TBD	TBD	TDB
Great Lakes	TBD	TBD	TDB
Rivers and canals	TBD	TBD	TDB

Note: The caps show cumulative overall effective daily recovery rate, not incremental increases.
TBD=To Be Determined

Attachment F-1—Worksheet to Plan Volume of Response Resources for Worst Case Discharge

Part I *Background Information*

Step (A) Calculate Worst Case Discharge in barrels (Appendix E of this part) _____

Step (B) Oil Group [1] (Table 3 and Attachment F-2) _____

Step (C) Geographic Area (choose one)
☐ Nearshore/Inland Great Lakes
☐ or River and Canals

Step (D) Percentages of Oil (Table 2)
Percent Lost to Natural Dissipation _____(D1)
Percent Recovered Floating Oil _____(D2)
Percent Oil Onshore _____(D3)

Step (E1) On-Water Recovery

$$\frac{\text{Step (D2)} \times \text{Step (A)}}{100} \quad _____$$

Step (E2) On-Shore Recovery

$$\frac{\text{Step (D3)} \times \text{Step (A)}}{100} \quad _____$$

Step (F) Emulsification Factor (Table 3) _____

Step (G) On-Water Oil Recovery Resource Mobilization Factor (Table 4)
Tier 1 _____(G1)
Tier 2 _____(G2)
Tier 3 _____(G3)

Attachment F-1 continued—Worksheet to Plan Volume of Response Resources for Worst Case Discharge (continued)

Part II *On-Water Recovery Capacity* (barrels/day)

Tier 1 _____Step (E1) × Step (F) × Step (G1)
Tier 2 _____Step (E1) × Step (F) × Step (G2)
Tier 3 _____Step (E1) × Step (F) × Step (G3)

Part III *Shoreline Cleanup Volume* (barrels/day) _____Step (E2) × Step (F)

Part IV *Response Capacity By Geographic Area* (Table 5) (Amount needed to be contracted for, barrels/day)
Tier 1 _____(J1)
Tier 2 _____(J2)
Tier 3 _____(J3)

Part V *Amount Needed to be Identified, but not Contacted for in Advance* (barrels/day)
Tier 1 _____Part II Tier 1—Step (J1)
Tier 2 _____Part II Tier 2—Step (J2)
Tier 3 _____Part II Tier 3—× Step (J3)

Note: To convert to gallons/day, multiply the quantities in Part II—Part V by 42

Example to Attachment F-1—Worksheet to Plan Volume of Response Resources for Worst Case Discharge

Part I *Background Information*

Step (A) Calculate Worst Case Discharge in barrels (Appendix E of this part); 179,000

Step (B) Oil Group [1] (Table 3 and Attachment F-2); 4

Step (C) Geographic Area (choose one)
X—Nearshore/Inland Great Lakes or River and Canals

Step (D) Percentages of Oil (Table 2)
Percent Lost to Natural Dissipation; 10 (D1)
Percent Recovered Floating Oil; 50 (D2)
Percent Oil Onshore; 70 (D3)

Step (E1) On-Water Recovery

$$\frac{\text{Step (D2)} \times \text{Step (A)}}{100} \quad 89{,}500$$

Step (E2) On-Shore Recovery

$$\frac{\text{Step (D3)} \times \text{Step (A)}}{100} \quad 125{,}300$$

Step (F) Emulsification Factor (Table 3); 1.4

Step (G) On-Water Oil Recovery Resource Mobilization Factor (Table 4)
Tier 1; 0.15 (G1)
Tier 2; 0.25 (G2)
Tier 3; 0.40 (G3)

Part II *On-Water Recovery Capacity* (barrels/day)

Tier 1; 18,795
Step (E1) × Step (F) × Step (G1)
Tier 2; 31,325
Step (E1) × Step (F) × Step (G2)
Tier 3; 50,120
Step (E1) × Step (F) × Step (G3)

Part III *Shoreline Cleanup Volume*

(barrels/day); 175,420
Step (E2) × Step (F)

Part IV *Response Capacity By Geographic Area* (Table 5)

(Amount needed to be contracted for in barrels/day)

Tier 1; 10,000 (J1)
Tier 2; 20,000 (J2)
Tier 3; 40,000 (J3)

Part V *Amount Needed to be Identified, but not Contacted for in Advance* (barrels/day)

Tier 1; 8,795
Part II Tier 1—Step (J1) Step (J3)
Tier 2; 11,325
Part II Tier 2—Step (J2)
Tier 3; 10,120
Part II Tier 3—×

Note: To convert to gallons/day, multiply the quantities in Part II—Part V by 42.

Attachment F-2

Attachment F-2—Definitions of Non-Persistent and Persistent Oils

[1] Facilities storing multiple groups of oil should prepare a separate worksheet for each group.

[1] Facilities storing multiple groups of oil should prepare a separate worksheet for each group.

Non-persistent or Group I oil includes:

(1) a petroleum-based oil that, at the time of shipment, consists of hydrocarbon fractions:
  (i) at least 50% of which by volume, distill at a temperature of 340 degrees C (645 degrees F), and
  (ii) at least 95% of which by volume, distill at a temperature of 370 degrees C (700 degrees F);
(2) a non-petroleum oil with a specific gravity less than 0.8.

Non-petroleum oil—oil of any kind that is not petroleum-based. It includes, but is not limited to, animal and vegetable oils.

Persistent oil includes:

(1) a petroleum-based oil that does not meet the distillation criteria for a non-persistent oil. Persistent oils are further classified based on specific gravity as follows:
  (i) Group II—specific gravity less than 0.85.
  (ii) Group III—specific gravity between 0.85 and less than 0.95.
  (iii) Group IV—specific gravity 0.95 or greater.
(2) a non-petroleum oil with a specific gravity of 0.8 or greater. These oils are further classified based on specific gravity as follows:
  (i) Group II—specific gravity between 0.8 and less than 0.85.
  (ii) Group III—specific gravity between 0.85 and less than 0.95.
  (iii) Group IV—specific gravity of 0.95 or greater.

Appendix G—Facility-Specific Response Plan

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1.0 Standard Facility-Specific Response Plan

Introduction

Owners or operators of facilities regulated under this part, which pose a threat of substantial harm to the environment by discharging oil into water bodies or adjoining shorelines, are required to prepare and submit facility-specific response plans to EPA in accordance with the provisions in this Appendix. Facility owners or operators shall determine whether their facility poses substantial harm by using the flowchart presented in Attachment C–I of Appendix C to the proposed rule. Response plans must be sent to the appropriate EPA Regional office. The attached Figure G–1 lists each EPA Regional office and the EPA section and address where owners and operators should submit their response plans. Those facilities deemed by the Regional Administrator (RA) to pose a threat of significant and substantial harm to the environment will have their plans reviewed and approved by EPA. In certain cases, information required in the model response plan is similar to information currently maintained in the facility's SPCC Plan. In these cases, owners and operators may reproduce the information and include a photocopy in the response plan.

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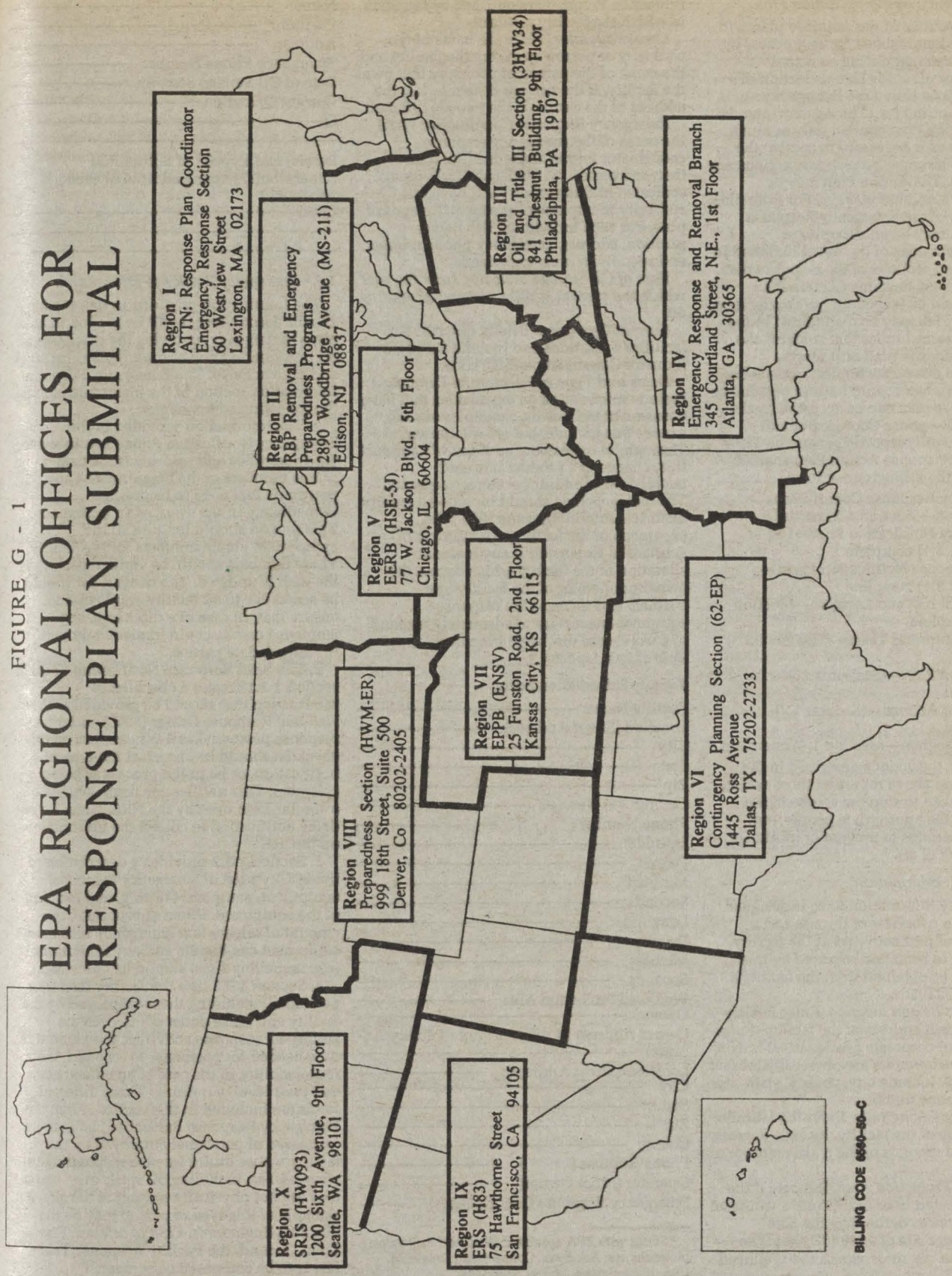
FIGURE G - 1

EPA REGIONAL OFFICES FOR RESPONSE PLAN SUBMITTAL



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1.1 Emergency Response Action Plan.

Several sections of the response plan will be co-located and tabbed for easy access by response personnel during an actual emergency or oil spill. This collection of sections will be called the Emergency Response Action Plan. The Agency intends that the Action Plan contain only as much information as is necessary to combat the spill and be arranged so response actions are not delayed. The Action Plan may be arranged in a number of ways. For example, the sections of the Emergency Response Action Plan may be photocopies or condensed versions of the forms included in the associated sections of the response plan. Each Emergency Response Action Plan section should be tabbed for quick reference. The Action Plan may be maintained in the front of the same binder that contains the complete response plan or it may be contained in a separate binder. In the latter case, both binders should be kept together so that the entire plan can be accessed by the Emergency Response Coordinator and appropriate spill response personnel. The Emergency Response Action Plan shall be made up of the following sections:

1. Emergency Response Coordinator Information—(Section 1.2) partial
2. Emergency Notification Phone List—(Section 1.3.1) complete
3. Spill Response Notification Form—(Section 1.3.1) complete
4. Equipment List and Location—(Section 1.3.2) complete
5. Facility Response Team—(Section 1.3.3) partial
6. Evacuation Plan—(Section 1.3.4) condensed
7. Immediate Actions—(Section 1.7) condensed
8. Facility Diagram—(Section 1.9) complete

Collectively, the actions described in the sections listed above represent those which should be taken to stop the source of the spill, notify the appropriate people, and initiate procedures to prevent or minimize the spreading of oil.

1.2 Facility Information

The facility information form is designed to provide an overview of the site and a description of past activities at the facility. Much of the information required by this section may be obtained from the facility's existing SPCC Plan.

Facility name and location: Enter facility name and street address of the facility. Enter the address of corporate headquarters only if corporate headquarters are physically located at the facility. Include city, county, state, zip code, and phone number.

Latitude and Longitude: Enter the latitude and longitude of the facility. Include degrees, minutes, and seconds of the main entrance of the facility.

Wellhead Protection Area: Indicate if the facility is located in or drains into a wellhead protection area as defined by the Safe Drinking Water Act of 1986 (SDWA). The response plan requirements in the Wellhead Protection Program are outlined by the State in which the facility resides.[1]

Owner/operator: Write the name of the company or person operating the facility and the name of the person or company that owns the facility, if the two are different. List the address of the owner, if the two are different.

Emergency Response Coordinator: Write the name of the emergency response coordinator for the entire facility. If more than one person is listed, each individual indicated in this section shall have full authority to implement the facility response plan. For each individual, list: name, position, address, emergency phone number, and specific training experience.

Date of Oil Storage Start-up: Enter the year which the present facility first started storing oil.

Current Operation: Briefly describe the facilities operations and include Standard Industry Classification (SIC) code.

Dates and Type of Substantial Expansion: Include information on expansions that have occurred at the facility. Examples of such expansions include, but are not limited to: Throughput expansion, addition of a product line, change of a product line, and installation of additional storage capacity. The data provided should include all facility historical information and detail the expansion of the facility. An example of substantial expansion is any material alteration of the facility which causes the owner or operator of the facility to re-evaluate and increase the response equipment necessary to adequately respond to a worst case discharge from the facility.

Date of Last Update: _____

Facility Information Form

Facility Name: _____
Location (Street Address): _____
City _____
State _____
Zip _____
County _____
Phone Number ( ) _____
Latitude: _____
Degree _____
Minutes _____
Seconds _____
Longitude: _____
Degree _____
Minutes _____
Seconds _____
Wellhead Protection Area: _____
Owner: _____
Owner Address (if different from Facility Address) _____
Location (Street Address): _____
City _____
State _____
Zip _____
County _____
Phone Number ( ) _____
Operator (if not Owner): _____
Emergency Response Coordinator(s): _____

[1] States with EPA approved Wellhead Protection programs are: Arkansas, Connecticut, Delaware, Illinois, Louisiana, Maine, Maryland, Massachusetts, Nevada, New Hampshire, New Mexico, New York, Oklahoma, Puerto Rico, Rhode Island, Texas and Vermont (as of August, 1992).

Name: _____
Position: _____
Address: _____
Emergency Phone Number: _____
Date of Oil Storage Start-up _____
Current Operation _____
Q _____

Date(s) and Type(s) of Substantial Expansion(s) (Attach additional sheets if necessary)
Q _____

1.3 Emergency Response Information

The information provided in this section should describe what will be needed in an actual emergency involving the discharge of oil or a combination of hazardous substances and oil discharge. The Emergency Response Information section of the plan must include the following components:

1. The information provided in the Emergency Notification Phone List in section 1.3.1 identifies and prioritizes the names and phone numbers of the organizations and personnel that need to be notified immediately in the event of an emergency. This section should include all the appropriate phone numbers for the facility. These numbers should be verified each time the plan is updated. The contact list should be accessible to all facility employees to ensure that, in case of a discharge, any employee on site could immediately notify the appropriate parties.

2. The Spill Response Notification Form in section 1.3.1 creates a checklist of information that should be provided to the National Response Center (NRC) and other response personnel. All information on this checklist should be known at the time of notification, or be in the process of being collected. This notification form is based on a similar form used by the NRC. Note: Do not delay notification to collect the information on the list.

3. Section 1.3.2 provides a description of the facility's list of emergency response equipment, equipment testing, and location of the equipment. When appropriate, the amount of release that emergency response equipment can handle and any limitations (e.g. launching sites) should be described.

4. Section 1.3.3 lists the facility response personnel, including those employed by the facility and those under contract to the facility for response activities, the amount of time needed for personnel to respond, their responsibility in the case of an emergency, and their level of training. Three different forms are included in this section. First, the Emergency Response Personnel List is to be composed of personnel employed by the facility whose duties involve responding to emergencies, including oil spills even when they are not physically present at the site. An example of this type of person may be the Building Engineer-in-Charge or Plant Fire Chief. Second, the Facility Response Team List is to be composed of personnel (referenced by job title/position) and contractors that will respond immediately upon discovery of an oil spill or other

emergency. These are to be persons normally on the facility premises or primary response contractors (i.e., the first people to respond). Examples of these personnel would be the Facility Hazardous Materials (HAZMAT) Spill Team 1, Facility Fire Engine Company 1, Production Supervisor, or Transfer Supervisor. The last form is a list of the Emergency Response Contractors (both primary and secondary) retained by the facility. These should be listed also on the second form described above. Any changes in contractor status should be reflected in updates to the response plan. Evidence of contracts with response contractors should be included so that availability of resources can be verified. Company personnel must be able to respond immediately and adequately if contractor support is not available.

5. Section 1.3.4 lists factors that should be considered when preparing an evacuation plan.

6. Section 1.3.5 references the facility response coordinators' responsibilities in the event of an emergency.

This information should aid in the assessment of the facility's ability to respond to a worst case discharge and identify additional assistance that may be needed. In addition, it is recommended that the facility produce a wallet-size card containing a checklist of the immediate response and notification steps to be taken in the event of an oil discharge.

Date of Last Update: _____

1.3.1 Notification

Emergency Notification Phone List, Whom To Notify

Reporter's Name _____
Date _____
Facility Name _____
Owner Name _____
Facility Identification Number _____
Date and Time of Each NRC Notification _____

	Organization	Phone number
1.	National Response Center (NRC).	1-800-424-8802
2.	Facility Response Coordinator.	_____
	Evening Phone ..	_____
3.	Company Response Team.	_____
	Evening Phone ..	_____
4.	On-Scene Coordinator (OSC).	_____
	Evening Phone ..	_____
5.	Area Committee	_____
	Evening Phone ..	_____
6.	Local Response Team (Fire Dept./Cooperatives).	_____
7.	Fire Marshall	_____
	Evening Phone ..	_____
8.	State Emergency Response Commission (SERC).	_____
	Evening Phone ..	_____
9.	State Police	_____
10.	Local Emergency Planning Committee (LEPC).	_____
11.	Local Water Supply System.	_____
	Evening Phone ..	_____
12.	Weather Report .	_____
13.	Local Television/Radio Station for Evacuation Notification.	_____
14.	Hospitals	_____

Spill Response Notification Form

Reporter's Last Name _____First _____M.I. ____
Phone Numbers: ( ) – , — ( ) –
Company _____
Organization Type _____
Position _____
Address _____

City _____
State _____
Zip _____
Were Materials Released _____(Y/N)?
Confidential _____(Y/N)?
Meeting Federal Obligations to Report _____(Y/N)?
Date Called _____
Calling for Responsible Party _____(Y/N)?
Time Called _____

Incident Description

Source and/or Cause of Incident _____

Date _____–_____–_____
Time of Incident _____AM/PM
Incident Address/Location _____

Nearest City _____
State _____
County _____
Zip _____
Distance from City _____
Units _____
Direction from City _____
Section _____
Township _____
Range _____
Container Type _____
Tank Capacity _____
Units _____
Facility Capacity _____
Units _____
Facility Latitude ____Degrees ____Minutes ____Seconds
Facility Longitude ____Degrees ____Minutes ____Seconds

Material

CHRIS Code _____

Released Quantity _____

Unit of Measure _____

Material Released in Water _____

Quantity _____

Unit/Measure _____

Response Action

Actions Taken To Correct, Control or Mitigate Incident

Impact

Number of Injuries _____
Number of Deaths _____
Were there Evacuations _____(Y/N)?
Number Evacuated _____
Was there any Damage _____(Y/N)?
Damage in Dollars (approximate) _____
Medium Affected _____
Description _____
More Information about Medium _____

Additional Information

Any information about the incident not recorded elsewhere in the report?

Caller Notifications

EPA _____(Y/N)?
USCG _____(Y/N)?
State _____(Y/N)?
Other _____(Y/N)?
Describe _____

1.3.2 Equipment

Date of Last Update: _____

Equipment List

Last Inspection or Equipment Test Date _____
Inspection Frequency _____
Regional Response Team (RRT) approval: —
1. Skimmers/Pumps—Operational Status —

Type, Model, and Year (Type) _____(Model) _____(Year) _____
Number _____
Capacity _____gal./min.
Daily Effective Recovery Rate _____
Storage Location _____

Date Fuel Last Changed _____

2. Booms—Operational Status _____

Type, Model, and Year (Type) _____(Model) _____(Year) _____

Number _____

Size _____

Containment Area _____sq. ft.

Storage Location _____

3. Chemicals Stored (Dispersants listed on EPA's NCP Product Schedule) _____

Type _____

Amount _____

Date Purchased _____

Treatment Capacity _____

Storage Location _____

Has facility applied for permit to use above listed dispersants:

State (Y/N) _____; Federal (Y/N) _____.

Name and State of On-Scene Coordinator (OSC) authorizing use _____

Date Authorized _____

4. Dispersant Dispensing Equipment—Operational Status _____

Type and Year _____

Capacity _____

Storage Location _____

Response Time (Minutes) _____

5. Sorbents—Operational Status _____

Type and Year Purchased _____

Amount _____

Absorption Capacity _____gal.

Storage Location _____

6. Hand Tools—Operational Status _____

Type and Year _____

Quantity _____

Storage Location _____

7. Communication Equipment (include operating frequency and channel and/or cellular phone numbers)—Operational Status _____

Type and Year _____

Quantity _____

Storage Location/Number _____

8. Fire Fighting and Personnel Protective Equipment—Operational Status _____

Type and Year _____

Quantity _____

Storage Location _____

9. Other (e.g., Heavy Equipment, Boats and Motors)—Operational Status _____

Type and Year _____

Quantity _____

Storage Location _____

1.3.3 Personnel

Date of last update:_____

EMERGENCY RESPONSE PERSONNEL
COMPANY PERSONNEL

Name	Phone*	Response time	Responsibility during response action	Training type/date
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				

*Phone number to be used when person is not on-site.

Date of last update: _____

FACILITY RESPONSE TEAM

Coordinator	Response time (minutes)	Phone (day/evening)

If the facility uses contracted help in an emergency response situation, the owner/operator must provide the contractors' names and review the contractors' capacity to provide adequate personnel and equipment.

Date of last update: _____

EMERGENCY RESPONSE CONTRACTORS

Contractor	Phone	Response time	Contract responsibility*
1.			
2.			
3.			
4.			

*Note: Include evidence of contracts agreements with response contractors to ensure the availability of personnel and equipment.

1.3.4 Evacuation Plans

Based on the analysis of the facility, as discussed elsewhere in the plan, a facility-wide evacuation plan should be developed. In addition, plans to evacuate parts of the facility or surrounding communities that are at a high risk of exposure in the event of a spill or other release must be developed. Evacuation routes must be shown on a diagram of the facility (see section 1.9). When developing evacuation plans, consideration should be given to the following:

1. Location of stored materials;
2. Hazard imposed by spilled material;
3. Spill flow direction;
4. Prevailing wind direction and speed;
5. Water currents, tides, or wave conditions (if applicable);
6. Arrival route of emergency response personnel and equipment;
7. Evacuation routes;
8. Alternative routes of evacuation;
9. Transportation of injured personnel to nearest emergency medical facility;
10. Location of alarm/notification systems;
11. The need for a centralized check-in area for evacuation validation (roll call);

12. Selection of a mitigation command center; and

13. Location of shelter at the facility as an option to evacuation.

When preparing this section of the response plan, the *Handbook of Chemical Hazard Analysis Procedures* by the Federal Emergency Management Agency (FEMA), Department of Transportation (DOT), and EPA should be referenced. *The Handbook of Chemical Hazard Analysis Procedures* is available from: FEMA, Publication Office, 500 C Street, SW., Washington, DC 20472, (202) 646–3484.

1.3.5 Coordinator's Duties

Duties of the Emergency Response Coordinator

The duties of the designated emergency response coordinator or an adequately trained and qualified person appointed by the coordinator are specified by the rule in § 112.20(h)(3)(ix). The coordinator's duties must be described and be consistent with the minimum requirements in the rule. In addition, the emergency response coordinator and any qualified appointee must be identified with the Facility Information in section 1.2.

1.4 Hazard Evaluation

This section asks the facility owner/operator to examine the facility's operations closely and to predict where releases could occur. Hazard evaluation is a widely used industry practice that allows owners and operators to develop a complete understanding of potential hazards and the response actions necessary to address these hazards. The Handbook of Chemical Hazard Analysis Procedures, prepared by the EPA, DOT, and the Federal Emergency Management Agency and the Hazardous Materials Emergency Planning Guide (NRT–1), prepared by the National Response Team are good references for conducting a hazard analysis.

Hazard identification and evaluation will assist facility owners and operators in planning for potential releases, thereby reducing the severity of discharge impacts that may occur in the future. The evaluation also may help the operator identify and correct potential sources of releases. In addition, special hazards to workers and emergency response personnel's health and safety should be evaluated, as well as the facility's spill history.

1.4.1 Hazard Identification

The following directions should be used for completing the Tank and Surface Impoundment (SI) forms that are part of this section. Similar worksheets should be developed for any other type of storage containers.

1. List each tank at the facility with a separate and distinct identifier. Begin aboveground tank identifiers with an "A" and below ground tanks identifiers with a "B", or submit multiple sheets with the aboveground tanks and below ground tanks on separate sheets.

2. Use gallons for the maximum capacity of a tank; and use square feet for the area.

3. Using the appropriate identifiers and the following instructions, fill in the appropriate forms:

• Tank or SI number—Using the aforementioned identifiers (A or B) or multiple reporting sheets, identify each tank or SI at the facility that stores oil or hazardous materials.

• Substance Stored—For each tank or SI identified, record the material that is stored therein. If the tank or SI is used to store more than one material, list all the stored materials.

• Quantity Stored—For each material stored in each tank or SI, report the average volume of material stored on any given day.

• Tank Type or Surface Area/Year—For each tank, report the type of tank (e.g. floating top), and the year the tank was originally installed. If the tank has been refabricated, the year that the latest refabrication was completed should be recorded in parentheses next to the year installed. For each SI, record the surface area of the impoundment and the year it went into service.

• Maximum Capacity—Record the operational maximum capacity for each tank and SI. If the maximum capacity varies with the season, record the upper and lower limits.

• Failure/Cause—Record the cause and date of any tank or SI failure which has resulted in a loss of tank or SI contents.

4. Using the numbers from the tank and SI forms, label a schematic drawing of the facility. This drawing should be identical to any schematic drawings included in the SPCC Plan.

5. Using knowledge of the facility and its operations, describe the following in writing:

A. The loading and unloading of transportation vehicles that risk the release of oil or hazardous substances during transport processes. These operations may include loading and unloading of trucks, railroad cars, or vessels. The volume of material involved in transfer operations should be estimated.

B. Day to day operations that may present a risk of releasing oil or a hazardous substance. These activities include scheduled venting, piping repair or replacement, valve maintenance, transfer of tank contents from one tank to another, etc. (not including transportation-related activities). The volume of material involved in these operations should be estimated.

C. The secondary containment volume associated with each tank and/or transfer point at the facility. The numbering scheme developed on the tables should be used to identify each containment area. Capacities should be listed for each individual unit (tanks, slumps, drainage traps, and ponds), as well as the facility total.

D. Normal daily throughput for the facility and any effect on potential release volumes that a negative or positive change in that throughput may cause.

Date of last update: _____

HAZARD IDENTIFICATION TANKS *

Tank no.	Substance stored (oil & hazardous substance)	Quantity stored (gallons)	Tank type/year	Maximum capacity (gal)	Failure/cause
___	___	___	___	___	___
___	___	___	___	___	___
___	___	___	___	___	___
___	___	___	___	___	___
___	___	___	___	___	___
___	___	___	___	___	___
___	___	___	___	___	___
___	___	___	___	___	___

* (Tank=any container that stores oil).

Attach as many sheets as necessary.

Date of last update: _____

HAZARD IDENTIFICATION SURFACE IMPOUNDMENTS (SI)

SI No.	Substance stored	Quantity stored (gal)	Surface area/year	Maximum capacity (gal)	Failure/cause
___	___	___	___	___	___
___	___	___	___	___	___
___	___	___	___	___	___
___	___	___	___	___	___
___	___	___	___	___	___
___	___	___	___	___	___
___	___	___	___	___	___
___	___	___	___	___	___

Attach as many sheets as necessary.

1.4.2 Vulnerability Analysis

The vulnerability analysis should address the potential effects (i.e., to human health, property, or the environment) of a spill. Attachment C–III to appendix C of this part provides a method that owners or operators could use to determine appropriate distances from the facility to environmentally sensitive areas and drinking water intakes. Owners and operators could use an alternative formula that is considered acceptable by the RA. If an alternative formula is used, documentation of the reliability and analytical soundness of the formula must be attached to the response plan cover sheet. This analysis should be prepared for each facility, and should include discussion of the vulnerability of:

1. Water intakes (drinking, cooling, or other);

2. Schools;

3. Medical facilities;

4. Residential areas;

5. Businesses;

6. Wetlands or other environmentally sensitive areas; [2]

7. Fish and wildlife;

8. Lakes and streams;

9. Endangered flora and fauna;

10. Recreational areas;

11. Transportation routes (air, land, and water);

12. Utilities; and

13. Other areas of economic importance including terrestrially sensitive

[2] Refer to Appendix D of the proposed rule for the listing of environmentally sensitive areas.

environments, aquatic environments, and unique habitats.

1.4.3 Analysis of the Potential for a Spill

Each owner or operator should analyze the probability of a spill occurring at the facility. This analysis should be quantitative, incorporating factors such as tank age, spill history, horizontal range of a potential spill, and vulnerability to natural disaster. This analysis will provide information for developing discharge scenarios for a worst case discharge and small and medium discharges and aid in the development of techniques to reduce the size and frequency of spills. The owner or operator may need to research the age of the tanks and the spill history at the facility.

1.4.4 Spill History

Briefly describe the facility's reportable spill[3] history for the entire life of the facility, including:

1. Date of discharge(s);
2. List of discharge causes;
3. Material(s) discharged;
4. Amount discharged in gallons;
5. Amount of discharge that reached navigable waters, if applicable;
6. Effectiveness and capacity of secondary containment;
7. Clean-up actions taken;
8. Steps taken to reduce possibility of recurrence;
9. Total storage capacity of the tank(s) or impoundment(s) from which the material discharged;
10. Enforcement actions;
11. Effectiveness of monitoring equipment; and
12. Description of how each spill was detected.

The information solicited in this section may be similar to requirements in § 112.4(a) of the October 22, 1991 proposed revisions to the Oil Pollution Prevention rule (56 FR 54612). Any duplicate information in § 112.4(a) may be photocopied and inserted.

1.5 Discharge Scenarios

In this section, the owner or operator is asked to provide a description of the facility's worst case discharge, as well as a small and medium spill, as appropriate. A tiered planning approach has been chosen because the response actions to a spill (i.e., necessary equipment, products, and personnel) are dependent on the magnitude of the spill. Planning for lesser discharges is necessary because the nature of the response may be qualitatively different depending on the quantity of the discharge. In this discussion, the owner or operator should discuss the potential direction of the spill pathway.

1.5.1 Small and Medium Discharge

To address tiered planning requirements, the owner or operator must consider types of facility-specific spill scenarios that may contribute to a small or medium spill. The scenarios should account for all the operations that take place at the facility, including but not limited to:

1. Loading and unloading of surface transportation;
2. Facility maintenance;
3. Facility piping;
4. Pumping stations and slumps;
5. Storage tanks;
6. Vehicle refueling; and
7. Age and condition of facility and components.

The scenarios should also consider factors that affect the response efforts required by the facility. These include but are not limited to:

1. Size of the spill;
2. Proximity to downgradient wells, waterways, and drinking water intakes;
3. Proximity to environmentally sensitive areas;
4. Likelihood that the discharge will travel offsite (i.e., topography, drainage);
5. Location of the material spilled (on a concrete pad or directly on the soil);
6. Material discharged;
7. Weather or aquatic conditions (i.e., river flow);
8. Available remediation equipment;
9. Probability of a chain reaction of failures; and
10. Direction of spill pathway.

1.5.2 Worst Case Discharge

In this section, the owner or operator must identify the worst case discharge volume at the facility. Worksheets for production and non-production facility owners and operators to use when calculating worst case discharge are presented in Appendix E to 40 CFR part 112. When planning for the worst case discharge response, all of the aforementioned factors listed in the small and medium discharge section of the response plan should be addressed. Depending on the adequacy of secondary containment and the proximity to navigable waters, the worst case discharge may be: (1) The total aboveground oil storage capacity (plus production capacity if applicable) for facilities without adequate secondary containment; (2) the capacity of the largest single tank within a common secondary containment area or the combined capacity of a group of aboveground tanks permanently manifolded together within a common secondary containment area, whichever is greater, plus an additional quantity for any tanks without secondary containment (plus production volume if applicable); (3) 110% of the capacity of the largest single tank within a secondary containment area or 110% of the combined capacity of a group of tanks within a common secondary containment area, whichever is greater (plus production volume if applicable); or (4) a combination of the above.

For onshore storage facilities and production facilities, permanently manifolded tanks are defined as tanks that are designed, installed, and/or operated in such a manner that the multiple tanks function as one storage unit. In this section of the response plan, owners and operators must provide evidence that tanks with common piping or piping systems are not operated as one unit. If such evidence is provided and is acceptable to the RA, the worst case discharge volume would be based on the combined storage capacity of all manifold tanks or the capacity of the largest single tank within the secondary containment area, whichever is greater. For permanently manifolded tanks that function as one storage unit, the worst case discharge would be based on the combined storage capacity of all manifolded tanks or the capacity of the largest single tank within a secondary containment area, whichever is greater. For purposes of the worst case discharge calculation, permanently manifolded tanks that are separated by internal divisions for each tank are considered to be single tanks and individual manifolded tank volumes are not combined.

1.6 Discharge Detection Systems

In this section, the owner or operator should provide a detailed description of the procedures and equipment used to detect discharges. A section on spill detection by personnel and a discussion of automated spill detection, if applicable, should be included for both during regular operations and after hours. In addition, the owner or operator should discuss how the reliability of any automated system will be checked and how frequently the system will be inspected.

1.6.1 Discharge Detection by Personnel

In this section, owners and operators should describe the procedures and personnel that will detect any spill or uncontrolled release of oil or hazardous material. A thorough discussion of facility inspections should be included. In addition, a description of initial response actions should be addressed. See section 1.3.1 of the response plan for emergency response information.

1.6.2 Automated Discharge Detection

In this section, facility owners and operators must describe any automated spill detection equipment that the facility has in place. This section should include a discussion of overfill alarms, secondary containment sensors, etc. A discussion of the plans to verify an automated alarm and the actions to be taken once verified must also be included.

1.7 Plan Implementation

In this section, facility owners and operators must explain in detail how to implement the facility's emergency response plan by describing response actions to be carried out under the plan to ensure the safety of the facility and to mitigate or prevent discharges described in section 1.5. This section includes the identification of response resources for small, medium, and worst case spills; disposal plans; and containment and drainage planning. A distinct list of those personnel who would be involved in the cleanup should be identified. Procedures that the facility will use, where appropriate or necessary, to update their plan after a spill event and the time frame to update the plan must be described.

[3] As described in 40 CFR part 110, reportable spills are those that: (a) Violate applicable water quality standards, or (b) cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.

1.7.1 Response Resources for Small, Medium, and Worst Case Spills

Once the spill scenarios have been identified in section 1.5 of the model response plan, the owner or operator should identify and describe implementation of the response actions. The facility should demonstrate accessibility to the proper response personnel and equipment to effectively respond to all of the identified spill scenarios. Guidelines for the determination and demonstration of adequate response capability are presented in Appendix F to 40 CFR part 112. In addition, steps to expedite the cleanup of spills must be discussed. At a minimum, the following items should be addressed:

1. Emergency plans for spill response;
2. Additional training;
3. Additional contracted help;
4. Access to additional equipment/experts;
5. Ability to implement plan including training and practice drills;

1.7.2 Disposal Plans

Facility owners and operators must describe how and where the facility intends to recover, reuse, decontaminate, or dispose of materials after a discharge has taken place. The appropriate permits required to transport or dispose of recovered materials according to local, State, and Federal requirements must be addressed. Materials that should be accounted for in the disposal plan include:

1. Recovered product;
2. Contaminated soil;
3. Contaminated equipment and materials, including drums, tank parts, valves, and shovels;
4. Personnel protective equipment;
5. Decontamination solutions;
6. Adsorbents; and
7. Spent Chemicals.

These plans must be prepared in accordance with Federal (e.g., the Resource Conservation and Recovery Act [RCRA]), State, and local regulations, where applicable. A copy of the disposal plans from the facility's SPCC Plan may be inserted with this section including any diagrams of those plans.

Material	Disposal facility	Location	RCRA permit/manifest
1. ____	____	____	____
2. ____	____	____	____
3. ____	____	____	____
4. ____	____	____	____

1.7.3 Containment and Drainage Planning

A proper plan to contain and control a spill through drainage may limit the threat of harm to human health and the environment. This section should describe how to contain and control a spill through drainage, including:

1. The available volume of containment (use the information presented in section 1.4.1 of this document);
2. The route of drainage from storage and transfer areas;
3. The construction materials used in drainage troughs;
4. The type and number of valves and separators used in the drainage system;
5. Sump pump capacities;
6. The containment capacity of weirs and booms that might be used and their location (see Section 1.3.2); and
7. Other cleanup materials.

In addition, facility owners and operators must meet the inspection and monitoring requirements for drainage contained in the SPCC regulation.

A copy of the containment and drainage plans from the facility's SPCC Plan may be inserted in this section, including any diagrams of those plans. [Note: A proposed general permit for stormwater drainage may contain additional requirements.]

1.8 Self-Inspection, Training, and Meeting Logs

Training and meeting logs shall be included in the response plan to aid facility owners, operators, and employees in spill prevention awareness and response requirements. Logs must be kept for facility mock alert drills, personnel training, and spill prevention meetings. Much of the recordkeeping information contained in this section is required by the existing SPCC regulation.

1.8.1 Facility Self-Inspection

Pursuant to § 112.7(e)(8) of the rule in 40 CFR part 112, revised as of July 1, 1992, each facility should conduct self-inspections and include the written procedures and records of inspections in the SPCC Plan. The inspection should include the tanks, secondary containment, and response equipment at the facility. The inspection of tanks and secondary containment required by the SPCC regulation and records of those inspections should be cross-referenced in the response plan. The inspection of response equipment is a new requirement in this plan. Facility self-inspection requires two steps: (1) A checklist of things to inspect; and (2) a method of recording the actual inspection and its findings. The date of each inspection shall be noted. These records are required to be maintained for five years.

1.8.1.1 Tank Inspection

Tank Inspection Checklist

The tank inspection checklist presented below has been included as part of SPCC guidance for inspections and monitoring. If information in this section duplicates information required in § 112.7(e) of the October 22, 1991 proposed revisions to the Oil Pollution Prevention regulation (56 FR 54612) it may be photocopied and inserted.

1. Check tanks for leaks, specifically looking for:
   A. Drip marks;
   B. Discoloration of tanks;
   C. Puddles containing stored material;
   D. Corrosion;
   E. Cracks; and
   F. Localized dead vegetation.
2. Check foundation for:
   A. Cracks;
   B. Discoloration;
   C. Puddles containing stored material;
   D. Settling;
   E. Gaps between tank and foundation; and
   F. Damage caused by vegetation roots.
3. Check piping for:
   A. Droplets of stored material;
   B. Discoloration;
   C. Corrosion;
   D. Bowing of pipe between supports;
   E. Evidence of stored material seepage on valves or seals; and
   F. Localized dead vegetation.

TANK/SURFACE IMPOUNDMENT INSPECTION LOG

Inspector	Tank or SI No.	Date	Comments
____	____	____	____
____	____	____	____
____	____	____	____
____	____	____	____
____	____	____	____
____	____	____	____
____	____	____	____
____	____	____	____
____	____	____	____
____	____	____	____
____	____	____	____
____	____	____	____
____	____	____	____
____	____	____	____
____	____	____	____
____	____	____	____
____	____	____	____
____	____	____	____
____	____	____	____
____	____	____	____

1.8.1.2 Response Equipment Inspection

Response Equipment Checklist

Using the Emergency Response Equipment List provided in section 1.3.2 of the response plan, describe each type of equipment, checking for the following:

1. Inventory (item and quantity)
2. Storage location
3. Accessibility (time to access and respond)
4. Operational status/condition
5. Actual use/testing (last test date and frequency of testing)
6. Shelf life (present age, expected replacement date)

Please note any discrepancies between the list and the actual equipment available.

RESPONSE EQUIPMENT INSPECTION LOG
[Use section 1.3.2 as checklist]

Inspector	Date	Comments
____	____	____
		____
		____
____	____	____
		____
		____
____	____	____
		____
		____
____	____	____
		____
		____
____	____	____
		____
		____
		____

1.8.1.3 Secondary Containment Inspection

Secondary Containment Checklist

Inspect the secondary containment (as described in sections 1.4.1 and 1.7.2 of the plan), checking the following:

1. Dike or berm system.
A. Level of precipitation in dike/available capacity
B. Operational status of drainage valves
C. Dike or berm permeability
C. Debris
E. Erosion
F. Permeability of the earthen floor of diked area
G. Location/status of pipes, inlets, drainage beneath tanks, etc.
2. Secondary containment
A. Cracks
B. Discoloration
C. Presence of stored material (standing liquid)
D. Corrosion
E. Valve conditions
3. Retention and drainage ponds
A. Erosion
B. Available capacity
C. Presence of stored material
D. Debris
E. Stressed vegetation

During inspection, make note of discrepancies in any of the above mentioned items, and report them immediately to the proper facility personnel. Additionally, duplicate information from § 112.7(c) of the October 22, 1991 proposed revisions to the Oil Pollution Prevention rule (56 FR 54612) may be photocopied and inserted here.

1.8.2 Mock Alert Drills

Mock alert drills, as required by CWA section 311(j)(5), are part of the response plan and should be detailed below. During the drills, actions taken by the response team, both predicted and unpredicted, should be noted, and any problems that arise should be resolved as soon as possible.

1.8.2.1 Mock Alert Drill Logs

Mock Alert Drill Log

Date: _____
Company: _____
Response Coordinator: _____
Emergency Scenario: _____
_____

Local Response Team's Response Time: _____
Contracted Personnel Response Time: _____
Facility Personnel Response Time: _____
Notes: _____
_____
_____
_____

Changes to be Implemented: _____
_____
_____
_____
_____
_____

Time Table for Implementation: _____
_____

1.8.3 Training and Meeting Logs

Owners and operators are required by § 112.20(e)(8) to keep a personnel training log that should include a record of all formal response training received by each employee. Personnel training logs and discharge prevention meeting logs are included in sections 1.8.3.1 and 1.8.3.2 respectively.

1.8.3.1 Personnel Training Logs

PERSONNEL TRAINING

Name	Response training/date and number of hours	Prevention training/date and number of hours

1.8.3.2 Discharge Prevention Meetings Log

Discharge Prevention Meeting

Date: _____
Attendees: _____
_____
_____
_____
_____
_____
_____
_____
_____

Subject/issue identified	Required action	Implementation date

1.9 Diagrams

The facility-specific response plan should include the following diagrams. Additional diagrams that would aid in the development of response plan sections may also be included.

1. The Site Plan Diagram should include and identify:
A. The entire facility to scale;
B. Above and below ground bulk storage tanks;
C. The contents and capacities of bulk storage tanks;
D. The contents and capacity of drum storage areas;
E. the contents and capacities of surface impoundments;
F. Process buildings;
G. Transfer areas;
H. Secondary containment systems (location and capacity);
I. Structures where hazardous materials are stored or handled, including materials stored and capacity of storage;
J. Location of communication and emergency response equipment; and
K. Location of electrical equipment which contains oil.
2. The Site Drainage Plan Diagram should include:
A. Major sanitary and storm sewers, manholes, and drains;
B. Weirs and shut-off valves;
C. Surface water receiving streams;
D. Fire fighting water sources;
E. Other utilities;
F. Response personnel ingress and egress;
G. Equipment transportation routes; and
H. Direction of spill flow from release points.
3. The Site Evacuation Plan Diagram should include:
A. Site plan diagram with evacuation route(s); and
B. Location of evacuation regrouping areas.

1.10 Security

Section 112.7(e)(9) of 40 CFR part 112, revised as of July 1, 1992, requires facilities to maintain a certain level of security, as appropriate. In this section, a description of the facility security should be provided including:

1. Emergency cut-off locations (automatic or manual valves);
2. Enclosures (e.g., fencing, etc.);
3. Guards and their duties, day and night;
4. Lighting;
5. Valve and pump locks; and
6. Pipeline connection caps.

Section 112.7(g) of the October 22, 1991 proposed revisions to the Oil Pollution Prevention rule (56 FR 54612) contains similar requirements. Duplicate information may be photocopied and inserted in this section.

2.0 Response Plan Cover Sheet

A three page, computer-readable form has been developed to be completed and submitted to the RA by owners and operators who are required to prepare and submit a facility-specific response plan. The cover sheet (Attachment G–1) is intended to accompany the response plan and provide the Agency with basic information concerning the facility. This section will describe the Response Plan Cover Sheet and provide instructions for its completion.

Page One—Facility Information

Owner/Operator of Facility: Enter the name of the owner of the facility (if the owner is the operator). Enter the operator of the facility if otherwise. If the owner/operator of the facility is a corporation, enter the name of the facility's principle corporate executive. Enter as much of the name as will fit in each section.

Facility Name: Enter the proper name of the facility.

Largest Tank Capacity: Enter the capacity in GALLONS of the largest aboveground storage tank at the facility.

Maximum Storage Capacity: Enter the total maximum capacity in GALLONS of all aboveground storage tanks at the facility.

Number of Tanks: Enter the number of all aboveground storage tanks at the facility.

Page Two—Facility Information

Enter the street address, city, State, zip code, and phone number of the facility in the appropriate boxes.

Dun and Bradstreet Number: Enter the facility's Dun and Bradstreet number if available.

Standard Industrial Classification (SIC) Code: Enter the facility's SIC code as

determined by the Office of Management and Budget.

Worst Case Discharge Amount: Using information from the worksheets in appendix E, enter the amount of the worst case discharge in GALLONS.

Page Three—Determination of Substantial Harm

Using the flowchart provided in Attachment C–I of appendix C, blacken the appropriate circle to each question. Explanations to referenced terms can be found in appendix C. If an alternative formula to the ones described in Attachment C–III is used to calculate the planning distance, documentation of the reliability and analytical soundness of the formula must be attached to the response plan cover sheet.

Additional Information

Latitude and Longitude: Enter the facility latitude and longitude in degrees, minutes, and seconds.

Facility Distance to Navigable Waters: Enter the nearest distance between an opportunity for discharge (i.e., storage tank, piping, or flowline) and a navigable water.

Certification

Complete this block after all other questions have been answered.

BILLING CODE 6560–50–D

RESPONSE PLAN COVER SHEET

FORM APPROVED
OMB NO. XXXXX
APPROVAL EXPIRES [DATE]

IMPORTANT

This form is intended to be computer readable. To complete this form, entirely fill in the desired circle with black or blue ink. Please do not fold, staple, or mutilate this form. Return this form in a 9" x 12" envelope. Please print requested information in BOXES for each individual question.

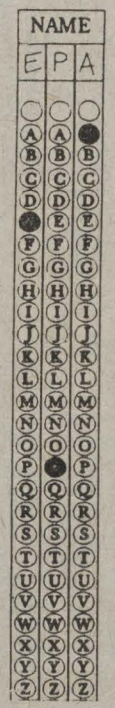
CORRECT MARK

●

INCORRECT MARKS

⊘ ○ ⊙ ⊗ ◕

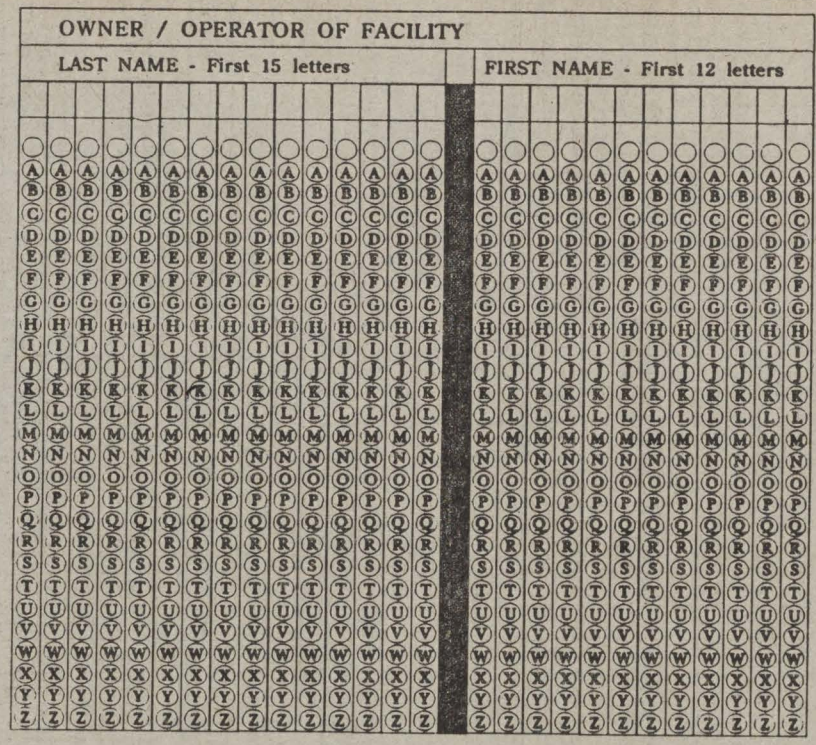
EXAMPLE:



OWNER / OPERATOR OF FACILITY

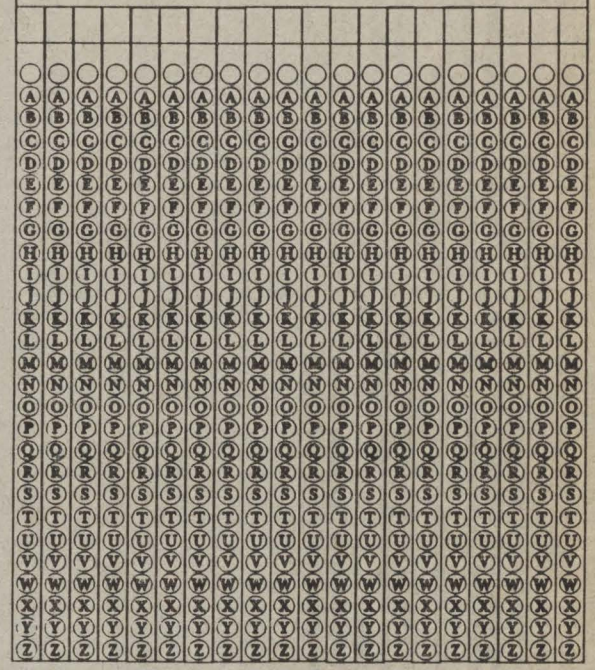
LAST NAME - First 15 letters

FIRST NAME - First 12 letters



FACILITY NAME

First 20 letters



INSTRUCTIONS

This form is designed to accompany a submitted Response Plan.

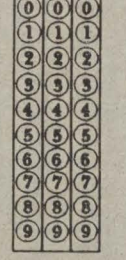
Explanations and detailed instructions can be found in Appendix G.

Facility information contained here will be returned with the Response Plan.

LARGEST TANK CAPACITY (GALLONS)

MAXIMUM STORAGE CAPACITY (GALLONS)

NUMBER OF TANKS



GENERAL INFORMATION

Public reporting burden for the collection of this information is estimated to vary from one hour to 270 hours per response in the first year, with an average of 5 hours per response. This estimate includes time for reviewing instructions, searching existing data sources, gathering the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate of this information, including suggestions for reducing this burden to : Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

Attachment G-2 (Continued)

Page 2 of 3

(CONTINUED)

• *REMEMBER*

USE BLACK OR BLUE INK
DO NOT FOLD, STAPLE, OR MUTILATE THIS FORM

FACILITY ADDRESS (Street address, route or box)

Indicate a space in the address by filling in the blank circle at the top of the column.

CITY (first 15 letters)

STATE

U.S. ZIP CODE

FACILITY PHONE NUMBER

area code

DUN & BRADSTREET NUMBER

STANDARD INDUSTRIAL CLASSIFICATION (SIC)

WORST CASE DISCHARGE AMOUNT (GALLONS)

DETERMINATION OF SUBSTANTIAL HARM

Does the facility operation include over-water transfers* of oil to or from vessels and does the facility have a maximum capacity greater than or equal to 42,000 gallons? ○ yes ○ no

Does the facility lack adequate secondary containment* for each aboveground storage area sufficiently large to contain the capacity of the largest aboveground storage tank within that storage area and is the total storage capacity greater than or equal to one million gallons? ○ yes ○ no

Is the facility located at a distance* that would shut down a public drinking water intake and is the total storage capacity greater than or equal to one million gallons? ○ yes ○ no

Is the facility located at a distance* that could cause injury to an environmentally sensitive area as referenced in Appendix D and is the total storage capacity greater than or equal to one million gallons? ○ yes ○ no

Within the past five years, has the facility experienced a reportable spill* exceeding 10,000 gallons and is the total storage capacity greater than or equal to one million gallons? ○ yes ○ no

* Explanations of the above referenced terms can be found in Appendix C. If an alternative formula to the ones contained in Attachment C-III is used to establish the appropriate distance to sensitive environments or drinking water intakes, documentation of the reliability and analytical soundness of the formula must be attached to this form.

ADDITIONAL INFORMATION

LATITUDE (DEGREES: NORTH)					
degrees		min.		sec.	
0	0	0	0	0	0
1	1	1	1	1	1
2	2	2	2	2	2
3	3	3	3	3	3
4	4	4	4	4	4
5	5	5	5	5	5
6	6	6	6	6	6
7	7	7	7	7	7
8	8	8	8	8	8
9	9	9	9	9	9

LONGITUDE (DEGREES: WEST)						
degrees			min.		sec.	
0	0	0	0	0	0	0
1	1	1	1	1	1	1
2	2	2	2	2	2	2
3	3	3	3	3	3	3
4	4	4	4	4	4	4
5	5	5	5	5	5	5
6	6	6	6	6	6	6
7	7	7	7	7	7	7
8	8	8	8	8	8	8
9	9	9	9	9	9	9

FACILITY DISTANCE TO NAVIGABLE WATER:
Fill the appropriate circle.

- 0 - 1/4 mile ○
- 1/4 - 1/2 mile ○
- 1/2 - 1 mile ○
- > 1 mile ○

● *REMEMBER*
USE BLUE OR BLACK INK
DO NOT FOLD, STAPLE, OR MUTILATE THIS FORM

CERTIFICATION

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document, and that based on my inquiry of those individuals responsible for obtaining information, I believe that the submitted information is true, accurate, and complete.

Signature

Name (please type or print)

Title

Date

BILLING CODE 6560-50-C

3.0 Definitions

Navigable Waters: Navigable waters include all waters that are used in interstate or foreign commerce, all interstate waters including wetlands, and all intrastate waters (e.g., lakes, rivers, streams, intermittent streams, mudflats, sandflats, wetlands sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds).

Oil: Oil in any kind or in any form, including, but not limited to petroleum, fuel oil, sludge, oil refuse and oil mixed with wastes other than dredged spoil.

Production Facility: Onshore oil production facilities may include all wells, flowlines, separation equipment, storage facilities, gathering lines, and auxiliary non-transportation-related equipment and facilities in a single geographical oil or gas field operated by a single operator.

Worst Case Discharge: See section 112.2(m). Worksheets to calculate worst case discharge volume are included in appendix E.

Environmentally Sensitive Areas: See appendix D.

Wellhead Protection Area: The surface and subsurface area surrounding a water well or wellfield, supplying a public water system, through which contaminants are reasonably likely to move toward and reach such water well or wellfield.

4.0 Acronyms

ACP Area Contingency Plan
CHRIS: Chemical Hazards Response Information System
CWA: Clean Water Act
DOT: Department of Transportation
EPA: Environmental Protection Agency
FEMA: Federal Emergency Management Agency
gal: Gallons
HAZMAT: Hazardous Materials
LEPC: Local Emergency Planning Committee
NCP: National Oil and Hazardous Substances Pollution Contingency Plan
NRC: National Response Center
NRT: National Response Team
OPA: Oil Pollution Act of 1990
OSC: On-Scene Coordinator
RA: Regional Administrator
RCRA: Resource Conservation and Recovery Act
RRT: Regional Response Team
SARA: Superfund Amendments and Reauthorization Act
SERC: State Emergency Response Commission
SDWA: Safe Drinking Water Act of 1986
SI: Surface Impoundment
SIC: Standard Industry Codes
SPCC: Spill Prevention, Control and Countermeasures
USCG: United States Coast Guard

5.0 References

Concawe. 1982. *Methodologies for Hazard Analysis and Risk Assessment in the Petroleum Refining and Storage Industry.* Prepared by Concawe's Risk Assessment Ad-hoc Group.

U.S. Department of Housing and Urban Development. 1987. *Siting of HUD-Assisted Projects Near Hazardous Facilities: Acceptable Separation Distances from Explosive and Flammable Hazards.* Prepared by the Office of Environment and Energy, Environmental Planning Division, Department of Housing and Urban Development. Washington, DC.

U.S. DOT, FEMA and U.S. EPA. Handbook of Chemical Hazard Analysis Procedures.

U.S. DOT, FEMA and U.S. EPA. *Technical Guidance for Hazards Analysis: Emergency Planning for Extremely Hazardous Substances.*

The National Response Team. 1987. *Hazardous Materials Emergency Planning Guide* Washington, DC.

The National Response Team. 1990. *Oil Spill Contingency Planning, National Status: A Report to the President.* Washington, DC. U.S. Government Printing Office.

Offshore Inspection and Enforcement Division. 1988. *Minerals Management Service, Offshore Inspection Program: National Potential Incident of Noncompliance (PINC) List.* Reston, VA.

[FR Doc. 93–3396 Filed 2–16–93; 8:45 am]

BILLING CODE 6560–50–P

federal register

Wednesday
February 17, 1993

Part III

Department of the Interior

Bureau of Indian Affairs

Near-Reservation Designations; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Near-Reservation Designations

February 9, 1993.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs. Pursuant to 25 CFR 20.1(r), Notice is hereby given of the near-reservation designations for certain Indian tribal entities within the contiguous 48 states recognized as eligible to receive services from the United States Bureau of Indian Affairs (BIA).

DATES: These near-reservation designations become effective immediately.

FOR FURTHER INFORMATION CONTACT: David L. Hickman, Chief, Division of Social Services, Bureau of Indian Affairs, 1849 C Street, NW., MS 310 SIB, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: In accordance with title 25—Indians, Chapter 1—BIA, Department of the Interior, subchapter D—Human Services, part 20—Financial Assistance and Social Services Program (25 CFR part 20) 25 CFR 20.1(r), the Assistant Secretary—Indian Affairs designates the following locales as "near-reservation" areas appropriate for the extension of BIA financial assistance and/or social services. 25 CFR part 20—Financial Assistance and Social Services Program regulations have full force and effect when extending BIA financial assistance and/or social services into these designated "near-reservation" locations. In the absence of officially designated "near-reservation" areas, such services are provided only to Indian people who live within reservation boundaries. The tribes identified below are now authorized to extend financial assistance and social services to their eligible tribal members (and their family members who are Indian) who reside outside the boundaries of a federally recognized tribe's reservation, but within the areas designated below.

The locales listed below are those designated for this purpose.

Tribe: Bay Mills Indian Community

"Near-reservation" locations: The counties of Chippewa, Luce and Mackinac in the State of Michigan.

Tribe: Grand Traverse Band of Ottawa and Chippewa Indians

"Near-reservation" locations: The counties of Grand Traverse, Charlevoix, Leelanau, Benzie, Manistee and Antrim in the State of Michigan.

Tribe: Hannahville Indian Community

"Near-reservation" locations: The counties of Delta, Menominee and Dickinson in the State of Michigan.

Tribe: Keweenaw Bay Indian Community

"Near-reservation" locations: The counties of Baraga, Iron, Houghton, Marquette, Ontonagon, Dickinson, Gogebic and Keweenaw in the State of Michigan.

Tribe: Lac Vieux Desert

"Near-reservation" locations: The counties of Gogebic, Ontonogin and Iron in the State of Michigan.

Tribe: Saginaw Chippewa

"Near-reservation" locations: The counties of Isabella, Arenac, Osceola, Mecosta, Montcalm, Midland, Gratiot, Gladwin and Midland in the State of Michigan.

Tribe: Sault Ste. Marie Tribe of Michigan

"Near-reservation" locations: The counties of Chippewa, Mackinac, Luce, Alger, Schoolcraft, Delta and Marquette in the State of Michigan.

Eddie F. Brown,

Assistant Secretary—Indian Affairs.

[FR Doc. 93-3663 Filed 2-16-93; 8:45 am]

BILLING CODE 4310-02-M

federal register

Wednesday
February 17, 1993

Part IV

Department of Transportation

Coast Guard

33 CFR Subpart 1.30
Recreational Vessel Fees; Interim Final Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Subpart 1.30

[CGD 92-066]

RIN 2115-AE32

Recreational Vessel Fees

AGENCY: Coast Guard, DOT.

ACTION: Interim final rule.

SUMMARY: The Coast Guard is changing the categories of recreational vessels subject to the recreational vessel fee (RVF). A recent legislative amendment reduces the number of recreational vessels subject to the annual fee by changing the vessel length categories in fiscal years 1993 and 1994 and by repealing the fee entirely for fiscal year 1995. This rulemaking amends the RVF regulations to reflect this phased-out repeal of the annual fee.

EFFECTIVE DATE: This rule is effective on October 1, 1992. Comments must be received on or before May 18, 1993.

ADDRESSES:

Comments. Comments may be mailed to the Executive Secretary, Marine Safety Council (G-LRA/3406), (CGD 92-066), 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. The telephone number is (202) 267-1477.

Refunds. Written requests for refunds for RVF decals purchased on or after October 1, 1992, may be mailed to the U.S. Recreational Vessel Fee Program, P.O. Box 11066, Des Moines, IA 50336-1066.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Campbell-Jones, RVF Program Manager, Auxiliary, Boating, and Consumer Affairs Division, (202) 267-6717. A copy of this notice may be obtained by calling the Coast Guard's toll-free Boating Safety Hotline, 1-800-368-5647. In Washington, DC, call 267-0780.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD 92-066) and the specific section of the rule 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.

The Coast Guard will consider all comments received during the comment period. It may change this rule in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Council at the address under **ADDRESSES**. The request should include reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place to be announced by a later notice in the **Federal Register**.

Drafting Information

The principal persons involved in drafting this document are Mr. Carlton Perry, Project Manager, and C.G. Green, Project Counsel, Office of Chief Counsel.

Regulatory Information

This rule is being published as an interim rule and is effective on October 1, 1992, to coincide with the effective date of the statutory revisions in section 501 of the High Seas Driftnet Fisheries Enforcement Act, enacted November 2, 1992 (Pub. L. 102-582). A delay in amending the existing regulations may result in vessel owners or operators paying a fee which is no longer required. These unnecessary payments and resulting refund transactions would be contrary to the public interest. For these reasons, the Coast Guard finds good cause, under 5 U.S.C. 553(b)(3)(B) and (d)(3), why notice and public procedure before publication of the interim rule are unnecessary and that the rule should be made effective in less than 30 days after publication.

Background and Purpose

The Omnibus Budget Reconciliation Act of 1990 (the Act) amended 46 U.S.C. 2110 and required the Secretary of Transportation to establish a fee or charge for recreational vessels and to collect it annually in fiscal years (FY) 1991 through 1995 from the vessel owner or operator. The Act applied to recreational vessels greater than 16 feet in length, operated on the navigable waters of the United States where the Coast Guard has a presence. The Coast Guard issued regulations to implement the Act, after notice and public comment, in 33 CFR subpart 1.30 (56 FR 30244; July 1, 1991).

Section 501 of the High Seas Driftnet Fisheries Enforcement Act (Pub. L. 102-582), enacted November 2, 1992, amends 46 U.S.C. 2110(b)(1) to reduce the number of recreational vessels subject to the annual fee by changing the vessel length categories subject to the fee for fiscal years 1993 and 1994, and by eliminating the fee on October 1, 1994.

This rulemaking implements Public Law 102-582. The rulemaking does not change the fee amounts which were set at the maximum amounts allowable (56 FR 30244; July 1, 1991).

Discussion of Changes

Applicability

Effective October 1, 1992, 46 U.S.C. 2110(b)(1) applies only to recreational vessels that are greater than 21 feet in length in fiscal year 1993, at least 37 feet in length in fiscal year 1994, and which are operated on navigable waters of the United States where the Coast Guard has a presence.

Refunds

The Coast Guard halted sales of category "A" decals on November 2, 1992, and automatic refunds were made to all known purchasers of category "A" decals on or after October 1, 1992. The Coast Guard continued the sale of category "B" decals after November 2, 1992, but telephone purchasers were advised that the fee did not apply to recreational vessels 21 feet in length and under. A letter was mailed to all known purchasers of category "B" decals between October 1 and November 16. A statement has been included with each category "B" decal set mailed since November 16 to purchasers, advising them that only vessels over 21 feet in length are subject to the fee and where they may write to request a refund.

Any person who has purchased an RVF decal on or after October 1, 1992, for a recreational vessel 21 feet in length and under, who has not yet been contacted about obtaining a refund, may request a refund by writing to the address for refunds under **ADDRESSES** and returning the unneeded RVF decals.

Fee Amounts

The Coast Guard has retained the fees at the maximum amount allowable for each vessel length category as published in the July 1, 1991 final rule (56 FR

30244). A review of the legislative history of the amendment to 46 U.S.C. 2110(b) did not indicate that the Coast Guard should recalculate the fees for each category of vessel length. House Report 102–182, Pt. 2 to accompany H.R. 534 (prior to incorporating the amendment into H.R. 2152) emphasized Congressional intent to reduce to $0 the fee or charge for vessels in the smallest length category before making any reduction in the fee or charge for vessels in larger length categories. Further, Congress has exercised this intent in Pub. L. 102–582 by eliminating the fee or charge for FY 1993 for all vessels in the original category "greater than 16 feet in length but less than 20 feet" ("A" decals) and some vessels in the original category "at least 20 feet in length but less than 27 feet" ("B" decals). Further, for 1994, the fee was eliminated for the remaining vessels in the 1993 category "greater than 21 feet in length but less than 27 feet" ("B" decals) and most of the vessels in the 1993 category "at least 27 feet in length but less than 40 feet" ("C" decals). Therefore, the Coast Guard has adjusted only the vessel length categories to reflect the new length categories established by 46 U.S.C. 2110(b)(2), as amended.

Regulatory Evaluation

This rulemaking is not major under Executive Order 12291 and not significant under the "Department of Transportation Regulatory Policies and Procedures" (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rulemaking to be so minimal that a full regulatory evaluation is unnecessary.

This rulemaking will reduce fees collected from recreational vessel owners to approximately $22 million in FY 1993, and $5 million in FY 1994 for a total of approximately $27 million over the remaining two fiscal years.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider the economic impact on small entities of a rule for which a general notice of rulemaking is required. "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 rule does not require a general notice of rulemaking and, therefore, is exempt from the regulatory flexibility requirements. Although exempt, the Coast Guard has reviewed this rule for potential impact on small entities.

This rulemaking would apply the fee only to recreational vessels; not to uninspected passenger or other commercial business vessels. The statute excludes uninspected passenger or other commercial business vessels because they are not recreational vessels. Vessels documented by the Coast Guard under 46 U.S.C. chapter 121 are excluded for the same reason, unless the vessel has a "recreational endorsement" on the certificate of documentation. Resorts, boat liveries, and marinas that rent or lease recreational vessels subject to the fee will continue to bear the economic burden of paying a fee for each boat that is operated where the fee applies. Some tourism linked to boating could shift to communities and businesses on waters where the fee does not apply.

In the final rule (56 FR 30244; July 1, 1991) the Coast Guard certified under 5 U.S.C. 605(b) that the rulemaking would not have a significant economic impact on a substantial number of small entities. This rule reduces the numbers of recreational vessels that are subject to the annual fee and thus, actually reduces any impact on small entities resulting from the original rulemaking. Therefore, the Coast Guard's position is that this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rulemaking will result in a reduction of the current reporting and collection of information requirements approved by the Office of Management and Budget (OMB) under section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). The subpart number is 33 CFR 1.30 and the corresponding OMB approval number is OMB Control Number 2115–0588.

Federalism

The Coast Guard has analyzed this rulemaking under the principles and criteria contained in Executive Order 12612 and has determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rulemaking and concluded that, under sections 2.B.2(c) and (1) of Commandant Instruction M16475.1B, this rulemaking is categorically excluded from further environmental documentation. This rulemaking is an administrative action, required to conform implementing regulations to 46 U.S.C. 2110(b) as amended by Public Law 102–582, that clearly does not have any environmental impact. A Categorical Exclusion Determination has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 1

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Penalties, Fees.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR subpart 1.30 as follows:

Subpart 1.30—Recreational Vessel Fees

1. The authority citation for subpart 1.30 continues to read as follows:

Authority: 46 U.S.C. 2110; 49 CFR 1.46.

2. Section 1.30–1 is amended by revising paragraphs (a), (b), (c), and paragraph (d) introductory text to read as follows:

§ 1.30–1 Applicability.

(a) This subpart establishes annual fees for recreational vessels, effective for calendar years 1993 and 1994.

(b) The fees established under this subpart for calendar year 1993 do not apply to recreational vessels 21 feet in length and under, public vessels, and vessels deemed public vessels under 14 U.S.C. 827.

(c) The fees established under this subpart for calendar year 1994 do not apply to recreational vessels under 37 feet in length, public vessels, and vessels deemed public vessels under 14 U.S.C. 827.

(d) The fees established under this subpart apply to recreational vessels operated on:

* * * * *

3. Section 1.30–10 is revised to read as follows:

§ 1.30–10 Fee amounts.

(a) The recreational vessel fees for calendar year 1993 for the categories of vessel length are as follows:

(1) Vessels greater than 21 feet in length but less than 27 feet—$35;

(2) Vessels at least 27 feet in length but less than 40 feet—$50; and

(3) Vessels at least 40 feet in length—$100.

(b) The recreational vessel fees for calendar year 1994 for the categories of vessel length are as follows:

(1) Vessels at least 37 feet in length but less than 40 feet—$50; and

(2) Vessels at least 40 feet in length—$100.

Dated: February 11, 1993.

W.J. Ecker,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 93-3681 Filed 2-16-93; 8:45 am]

BILLING CODE 4910-14-M

federal register

Wednesday
February 17, 1993

Part V

Department of the Interior

Bureau of Indian Affairs

Omaha Tribe of Nebraska Alcohol Beverage Control Law; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Omaha Tribe of Nebraska Alcohol Beverage Control Law

February 2, 1993.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. 1161 which provides that as a matter of Federal criminal law liquor transactions in Indian country are permissible if the act or transaction is in conformity both with the law of the State and a proper tribal ordinance. This notice certifies that Resolution No. 92–88, the Omaha Tribe of Nebraska Liquor Ordinance was duly adopted by the Omaha Tribe of Nebraska Council on June 1, 1992. The Ordinance provides for the regulations of the activities of the manufacture, distribution, sale, and consumption of liquor in the area of Indian Country under the jurisdiction of the Omaha Tribe of Nebraska.

DATES: This Ordinance is effective as of February 17, 1993.

FOR FURTHER INFORMATION CONTACT: Chief, Branch of Judicial Services, Division of Tribal Government Services, 1849 C Street NW., MS 2611–MIB, Washington, DC 20240–4001; telephone (202) 208–4400.

SUPPLEMENTARY INFORMATION: The Omaha Tribe of Nebraska Liquor Ordinance Resolution No. 92–88 is to read as follows:

Omaha Tribe of Nebraska Ordinance No. 92–88 Liquor Control

Chapter I—Alcoholic Beverages

Section 1—Definition of Terms

Terms used in this Ordinance, unless the context otherwise plainly requires, shall mean as follows:

(a) "Alcoholic Beverages" shall mean any intoxicating liquor, beer or any wine as defined under the provisions of this Ordinance.

(b) "Application" shall mean a formal written request for the issuance of a license supported by a verified statement of facts.

(c) "Intoxicating Liquor" shall mean any liquid either commonly used, or reasonably adopted to use for beverage purposes, containing in excess of three and two-tenths percentum of alcohol by weight. This shall include any type of wine, regardless of alcohol content.

(d) "Legal Age" shall mean the age requirements as defined in Chapter IV.

(e) "Liquor Store" shall mean any store, established for the sale of alcoholic beverages.

(f) "On-Sale Dealer" shall mean the Omaha Tribe of Nebraska, Tribal Citizen or other person, firm or entity that sells, or keeps for sale, any alcoholic beverages authorized under this Ordinance for consumption on the premises where sold.

(g) "On-Sale" shall mean the sale of any alcoholic beverage for consumption only upon the premises where sold.

(h) "Off-Sale" shall mean the sale of any alcoholic beverage for consumption off the premises were sold.

(i) "Package" shall mean the bottle or immediate container of any alcoholic beverage.

(j) "Package Dealer" shall mean the Omaha Tribe of Nebraska, Tribal Citizen or any person, firm or entity as distinguished from a distiller, manufacturer, or wholesaler, that sells, or keeps for sale, any alcoholic beverage authorized under the Ordinance for consumption off the premises were sold.

(k) "Public Place" shall mean any place, building, or conveyance to which the public has or is permitted access.

(l) "Retailer" shall mean Omaha Tribe of Nebraska, Tribal Citizen or any person, firm or entity that sells alcoholic beverages authorized under this Ordinance for other than resale.

(m) "Reservation" means all lands located in the State of Iowa within the exterior boundaries of the Reservation of the Tribe, and such other lands in the State of Iowa over which the Tribe exercises governmental authority.

(n) "Sacramental Wine" shall mean wines for sacramental purposes only and used by ordained Rabbis, Priests, Ministers, or Pastors, or any church or established religious organization.

(o) "Sale" shall mean the transfer of bottled or canned liquor for any consideration and of title to any alcoholic beverage.

(p) "Tribal Citizen" or "Citizen of the Tribe" shall mean an enrolled member of the Tribe and persons eligible for enrollment.

(q) "Tribal Council" shall mean the governing body of the Omaha Tribe of Nebraska.

(r) "Tribe" shall mean the Omaha Tribe of Nebraska.

(s) "Vendor" shall mean, in the case of a Tribal Citizen, any person employed and under the direct supervision of such Tribal Citizen to conduct and manage Tribal Citizen's liquor stores, and in the case of other persons, firms or entities, a vendor shall mean such person, firm or entity and any person employed and under the direct supervision of such person, firm or entity.

(t) "Wholesaler" shall mean any person other than a brewer or bottler of beer, who shall sell, barter, exchange, offer for sale, have in possession with intent to sell, deal or traffic in intoxicating liquor or beer; no wholesaler shall be permitted to sell for consumption upon the premises.

(u) "Wine" shall mean any beverage containing alcohol obtained by the fermentation of the natural sugar content of fruits or other agricultural products, and containing not more than seventeen percent of alcohol by weight, including sweet wines fortified with wine spirits, such as port, sherry, muscatel, and other fortified wines.

(v) The terms, "the provisions of this Ordinance," "as provided in this Ordinance" or similar terms shall include all rules and regulations of the Tribe adopted to aid in the administration or enforcement of this Ordinance.

Section 2—Public Policy Declared

This Ordinance shall be cited as the "Omaha Tribe Liquor Control Ordinance" and under the inherent sovereignty of the Omaha Tribe of Nebraska, shall be deemed an exercise of the Tribe's power, for the protection of the welfare, health, peace, morals, and safety of the people of the Tribe, and all its provisions shall be liberally construed for the accomplishment of that purpose, and it is declared to be public policy that the traffic in alcoholic beverages if it affects the public interest of the people, should be regulated to the extent of prohibiting all traffic of liquor, except as provided in this Ordinance.

Section 3—General Prohibition

It shall be unlawful to manufacture for sale, sell, offer, or keep for sale, possess or transport intoxicating liquor or beer except upon the terms, conditions, limitations, and restrictions specified in this Ordinance.

Section 4—Director Appointed

The Omaha Tribal Council shall appoint one of its members to serve as Director of Liquor Control. The Director shall not have an interest directly or indirectly in the transportation or sale of intoxicating liquor or beer, or in any building or property used in connection with such a business. The Director shall review liquor licenses, applications for liquor licenses and shall report to the Council on such matters. The Director

shall serve at the pleasure of the Tribal Council.

Section 5—Removal

The Director may be removed for cause by the Omaha Tribal Council and such removal shall not be in lieu of any other punishment that may be prescribed by the laws of the Tribe or the United States. The Director so removed shall be entitled to an opportunity to be heard before the Omaha Tribal Council before removal.

Section 6—Tribal Control of Importation of Liquor

The Tribal Council shall have the sole and exclusive right of authorizing importation, into the Reservation, of all forms of intoxicating liquor and beer, except as otherwise provided in this Ordinance, and no person or organization shall so import any such intoxicating liquor or beer into the Reservation, unless authorized by the Tribal Council by the issuance of a Class C wholesaler's license. No licensed wholesaler or distillery shall sell any intoxicating liquor or beer within the Reservation to any person or organization unless authorized by the Tribal Council and except as otherwise provided in this Ordinance. It is the intent of this section to retain in the Tribal Council, exclusive control within the Reservation both as authorizer and controller of all alcoholic beverages sold by licensed wholesalers or distilleries within the Reservation or imported therein, and except as otherwise provided in this Ordinance.

Section 7—Individual and Firms To Hold License

An individual person, as well as firms, corporations or other entities may hold a liquor license under the provisions of this Ordinance. It is the intent of this Ordinance to allow individuals as well as firms, corporations or other entities to hold liquor licenses, as provided by this Ordinance.

Section 8—Tribal Liquor Stores or Lounges

Subject to the provisions of Chapter II, the Tribal Council may establish and maintain anywhere on the Reservation in the State of Iowa the Tribal Council may deem advisable, a Tribal liquor store, lounge or stores or lounges for storage and sale of alcoholic beverages in accordance with the provisions of this Ordinance.

Section 9—Vendor-Cash Sales

In the conduct and management of Tribal liquor stores and lounges, the Tribal Council is empowered to employ a person who shall be under the direct supervision of the Director, who shall be known as a "vendor" and who shall observe all provisions of this Ordinance and rules and regulations that may be prescribed by the Tribal Council under this Ordinance. No vendor shall sell alcoholic beverages to any person or organization except for cash, check, or credit card transaction, except where the purchaser is a bona fide registered guest in a hotel or motel.

Section 10—Storage of Beverages

The Omaha Tribe of Nebraska and all licensees under this ordinance shall not keep or store any alcoholic beverages at any place within the Omaha Tribe of Nebraska Reservation other than on the premises where they are authorized to operate and except as otherwise provided by this Ordinance.

Section 11—Payment of Fee

There shall be a filing fee on applications for any licenses under this Ordinance, as established by the Tribal Council.

Section 12—Request for Notice of Hearing

If any Tribal Citizen shall file with the Tribal Council, a written request that he or she be notified of the time and place of hearing upon any specified application or applications for licenses for the On- or Off-Sale at retail of alcoholic beverages, the Director shall give notice to such person by certified mail and within a sufficient length of time prior to the hearing upon such application as to allow such person a reasonable opportunity to be present. For the purpose of this section, the certified letter must be deposited with the U.S. Post Office at least five (5) days before the schedule date of the hearing.

Section 13—Time and Place for Hearing

The Tribal Council shall fix a time and place for hearing upon all such applications which may come before the Tribal Council, and the Director shall publish notice once in a newspaper of general circulation within the Reservation which notice shall be headed "Notice of Hearing Upon Application for Sale of Alcoholic Beverage" and shall state the time and place, when and where such applications will be considered by the Tribal Council and that any person interested in the approval or rejection of any such application may appear and be heard, which notice shall be published at least one week prior to such hearing. At the time and place so fixed, the Tribal Council shall consider such applications and all objections thereto, if any, prior to final decision thereon

Section 14—Transfer of License

No license grant pursuant to the provisions of this Ordinance shall be transferred to another person or organization. If a transfer to a new location is requested by a licensee, the licensee must make application showing all the relevant facts as to such new application, which application shall take the same course and be acted upon as if an original application. No fee shall be required of a licensee who desires to transfer to a new location; however, such licensee must pay the actual costs involved in the Notification of Hearing as published in the official newspaper.

Section 15—Sale of Stock on Termination

Any licensee authorized to deal in alcoholic beverages upon termination of its license may at any time within twenty (20) days thereafter sell the whole or any part of the alcoholic beverages included in its stock in trade at the time of termination, to any licensed wholesaler approved under the provisions of the Ordinance to deal in alcoholic beverages as a wholesaler. A complete report of such purchase and sale must be made by both the wholesaler and licensee to the Tribal Council. At the discretion of the Tribal Council, an additional twenty (20) days extension to sell may be granted to the licensee by the Tribal Council.

Section 16—Complaints Authorized

Any person may file with the Tribal Council, a duly notarized complaint as to any violations of the provisions of this Ordinance and immediately upon receipt thereof, the Tribal Council shall cause the Director to make a thorough investigation and, if there is evidence to support the charge made in such complaint, the Tribal Council may revoke or suspend the license in question and/or take other appropriate action.

Section 17—Revocation Proceedings

The Tribal Council shall on due notice to such licensee, conduct a hearing and on the basis thereof determine whether such license should be revoked or suspended.

Section 18—Subpoena by Tribal Council

For the purpose of conducting the hearing as prescribed above, the Tribal Council shall have the power to subpoena witnesses and to administer oaths. Witnesses so subpoenaed may be paid at the then prevailing witness rate

which is established by the Tribal Council from time-to-time. Said witness fee may be paid from the Tribal Liquor Control Fund. The initial witness fee shall be $20.00 per day. Criminal proceedings must be filed in the Tribal Court and may be instituted by the Tribal Council as Complainant against any violator except the Omaha Tribe of Nebraska.

Section 19—Dismissal or Acceptance of Complaint

If the Tribal Council determines the license should not be revoked or suspended, it shall dismiss the complaint. If the Tribal Council determines the license should be suspended or revoked and suspends or revokes such license, it must make in writing, findings of fact as to every such violation alleged in such complaint before it revokes or suspends such license, and must within thirty (30) days following the hearing, make a report available to the members of the Tribe consisting of a transcript of the proceedings had, and all findings as to every such violation alleged in such complaint.

Section 20—Suspension in Lieu of Revocation

The Tribal Council may, if the facts warrant, mitigate the revocation to a suspension. When in any proceedings upon verified complaint, the Tribal Council is satisfied that the nature of such violation and the circumstances thereof were such that a suspension of license would be adequate, it may suspend the license for a period not exceeding sixty (60) days, which suspension shall become effective twenty-four (24) hours after service of notice thereof upon the license. During the period of such suspension, such licensee shall exercise no rights or privileges whatsoever under the license.

Section 21—Public Hearing Required

All hearings under the provisions of this Ordinance shall be public, and place of hearing shall be specifically designated in the notice of hearing.

Section 22—Order of Revocation

In any case where the Tribal Council approves a revocation of a license, it shall forthwith make an order for such revocation and upon service of notice thereof on the licensee, all of such licensee's rights under such license shall terminate three (3) days after such notice, except in the event of a Stay on Appeal.

Section 23—Waiting Period for New Licensee

Any licensee, except the Omaha Tribe of Nebraska, whose license is revoked, shall not for a period of two (2) years thereafter, be granted any license under the provisions of this Ordinance.

Section 24—Appeal to the Omaha Tribal Court

Any licensee whose license is revoked or suspended by the Tribal Council regardless of how the proceedings were instituted, may appeal from such revocation or suspension, to the Omaha Tribal Court within five (5) days after notice to the licensee of such revocation or suspension, and such appeal operate to stay all proceedings for a period of fifteen (15) days thereafter. Upon good cause shown, the Tribal Court may extend the stay an additional period of time but not to exceed thirty (30) additional days. The Tribal Council shall forthwith, upon such appeal being made, prepare a complete record in the proceedings and shall thereupon fix a time and place for hearing before the Tribal Court, due notice of such hearing shall be given to all concerned parties involved in the appeal. The Tribal Court shall review the proceeding before the Tribal Council on the record made before the Tribal Council utilizing the clearly erroneous standard of review for findings of fact.

Section 25—Bootlegging

Any person, who by himself, or through another acting for him, shall keep or carry on his person, or in a vehicle, or leave in a place for another to secure, any alcoholic liquor or beer with intent to sell or dispense of such liquor or beer or otherwise in violation of law, or who shall, within this Reservation in any manner, directly or indirectly solicit, take, or accept any order for the purchase, sale, shipment, or delivery of such alcoholic liquor or beer in violation of law, or aid in the delivery and distribution of any alcoholic liquor or beer so ordered or shipped, or who shall in any manner procure for, sell, or give any alcoholic liquor or beer to any person under legal age, for any purpose except as authorized and permitted in this Ordinance, shall be guilty of bootlegging and upon conviction thereof shall be subject to a fine of not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00), and to a jail sentence of not less than three (3) months, nor more than six (6) months, or both such fine and jail sentence plus costs. Proceedings under this Section involving Tribal Citizens shall be criminal in nature and heard before the Omaha Tribal Court.

Proceedings under this Section involving non-Tribal Citizens shall be deemed an administrative exercise of the Tribe's regulatory power and the fine for any one offense cannot exceed $10,000.00 and no jail sentence may be imposed.

Section 26—Sacramental Wines

The provisions of this ordinance, except as otherwise provided, shall not apply to the purchase and sale of sacramental wines. Ordained rabbis, priests, ministers, or pastors of any church or established religious organizations within the Omaha Tribe Reservation may buy sacramental wines from any person in such quantities as necessary for their religious purposes only.

Chapter II—Liquor Licenses and Sales

Section 1—Power to License and Tax

The power to establish licenses and levy taxes under the provisions of this Ordinance is vested exclusively with the Tribal Council. The Tribal Council may levy an administrative fine for violations of this ordinance by those who are not Citizens of the Tribe, but such fines shall not exceed Ten Thousand Dollars ($10,000.00) per violation.

Section 2—Classes of Licenses

Classes of licenses under this chapter with the fee for each class as established by the Tribal Council from time-to-time shall be as follows:

(a) Class A Package Dealers: $1,000.00
(b) Class B On-Sale Dealers: $1,500.00
(c) Class C Wholesalers: $500.00

Section 3—Acceptance or Rejection of License

In accepting or rejecting a request for a license, the Tribal Council shall consider the need of the area to be served for such liquor sales, the number of existing licensed businesses covering the area, the desires of the community within the area to be served, any law enforcement problem which may arise because of the sale of liquor, the character and reputation of the person seeking the license, suitability of the physical premises and plan of operation of the person seeking the license, and any other consideration relevant to the request.

Section 4—Domestication Requirement for Corporated Licenses

Any corporate, partnership or other entity applying for a Class A or Class B license under this chapter must be a

corporation, partnership or entity organized under the laws of the Omaha Tribe of Nebraska, provided that if the applicant is a foreign corporation, partnership or entity, the applicant shall be deemed eligible if, prior to the application, it has complied with all the laws of the United States and the Tribe concerning doing business within the Omaha Reservation and submitted to the jurisdiction of the Tribe by appointing a resident agent for service of process. Individuals, partnerships, and other forms of business association shall be eligible to obtain all classes of licenses under this chapter.

Section 5—Discretion of the Tribal Council

Application for licenses under this chapter shall be submitted to the Tribal Council as specified in Chapter I of this Ordinance and the Tribal Council shall have absolute discretion to approve or disapprove the same in accordance with the provisions of this Ordinance.

Section 6—Cancellation of Surety Bond

Any surety may cancel any bond required under this Ordinance as to future liability by giving thirty (30) days notice to the Tribal Council. Unless the licensee gives other sufficient surety by the end of the thirty (30) day period, the license shall be revoked automatically at the end of the thirty (30) days.

Section 7—Surety Bond

(a) Every application for a license under this Ordinance, unless exempted by the Tribal Council, must be accompanied by a bond, which shall become operative and effective upon the issuing of a license unless the licensee already has a continuing bond in force. The bond shall be in the amount of $10,000.00 and must be in a form approved by the Tribal Council and it shall be conditioned that the licensee will faithfully obey and abide by all the provisions of this Ordinance and all existing laws relating to the conduct of its business and will promptly pay to the Omaha Tribe of Nebraska when due, all taxes and license fees payable by it under the provisions of this Ordinance and also any costs and cost penalty assessed against it in any judgment for violation of the terms of this Ordinance.

(b) All bonds required by this Ordinance shall be with a corporate surety as surety, or shall be by cash deposit. If said bond is placed by cash, it shall be kept in a separate escrow account within a legally chartered bank.

Section 8—Action of Bond for Injury

Any person injured by reason of the failure of any licensee to faithfully obey and abide by all the provisions of this Ordinance shall have a direct right of acting upon the bond before the Tribal Council, and if the Tribal Council or the Tribe is the Complainant, before the Tribal Court, for the purpose of recovering the damage sustained by such person, which action may be prosecuted in the name of the injured.

Section 9—Agreement by Licensee To Grant Access

Every application for a license under this Ordinance must include an agreement by the applicant that his premises, for the purpose of search and seizure laws shall be considered public premises, and that such premises and all buildings, safes, cabinets, lockers, and store rooms thereon will at all times on demand of the Tribal Council or a duly appointed Tribal or Federal policeman, be open to inspection, and that all its books and records dealing with the sale of ownership of alcoholic beverages shall be open to said person or persons for such inspection, and that the application and the license issued thereon shall constitute an irrevocable contract between the licensee and the Omaha Tribe of Nebraska entitling the Tribe for the purpose of enforcing the provisions of this Ordinance to inspect the premises and books at any time.

Section 10—Duration of Licenses

The period covered by the licenses under this Ordinance shall be from 12 o'clock midnight on the 31st day of December to 12 o'clock midnight on the 31st of the following December, except that the license shall be valid for an additional thirty (30) days provided that proper application for a new license is in the possession of the Tribal Council prior to midnight on the 31st day of December when the license for a portion of such period, unless otherwise provided by this Ordinance.

Section 11—Refilling Prohibited

No licensee shall buy or sell any package which has previously contained alcoholic beverages sold under the provisions of this Ordinance or refill any such package.

Section 12—Deliveries

No licensee under this Ordinance shall make any delivery of alcoholic beverages outside the premises described in the license.

Section 13—Prohibited Sales

No vendor shall sell any intoxicating liquor;

(a) to any person under legal age,

(b) to any person who is intoxicated at the time, or who is known to the vendor to be a habitual drunkard,

(c) to any person to whom the vendor has been requested in writing not to make such sale, where such request is by the Tribal Council, any police or peace officer, or the husband or wife of the person,

(d) to any mentally ill or mentally retarded person. Any person who violates any of the provisions of this section shall be guilty of an offense and punished by a fine of not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00), or by both such fine and imprisonment with costs.

Section 14—After Hours Sales

No vendor shall sell, serve or allow to be consumed on the premises covered by the license, alcoholic beverages other than in the hours permitted by its license. The Tribal Council shall specify the hours of sale in the license issued to the vendor, provided that such hours of sale shall not be more extensive than those permitted in the State of Iowa from time-to-time.

Section 15—Prohibited Sales

No Class B licensed On Sale establishment shall allow to be sold any alcoholic beverages in a package, whether sealed or unsealed, or whether full or partially full.

Section 16—Unsealed Packages in Public

No person shall have an unsealed package containing intoxicating liquor in his possession in any public place, other than in a duly licensed facility authorizing such broken seal.

Section 17—Prohibited Use

No person shall be permitted either to consume any intoxicating liquor or to mix or blend any intoxicating liquor or alcohol with any other beverage whether or not such other beverage is an alcoholic beverage, in any public place other than upon the premises of a licensed on-sale dealer as defined and authorized by this Ordinance, and any vendor who knowingly permits such violation to occur upon the premises shall be equally responsible with the person performing the act for the violation of the terms thereof.

Section 18—Cash Sales Only

All sales of alcoholic beverage shall be made for cash, check or by credit card transaction except where the purchaser is a bonafide registered guest in a hotel or motel. No Licensee may extend credit for the purchase of

alcoholic beverages or engage in any pawn business of any type.

Chapter III—Sales Tax

Section 1—Sales Tax Levied

There is hereby imposed a sales tax on the purchaser of alcoholic beverages from any retail licensee licensed under the provisions of this Ordinance in the amount of ten precentum (10%) of the retail selling price. Such sales tax shall be deposited in a specific fund for use to prevent and control substance abuse on the Reservation.

Chapter IV—Age Requirements

Section 1—Sales to Persons Under 21

It shall be unlawful to sell or give any alcoholic beverage to any person under the age of twenty-one (21) years. Any Tribal Citizen who violates this section shall be guilty of an offense and upon conviction thereof shall be punished by a fine of not less than one hundred dollars ($100.00) or more than five hundred dollars ($500.00) or by imprisonment in jail for not less than thirty (30) days nor more than one hundred eighty (180) days, or by both such fine and imprisonment with costs. Violations of this Section by persons or entities which are not Tribal Citizens may be regulated by the levy of an administrative fine not in excess of $2,000.00 per violation following an opportunity for a hearing before the Tribal Council. The levy of an administrative fine by the Tribal Council under this Section is in addition to the power to suspend or revoke any license.

Section 2—Purchase, Possession by Minor

It shall be unlawful for any person under the age of twenty-one (21) years of age to purchase, attempt to purchase or possess or consume intoxicating liquor, or to misrepresent his age for the purpose of purchasing or attempting to purchase such intoxicating liquor. Any person who violates any of the provisions of this section shall be guilty of an offense and upon conviction thereof shall be punished by a fine of not less than One Hundred Dollars ($100.00) or more than Five Hundred Dollars ($500.00) or by imprisonment in the jail for a period not less than thirty (30) days nor more than one hundred twenty (120) days, or by both such fine and imprisonment with costs. Violating this Section by persons who are not Citizens of the Tribe may be regulated by the levy of an administrative fine not in excess of $1,000.00 per violation following an opportunity for a hearing before the Tribal Council.

Section 3—Evidence of Legal Age Demanded

Upon attempt to purchase any alcoholic beverages in any liquor store licensed pursuant to this Ordinance by any person who appears to the vendor to be under legal age, such vendor shall demand, and the prospective purchaser upon such demand, shall display satisfactory evidence that he or she is of legal age. Any person under legal age who presents to any vendor falsified evidence as to his age shall be guilty of a misdemeanor and upon conviction shall be subject to the penalties specified in Section 1 above.

Chapter V—Revision

Section 1—Severability

If any section of any chapter of this Ordinance or the application thereof to any party or class, or to any circumstances, shall be held to be invalid for any cause whatsoever, the remainder of the chapter or Ordinance shall not be affected thereby and shall remain in full force and effect as though no part thereof had been declared to be invalid.

Section 2—All Prior Ordinances and Resolutions Repealed

All prior Ordinances and Resolutions or provisions thereof that are repugnant or inconsistent to any provision of this Ordinance are hereby repealed.

Section 3—Amendment or Repeal of Ordinance

This Ordinance may be amended or repealed only by majority vote of the Tribal Council in regular session.

Eddie F. Brown,

Assistant Secretary—Indian Affairs.

[FR Doc. 93–3674 Filed 2–16–93; 8:45 am]

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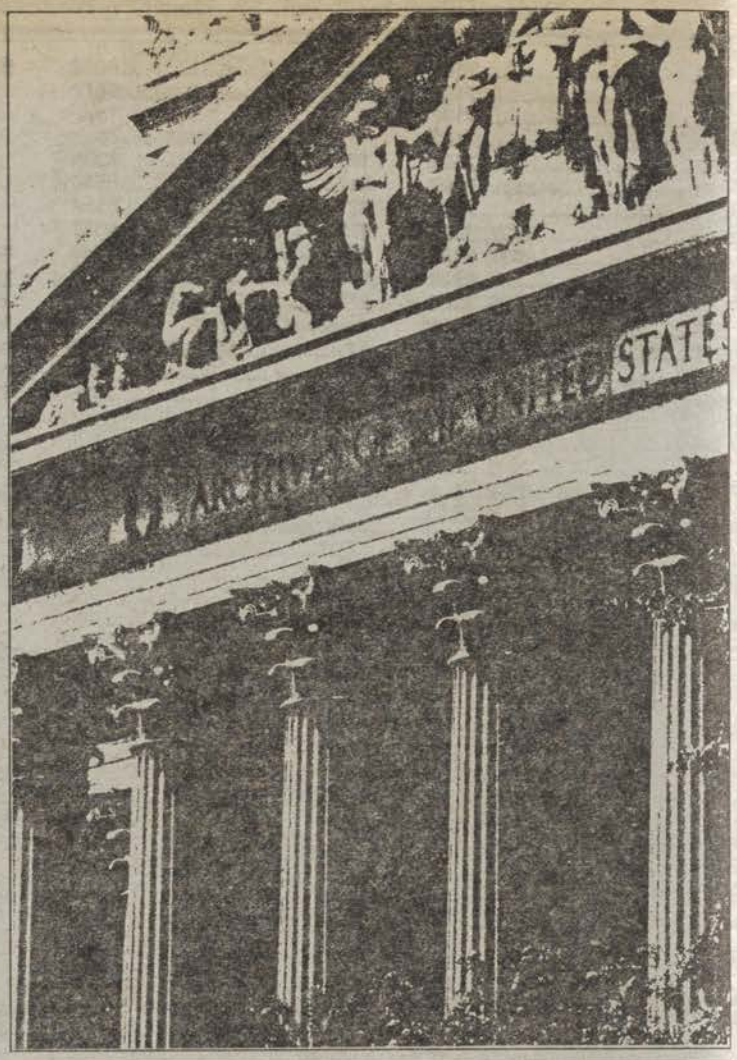

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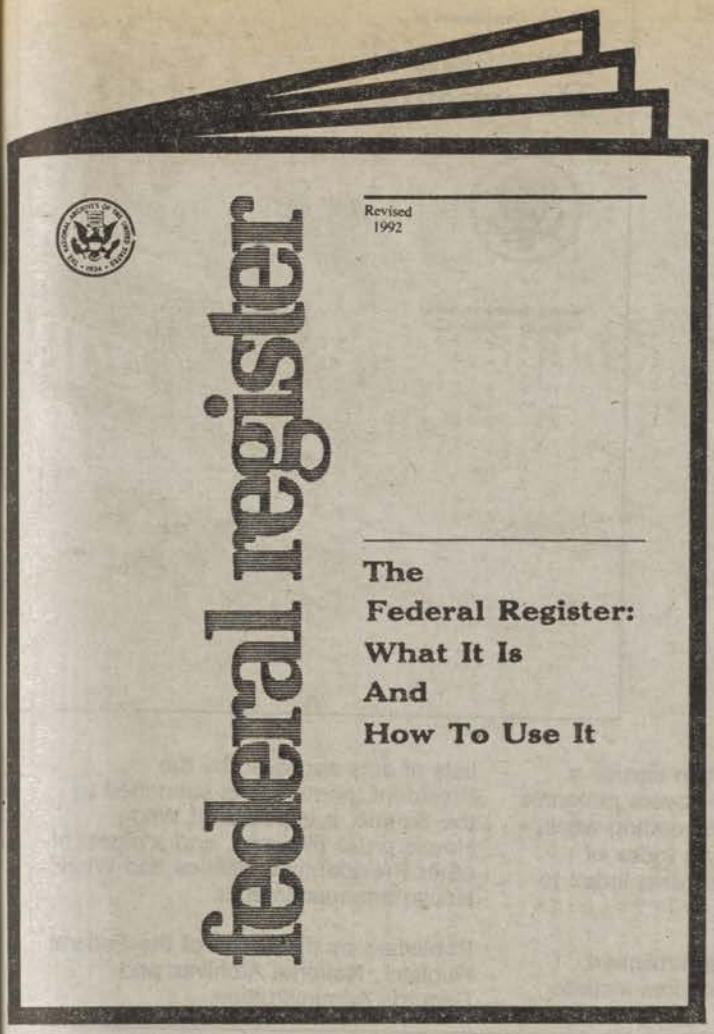

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