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WASHINGTON, DC

WHEN: December 10, 1996 at 9:00 a.m.
WHERE: Office of the Federal Register
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CFR PARTS AFFECTED IN THIS ISSUE

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Rules and Regulations

Federal Register
Vol. 61, No. 237
Monday, December 9, 1996

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 223

Sale and Disposal of National Forest System Timber; Modification of Contracts To Prevent Environmental Damage or To Conform to Forest Plans

AGENCY: Forest Service, USDA.

ACTION: Final rule; technical amendment.

SUMMARY: This technical amendment combines two similar rules to establish one streamlined regulation for modifying timber sale contracts. The need for this technical amendment became apparent when the agency reviewed its regulations as part of the President's Regulatory Reinvention Initiative.

EFFECTIVE DATE: December 9, 1996.

FOR FURTHER INFORMATION CONTACT: Jim Naylor, Timber Management Staff, Forest Service, USDA, P.O. Box 96090, Washington, D.C. 20090–6090, (202) 205–0858.

SUPPLEMENTARY INFORMATION: Section 6 of the Forest and Rangeland Renewable Planning Act of 1974 (16 U.S.C. 1600 *et seq.*) directs that contracts, permits, and other instruments for use of National Forest System lands be consistent with land management plans. Part 223 of Title 36 of the Code of Federal Regulations implements this direction by providing for modification of timber sale contracts and permits in § 223.39, Revision of contract conditions, and § 223.113, Modification to prevent environmental damage or to conform to forest plans. However, these provisions are redundant; the content of § 223.39 is largely repeated in § 223.113. Therefore, in order to streamline the regulations and eliminate any confusion caused by redundancy, this technical amendment removes and reserves § 223.39 and makes minor revisions to § 223.113 to clarify and simplify the rule.

Section 223.39 states that timber sale contracts, permits, or other instruments longer than 2 years in duration shall provide for revision of contract terms to make them consistent with guidelines and standards developed to implement section 6 of the Forest Rangeland and Renewable Resources Planning Act of 1974, as amended, and with land management plans developed or revised thereunder. This regulation also provides for a rate redetermination to compensate for any differences in value after the contract changes are made. The revised § 223.113, like the current § 223.113, includes the substance of § 223.39 but removes the qualification that the legal instruments must be longer than two years because the two year requirement is not in compliance with the National Forest Management Act of 1976 (NFMA), which amended the Forest and Rangeland Renewable Planning Act of 1974. NFMA states that contracts, permits, and other instruments must be consistent with land management plans, but the act does not exempt from compliance contracts and permits that are less than two years in duration.

The revised § 223.113 is substantively the same as the current § 223.113. The revised § 223.113 provides that contracts, permits, and other instruments may be modified to prevent environmental damage or to make them consistent with amendments or revisions of land management plans adopted subsequent to award or issuance of a timber sale contract, permit, or other such instrument. The reference to ''permits and other instruments'' is added in the revised § 223.113 in order to mirror the language of NFMA and to incorporate the language of § 223.39. Revised § 223.113, like the current § 223.113, also provides for compensation in the event of contract modification. The language relating to compensation, which can include a rate redetermination, is simplified in the amended rule by referring to timber sale contract provisions and § 223.60 of this subpart, the regulations for determining fair market value.

The revised regulation does not include the statement: ''Modifications shall be subject to the purchaser's valid existing rights,'' which is in the current § 223.113. This language is superfluous and confusing because the contract already sets forth the parties' rights and, therefore, this statement does not clarify nor add to the parties' rights under the contract.

Compliance With Administrative Procedure Act

Pursuant to 5 U.S.C. 553(b)(3)(B) of the Administration Procedure Act, the Forest Service has determined that publication of this rule for notice and comment prior to adoption is unnecessary. The final rule makes minor technical changes to streamline and clarify rules at 36 CFR part 223 so that these regulations conform to the Forest and Rangeland Renewable Planning Act of 1974. This rulemaking does not make any significant substantive changes to the administration of timber sale contracts, permits, or other legal instruments when they need to be modified in order to prevent environmental damage or to comply with the Forest and Rangeland Renewable Planning Act of 1974.

Regulatory Impact

This technical rule has no substantive revisions and is not subject to review under USDA procedures or Executive Order 12866 on Regulatory Planning and Review. As a technical amendment, this final rule is exempt from further analysis under Executive Order 12630, Takings Implications; the Unfunded Mandate Reform Act of 1995; the Paperwork Reduction Act of 1995; and Executive Order 12778, Civil Justice Reform.

List of Subjects in 36 CFR Part 223

Exports, Government contracts, National forests, Reporting requirements, Timber sales.

Therefore, for the reasons set forth in the preamble, Part 223 of Title 36 of the Code of Federal Regulations is hereby amended as follows:

PART 223—SALE AND DISPOSAL OF NATIONAL FOREST SYSTEM TIMBER

1. The authority citation continues to read as follows:

Authority: 90 Stat. 2958, 16 U.S.C. 472a; 98 Stat. 2213, 16 U.S.C. 618; 104 Stat. 714–726, 16 U.S.C. 620–620h, unless otherwise noted.

§ 223.39 [Removed and Reserved]

2. Remove and reserve § 223.39

§ 223.113 [Revised]

3. Revise § 223.113 to read as follows:

§ 223.113 Modification of contracts to prevent environmental damage or to conform to forest plans.

Timber sale contract, permits, and other such instruments may be modified to prevent environmental damage or to make them consistent with amendments or revisions of land and resource management plans adopted subsequent to award or issuance of a timber sale contract, permit, or other such instrument. Compensation to the purchaser, if any, for modifications to a contract shall be made in accordance with provisions set forth in the timber sale contract. When determining compensation under a contract, timber payment rates shall be redetermined in accordance with appraisal methods in § 223.60 of this subpart.

Dated: November 13, 1996.

David G. Unger,

Associate Chief.

[FR Doc. 96–31232 Filed 12–6–96; 8:45 am]

BILLING CODE 3410–11–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 131

[FRL–5659–9]

RIN 2040–AC78

Water Quality Standards for Pennsylvania

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes water quality standards applicable to waters of the United States in the Commonwealth of Pennsylvania. EPA is promulgating this rule pursuant to Section 303(c)(4) of the Clean Water Act (CWA). This rule establishes an antidegradation policy for Pennsylvania, making available additional water quality protection than currently provided by the Commonwealth's antidegradation policy including the ''Special Protection Waters Program,'' which EPA disapproved in part in 1994.

EFFECTIVE DATE: January 8, 1997.

ADDRESSES: This action's administrative record is available for review and copying at Water Protection Division, EPA, Region 3, 841 Chestnut Building, Philadelphia, PA 19107. For access to the docket materials, call Denise Hakowski at 215–566–5726 for an appointment. A reasonable fee will be charged for copies.

FOR FURTHER INFORMATION CONTACT: Evelyn S. MacKnight, Chief, PA/DE Branch, 3WP11, Office of Watersheds, Water Protection Division, EPA, Region 3, 841 Chestnut Building, Philadelphia, PA, telephone: 215–566–5717.

SUPPLEMENTARY INFORMATION:

A. Potentially Affected Entities

This action will establish a Federal antidegradation policy applicable to waters of the United States in the Commonwealth of Pennsylvania. Entities potentially affected by this action are those dischargers (e.g., industries or municipalities) that may request authorization for a new or increased discharge of pollutants to waters of the United States in Pennsylvania. This list is not intended to be exhaustive, but rather a guide for readers regarding entities potentially affected by this action. Other types of entities not listed could also potentially be affected. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. Background

Under section 303 (33 U.S.C. 1313) of the Clean Water Act (CWA), States are required to develop water quality standards for waters of the United States within the State. States are required to review their water quality standards at least once every three years and, if appropriate, revise or adopt new standards. 33 U.S.C. 1313(c). States are required to submit the results of their triennial review of their water quality standards to EPA. EPA reviews the submittal and makes a determination whether to approve or disapprove any new or revised standards.

Minimum elements which must be included in each State's water quality standards regulations include: use designations for all waterbodies in the State, water quality criteria sufficient to protect those designated uses, and an antidegradation policy consistent with EPA's water quality standards regulations (40 CFR 131.6). States may also include in their standards policies generally affecting the standards' application and implementation (40 CFR 131.13). These policies are subject to EPA review and approval (40 CFR 131.6(f), 40 CFR 131.13).

This rule involves antidegradation. 40 CFR 131.12 requires States to adopt antidegradation policies that provide three levels of protection of water quality, and to identify implementation methods. Under 40 CFR 131.12(a)(1), referred to as Tier 1, existing instream water uses and the level of water quality necessary to protect the existing uses are to be maintained and protected. Existing uses are those uses that existed on or since November 28, 1975. Tier 1 represents the ''floor'' of water quality protection afforded to all waters of the United States. Under 40 CFR 131.12(a)(2), referred to as Tier 2 or High Quality Waters, where the quality of the waters exceed levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water, that quality shall be maintained and protected unless the State finds, after public participation and intergovernmental review, that allowing lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located. In allowing such degradation or lower water quality, the State shall assure water quality adequate to protect existing uses fully. Further, the State shall assure that there shall be achieved the highest statutory and regulatory requirements for all new and existing point sources and all cost-effective and reasonable best management practices for nonpoint sources.

Finally, under 40 CFR 131.12(a)(3), known as Tier 3 or Outstanding National Resource Waters (ONRWs), where a State determines that high quality waters constitute an outstanding National resource, such as waters of National and State parks and wildlife refuges and waters of exceptional recreational or ecological significance, that water quality shall be maintained and protected.

Section 303(c)(4) (33 U.S.C. 1313(c)(4)) of the CWA authorizes EPA to promulgate water quality standards for a State when EPA disapproves the State's new or revised water quality standards, or in any case where the Administrator determines that a new or revised water quality standard is needed in a State to meet the CWA's requirements.

In June 1994, EPA Region 3 disapproved portions of Pennsylvania's standards pursuant to Section 303© of the CWA and 40 CFR 131.21, including portions of the antidegradation policy, known in Pennsylvania as the Special Protection Waters Program, relating to protection of existing uses, criteria used to define High Quality Waters and protection afforded to Exceptional Value Waters as equivalent to ONRWs. For a detailed review of the correspondence and discussions between the Pennsylvania Department of Environmental Protection (''Pennsylvania'' or ''the Department'') resulting from EPA's disapproval, see

the August 29, 1996, Federal Register proposal of this rule. (61 FR 45379).

As a result of EPA's disapproval, Pennsylvania initiated a regulatory negotiation, or ''reg-neg,'' to reassess its antidegradation policy, or Special Protection Waters Program, while involving stakeholders in the process. EPA participated in the reg-neg process in an advisory capacity and informed the reg-neg group of this rulemaking action.

Based on the reg-neg process and an interim report produced by the group, the Department announced in the *Pennsylvania Bulletin*, May 4, 1996, the availability of proposed changes to the antidegradation provisions of the Commonwealth's water quality standards. The reg-neg group's final meeting was on August 1, 1996, where the stakeholders declared that a group consensus could not be reached, disbanded and issued two separate reports, representing the opinions of the conservation stakeholders and the regulated community stakeholders respectively. The Department is currently developing a new regulatory proposal using these reports and input it received in response to its May 4, 1996 *Pennsylvania Bulletin* notice.

On April 18, 1996, concerned with the time that had elapsed since EPA's disapproval, the United States District Court for the Eastern District of Pennsylvania ordered EPA to prepare and publish proposed regulations setting forth revised or new water quality standards for the Commonwealth's antidegradation provisions disapproved in June 1994. *Raymond Proffitt Foundation* v. *Browner*, Civil Docket No. 95–0861 (E.D.Pa). The court stated that EPA was not to delay its rulemaking any more to accommodate the Commonwealth's schedule.

Consistent with the Court's order, on August 29, 1996, EPA published a Federal Register notice proposing standards related to Pennsylvania's antidegradation policy (61 FR 45379). Since the Commonwealth has not adopted revised water quality standards which EPA determined are in accordance with the CWA, an action that would have made EPA's rulemaking unnecessary, EPA is promulgating this rule in accordance with Section 303(c)(3) and (4) of the CWA.

EPA's long-standing practice in the water quality standards program has been to withdraw the Federal rule if, and when, a State subsequently adopts rules that are then approved by EPA. Thus, notwithstanding today's action, EPA strongly encourages the Commonwealth to pursue its on-going effort to adopt appropriate standards which will make this Federally promulgated rule unnecessary.

C. Summary of Final Rule and Response to Major Comments

A description of EPA's final action, and a summary of major comments regarding the proposal and EPA's response, are set forth below. Additional comments and responses to comments are in the administrative record.

1. Ensuring That Existing Uses Will Be Maintained and Protected as Required Under 40 CFR 131.12(a)(1)

Pennsylvania's regulation at 25 PA Code Sec. 93.4 explicitly protects existing uses only through Pennsylvania's designated use process. That process requires that when an evaluation of technical data establishes that a waterbody attains the criteria for an existing use that is more protective of the waterbody than the current designated use, that waterbody will be protected at its existing use until the conclusion of a rulemaking action. After the rulemaking action the waterbody will be protected only at its designated use and in some cases the designated use will not adequately protect the existing use. For a more detailed discussion of EPA's disapproval of this provision and Pennsylvania's resulting actions, see the preamble discussion in the August 29, 1996, proposal, 61 FR 45379.

In order to ensure that the standards governing Tier 1 antidegradation protection in Pennsylvania are consistent with the CWA, EPA proposed to promulgate for Pennsylvania language that ensures existing uses shall be maintained and protected in accordance with 40 CFR 131.12(a)(1). The comments EPA received regarding Federal Tier 1 protection were generally supportive of EPA's proposed action and raised no significant issues. See the Response to Comments document in the Administrative Record to this rule for responses to specific comments.

This final rule is promulgating our proposal without changes. This regulation will be the applicable Federal antidegradation Tier 1 policy in Pennsylvania for purposes of the CWA and, to the extent it is more stringent, supersedes Pennsylvania Regulations at 25 PA Code 93.4(d)(1). EPA is taking this action to protect all existing uses, including providing protection for existing uses that may be more specific, or require more protection, than Pennsylvania's designated uses.

Pennsylvania has recently proposed changes to its antidegradation policy that would protect existing uses without the limitations imposed by its use designation process. See 25 *Pennsylvania Bulletin* 2131–32 (May 4, 1996). If Pennsylvania promulgates this proposal as a final rule and it is approved by EPA, EPA would expect to withdraw the part of the Federal rule relating to Tier 1.

2. Ensuring That Pennsylvania's High Quality Designation Adequately Protects All Waters That Qualify for Protection Under the Federal Tier 2 Set Forth in 40 CFR 131.12(a)(2)

In order to afford equivalent protection to that afforded by Tier 2 of the Federal policy set forth in 40 CFR 131.12(a)(2), Pennsylvania has developed a Special Protection Waters Program which utilizes the designational approach, i.e., designates specific waters as High Quality. The High Quality Waters Policy is set forth in 25 PA Code Secs. 93.3, 93.7, 93.9 & 95.1, and the Department's Special Protection Waters Handbook (November 1992). High Quality Waters are defined in Pennsylvania's water quality standards as ''[a] stream or watershed which has excellent quality waters and environmental or other features that require special water quality protection''. 25 Pa Code Sec. 93.3. Once designated as High Quality, those waters are afforded a level of protection consistent with EPA's Tier 2.

EPA disapproved a portion of Pennsylvania's High Quality Waters Policy because the policy requires that a stream must possess ''excellent quality waters *and* environmental or other features that require special water quality protection'' [emphasis added]. That definition may exclude waters that would be protected under the Federal Tier 2 policy which provides Tier 2 protection to all waters with water quality exceeding levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water regardless of any other feature. Additional details concerning EPA's disapproval and Pennsylvania's response to the disapproval are available in the preamble to the August 29, 1996, proposal. 61 FR 45379.

EPA proposed language based on 40 CFR 131.12(a)(2) to make available Federal Tier 2 protection for Pennsylvania waters on the basis of water quality alone. That language would have the effect of making Tier 2 protection available to all waters whose quality ''exceeds levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water.''

Discussion of major comments relating to Tier 2

Comment: Two commenters stated that the EPA proposed language concerning social and economic justification for lowering water quality will weaken the present Pennsylvania program. Pennsylvania's program requires that a proposed project that will add a new or increased discharge into a Special Protection waters must be ''necessary'' and ''of significant benefit to the public,'' whereas the Federal language requires that lowering of water quality be ''necessary'' and ''to support important social and economic benefit in the area in which the waters are located.''

Response: Under the wording of 40 CFR § 131.32(a)(2), the Commonwealth will be responsible for determining whether a particular lowering of water quality is ''necessary to support important social and economic benefit in the area in which the waters are located.'' In making that determination the Commonwealth may equate ''important social and economic benefit'' with ''of significant benefit to the public'' if that phrase as used by Pennsylvania is interpreted to be at least as stringent as EPA's wording. We note that the word ''important'' was selected by EPA in 1983 because it was believed to be more protective than ''significant.'' Accordingly, EPA does not believe that the language of the Federal regulation will weaken the level of protection of Tier 2 waters.

Comment: One commenter stated that the Federal Tier 2 designation should be strictly interpreted in Pennsylvania as disallowing the Commonwealth from designating a stream as high quality or Tier 2 if even one of the stream's water quality standards is violated.

Response: EPA does not interpret 40 CFR 131.32(a)(2) as excluding a water from Tier 2 protection merely because one parameter exceeds water quality standards.

For additional comments and responses, see the Response to Comments document in the Administrative Record to this rule.

In the August 29, 1996, proposal, EPA also discussed another option of simply promulgating the definition of High Quality Water from 25 Pa Code Sec. 93.3 but without the phrase ''and environmental or other features which require special criteria.'' EPA sought comments on both of these options through the August 29, 1996, Federal Register proposal. Under either option, the current State process for establishing designations and reviewing proposals to lower water quality would remain in effect. The only comment supporting the second option was based on the concern that using the language of 131.12(a)(2) would weaken Pennsylvania's program. This concern is discussed above. Accordingly, the final rule retains the proposed approach.

Pennsylvania has not yet satisfied EPA's disapproval of its High Quality waters policy. Therefore, promulgation of the rule is still necessary. EPA has decided to retain the proposed language in this final rule since the rule is still necessary, and EPA received no comments on the proposed rule that would necessitate modification.

As discussed in the BACKGROUND section of this notice, Pennsylvania has considered enhancements to its High Quality Waters program through a regulatory negotiation process. As a result of this process, the Department indicated in the *Pennsylvania Bulletin*, May 4, 1996, that it may consider revising the High Quality Water definition to delete the requirements for additional ''environmental or other features.'' If Pennsylvania were to finalize this proposal and EPA approves it, EPA would expect to withdraw the portion of the Federal promulgation relating to Tier 2.

3. Ensuring That Pennsylvania's Highest Quality Waters May Be Provided a Level of Protection Fully Equivalent to Tier 3 of the Federal Policy

Pennsylvania considers its Exceptional Value Waters designation as part of the Special Protection Waters Program to be equivalent to Tier 3. The Exceptional Value Policy is set forth in 25 PA Code Secs. 93.3, 93.7, 93.9 & 95.1, and the Department's Special Protection Handbook, which contains implementation procedures for Exceptional Value protection. The Code and the Handbook must be read together to understand the effect of the Exceptional Value policy.

As described in the Handbook, Pennsylvania requires Exceptional Value Waters to be protected at their existing quality to the extent that no adverse measurable change in existing water quality would occur as a result of a point source permit. A change is considered measurable ''if the long-term average in-stream concentration of the parameter of concern can be expected, after complete mix of stream and wastewater, to differ from the mean value established from historical data describing background conditions in the receiving stream'' or at selected Pennsylvania reference sites.

EPA disapproved the Commonwealth's Exceptional Value designation because it is not convinced that this level of protection is sufficient to assure that water quality shall be maintained and protected as required by the Federal Tier 3 requirement at 40 CFR 131.12(a)(3). EPA believes that, in practice, Pennsylvania's policy of ''no adverse measurable change'' could allow potentially significant discharges and loading increases from point and nonpoint sources. See the August 29, 1996, Federal Register proposal of this rule (61 FR 45382).

EPA proposed promulgating language derived from 40 CFR 131.12(a)(3) (see 61 FR 45379). The language states that where waters are identified by the Commonwealth as ONRWs, their water quality shall be maintained and protected. It is EPA's recommendation that, while not required by EPA's regulation, ''no new or increased discharges'' to Tier 3 waters is the best and most reliable method to assure that water quality is fully maintained and protected in ONRWs. In the preamble to the proposed rule, and consistent with the recommended interpretation in its National guidance, EPA Water Quality Standards Handbook at 4–8 (2nd ed. 1994), EPA interpreted the proposed language at 40 CFR 131.32(a)(3) to prohibit, in waters identified by the Commonwealth as ONRWs, new or increased dischargers, aside from limited activities which have only temporary or short-term effects on water quality.

Despite EPA's position that Pennsylvania's Exceptional Value designation is not as protective as EPA's Tier 3 regulation, EPA recognized that the Commonwealth's success in having so many waters designated Exceptional Value might not have occurred if new or increased discharges were strictly prohibited. In light of this situation, rather than modify the Exceptional Value policy, EPA proposed in the August 29, 1996 Federal Register notice to promulgate language to provide Pennsylvania the opportunity to designate appropriate Pennsylvania waters as ONRWs, to which no new or increased discharges would be allowed. The intent of this ONRW proposal was not to replace or supplant the Exceptional Value category and designations already in place in Pennsylvania, but rather to supplement them. It would give the citizens of the Commonwealth the opportunity to request the highest level of protection be afforded to particular waters where appropriate. Under the proposal, EPA will not designate waters as ONRWs; that will be the Commonwealth's prerogative.

Discussion of Major Comments Relating to Tier 3

Comment: While some comments supported the creation of a new tier of protection, a number of comments requested that Pennsylvania's EV category be upgraded to be equivalent to Federal Tier 3 protection.

Response: EPA proposed a new tier, rather than a modification of Pennsylvania's Exceptional Value category because this seemed least disruptive to the state and most protective of the environment. The Exceptional Value category, which is not quite as protective as Tier 3, but still better than Tier 2, covers more waters than are likely to be designated ONRWs. Had EPA proposed to modify the Exceptional Value category, the State might have felt the need to reconsider the inclusion of some of the currently designated Exceptional Value waters.

Comment: Several commenters asserted that Section 131.12(a)(3) does not require a prohibition against new or increased discharges.

Response: The literal Federal regulatory requirement is that the water quality of designated ONRWs ''be maintained and protected.'' For the reasons explained in the preamble to the proposed rule (see 61 FR 45382), EPA believes that prohibition of new or increased discharges is a reasonable interpretation of its regulatory language and is the most dependable way of ensuring that ONRWs will be maintained and protected. There is no Federal requirement for states to adopt such a prohibition as a water quality standard regulation. EPA notes that there may be other formulations that States may adopt to meet the requirements of 40 CFR 131.12(a)(3) and provide a level of protection substantially equivalent for maintaining and protecting water quality in ONRWs. However, with respect to Pennsylvania, the Commonwealth's level of protection falls short of ''maintaining and protecting'' water quality in ONRWs and hence fails to meet Federal requirements. Because EPA is promulgating a Federal regulation for Pennsylvania, EPA wishes to make it clear how it will interpret today's regulation.

Comment: One commenter stated that EPA improperly considered Pennsylvania's implementation of its antidegradation procedures, as the Commonwealth is not required by the CWA to submit water quality standards implementation procedures to EPA for review and approval.

Response: This is incorrect. In reviewing those elements of water quality standards that have been submitted as required in 40 CFR 131.6, EPA may use any information available in determining what the State actually means by its water quality standards language. EPA's water quality standards regulation also requires in 40 CFR 131.12(a) that ''the State shall develop and adopt a statewide antidegradation policy and identify the methods for implementing such policy pursuant to this subpart.'' In this case, EPA disapproved Pennsylvania's antidegradation policy based on the Commonwealth's interpretation of its policy as reflected in the Special Protection Waters Handbook.

See the Response to Comments document, which is part of the Administrative Record to this rule, for additional comments and responses concerning
Tier 3.

Today's final rule is identical to the rule as proposed on August 29, 1996. Federal promulgation is still necessary since the Commonwealth has not yet satisfied EPA's disapproval of its Exceptional Value designation. EPA received no comments that necessitated changes to the proposal and believes that promulgation of the language as proposed is the most effective way to provide to Pennsylvania the level of protection equivalent to the Federal Tier 3.

Pennsylvania's reg-neg group discussed this issue but did not reach an agreement to recommend that Pennsylvania create a new Tier 3 ONRW category of protection. If Pennsylvania adopts either EPA's recommended interpretation or an appropriate alternative formulation for maintaining and protecting water quality in ONRWs, and it is approved by EPA as meeting the requirements of 40 CFR 131.12(a)(3), EPA would expect to propose to withdraw the portion of its rule relating to Tier 3.

D. Relationship of This Rulemaking to the Great Lakes Water Quality Guidance

On March 23, 1995, pursuant to section 118(c)(2) of the CWA, EPA published Final Water Quality Guidance for the Great Lakes System (60 FR 15366), which applies to the Great Lakes System, including a small portion of Pennsylvania waters. The Guidance includes water quality criteria, implementation procedures and antidegradation policies which are intended to provide the basis for consistent, enforceable protection for the Great Lakes System. In particular, the antidegradation requirements are more specific than those set out in 40 CFR 131.12. Pennsylvania and the other Great Lakes States and Tribes must adopt provisions into their water quality programs which are consistent with the Guidance, or EPA will promulgate the provisions for them.

This rulemaking, which is being undertaken pursuant to section 303 of the Act, is independent of, and does not supersede, the Guidance. Regardless of this rulemaking, Pennsylvania must still adopt an antidegradation policy for its waters in the Great Lakes Basin consistent with the Guidance, or EPA will promulgate such provisions for them. At that time, EPA will withdraw any portion of this rule which is inconsistent with such Great Lakes provisions and which applies to Pennsylvania waters within the Great Lakes basin.

E. Endangered Species Act

Pursuant to section 7 of the Endangered Species Act (16 U.S.C. § 1656 *et seq.*), Federal agencies must assure that their actions are unlikely to jeopardize the continued existence of listed threatened or endangered species or adversely affect designated critical habitat of such species.

EPA initiated section 7 informal consultation under the Endangered Species Act with the U. S. Fish and Wildlife Service (FWS) regarding this rulemaking, and requested concurrence from the FWS that this action is unlikely to adversely affect threatened or endangered species. The FWS originally responded in a letter dated July 31, 1996, that they could not concur with a finding of no adverse affect to threatened or endangered species, but proposed five options that would facilitate a ''not likely to adversely affect'' determination. In EPA's August 29, 1996 proposal of this rule (61 FR 45379), EPA sought comment on these five options, which were available in the administrative record.

Since that proposal, EPA and FWS have continued to consult informally, and have reached agreement on an alternative approach. Under that approach, EPA will make every effort to ensure that, prior to the final Commonwealth rulemaking pertaining to antidegradation (but no later than June 30, 1997), the State will draft an antidegradation policy which accords full antidegradation protection, including Tier 1 requirements, for threatened and endangered species and that, by December 31, 1997, the State will identify implementation methods for this policy. The policy and implementation methods must fully protect threatened and endangered

species as existing uses of the waterbody. EPA will request that Pennsylvania submit both the policy and implementation methods to EPA and the FWS by the dates listed above to allow for review and early coordination prior to the final State rulemaking. EPA will encourage the State to develop the draft regulatory language and implementation methods in close coordination with the Service and EPA. In any case, EPA will consult with FWS on any revisions to Pennsylvania's water quality standards which are submitted to EPA for review and approval and welcomes the State as a partner in this process.

Also, as part of EPA's role in overseeing Pennsylvania's implementation of the National Pollutant Discharge Elimination System (NPDES) program, where EPA finds (based on analysis conducted by EPA or FWS) that issuance of a PADEP NPDES permit, as drafted, is likely to have an adverse effect on Federally-listed species or critical habitat, EPA will require changes to a State-issued draft permit under Section 402(d)(4) of the CWA, or take other appropriate actions.

By letter to the FWS dated November 7, 1996, EPA offered to implement this alternative approach, explained our concerns with the other options, and again sought FWS's concurrence. Based upon EPA's commitment to fully implement the approach outlined above, the FWS provided concurrence with EPA's finding of no adverse affect to threatened or endangered species by letter dated November 7, 1996.

Discussion of Major Comments Concerning the Endangered Species Act

Comment: EPA received comment that EPA lacks authority or obligation to consult with the FWS on the proposed antidegradation rule, since EPA has taken no action that would jeopardize listed species, as the rule would have a beneficial effect on listed species.

Response: EPA agrees that issuance of the antidegradation rule will improve water quality in Pennsylvania. Nonetheless, EPA had an obligation to consult FWS under the controlling regulations.

The commenters' view that issuance of the rule is not an ''action'' under the ESA ignores FWS's definition of agency action. That definition expressly includes ''actions intended to conserve listed species or their habitat * * * the promulgation of regulations * * *. or actions directly or indirectly causing modifications to the * * * water.'' 50 CFR § 402.02. Issuance of the rule is agency ''action'' under this broad definition.

In addition, under the FWS' regulations, the fact that the effect of an action may be beneficial does not exempt EPA from the obligation to consult. EPA agrees that the antidegradation rule will have a positive effect, but that effect triggers consultation under FWS's regulatory interpretation of section 7(a)(2), 16 U.S.C. § 1536(a)(2)—*i.e.,* whether an agency's action ''may affect'' listed species. *See* 50 CFR § 402.14(a). FWS interprets this standard to require consultation even when an action will have ''beneficial'' effects. 51 Fed. Reg. 19,949. Thus, although the rule will improve water quality in Pennsylvania, this beneficial effect is sufficient, under FWS's regulations, to trigger the consultation obligation. See also *TVA* v. *Hill,* 437 U.S. 153, 178 (1978) (''the heart of'' the ESA is the ''institutionalization of * * * caution'').

Comment: EPA received several comments that EPA should not adopt any of the five options proposed by the FWS for resolving § 7 consultation.

Response: To the extent that this objection is based on a general belief that the FWS lacked authority to require anything in connection with this rule, see the response to the previous comment. With respect to the specifics of the five options, EPA agrees that the particular options, as formulated by the FWS in its letter of July 31, 1996, were inappropriate and has not adopted them. As indicated above, as a result of further discussions with the FWS, EPA offered an alternative approach consisting of a modification of two of the options, and on that basis the FWS concurred that the rule is not likely to adversely affect listed species. See the Response to Comments document for this rule for further discussion of comments related to the Endangered Species Act.

F. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993) the Agency must determine whether the regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs of the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Because the annualized cost of this final rule would be significantly less than $100 million and the rule would meet none of the other criteria specified in the Executive Order, it has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866, and is therefore not subject to OMB review.

Comment: Comment was received that, in light of the options raised by the FWS in the context of the rulemaking, EPA was incorrect in its finding that the proposed rule is not a significant regulatory action under Executive Order 12866, particularly the FWS option that would extend Tier 3 protection to streams that contain listed species, and another that would federalize NPDES permits on waterbodies that contain Federally listed species, and grant the FWS a role in each permit action on those waters.

Response: In making its determination under Executive Order 12866 that the proposed rule was not a significant regulatory action, EPA evaluated the rule as proposed. EPA did not adopt any of the Service's options, and therefore stands by its original assessment.

G. Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) of the Administrative Procedures Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a ''major rule'' as defined by section 804(2) of the APA as amended.

H. Regulatory Flexibility Act, as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996

The Regulatory Flexibility Act (RFA) provides that, whenever an agency promulgates a final rule under 5 U.S.C. 553, after being required to publish a general notice of proposed rulemaking, an agency must prepare a final regulatory flexibility analysis unless the

head of the agency certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 604 & 605. The Administrator is today certifying, pursuant to section 605(b) of the RFA, that this rule will not have a significant impact on a substantial number of small entities. Therefore, the Agency did not prepare a regulatory flexibility analysis.

Under the Clean Water Act water quality standards program, States must adopt water quality standards for their waters that must be submitted to EPA for approval. If the Agency disapproves a state standard, EPA must promulgate standards consistent with the statutory requirements. These State standards (or EPA-promulgated standards) are implemented through the NPDES program that limits discharges to navigable waters except in compliance with an EPA permit or permit issued under an approved state program. The CWA requires that all NPDES permits must include any limits on discharges that are necessary to meet State water quality standards.

Thus, under the CWA, EPA's promulgation of water quality standards where state standards are inconsistent with statutory requirements establishes standards that the state implements through the NPDES permit process. The state has discretion in deciding how to meet the water quality standards and in developing discharge limits as needed to meet the standards. While the state's implementation of federally-promulgated water quality standards *may* result in new or revised discharge limits being placed on small entities, the standards themselves do not apply to any discharger, including small entities.

Today's rule imposes obligations on the Commonwealth of Pennsylvania but, as explained above, does not itself establish any requirements that are applicable to small entities. As a result of EPA's action here, the Commonwealth of Pennsylvania will need to ensure that permits it issues comply with the antidegradation provisions in today's rule. In so doing, the Commonwealth will have a number of discretionary choices associated with permit writing. In addition, the Commonwealth has the threshold choice whether to designate particular waters as Outstanding National Resource Waters. While Pennsylvania's implementation of today's rule may ultimately result in some new or revised permit conditions for some dischargers, including small entities, EPA's action today does not impose any of these as yet unknown requirements on small entities.

The RFA requires analysis of the impacts of a rule on the small entities *subject to the rules' requirements. See United States Distribution Companies* v. *FERC*, 88 F.3d 1105, 1170 (D.C. Cir. 1996). Today's rule establishes no requirements applicable to small entities, and so is not susceptible to regulatory flexibility analysis as prescribed by the RFA. (''[N]o [regulatory flexibility] analysis is necessary when an agency determines that the rule will not have a significant economic impact on a substantial number of small entities *that are subject to the requirements of the rule,*'' *United Distribution* at 1170, quoting *Mid-Tex Elec. Co-op* v. *FERC*, 773 F.2d 327, 342 (D.C. Cir. 1985) (emphasis added by *United Distribution* court).) The Agency is thus certifying that today's rule will not have a significant economic impact on a substantial number of small entities, within the meaning of the RFA.

Although the statute does not require EPA to prepare an RFA when it promulgates water quality standards for Pennsylvania, EPA has undertaken a limited assessment, to the extent it could, of possible outcomes and the economic effect of these on small entities. Given the fact that any economic impact on small entities is dependent on a number of currently unknown factors, EPA's quantitative consideration of possible effects is necessarily restricted. The final version of that evaluation is available in the administrative record for today's action.

Comment: One commenter stated that EPA's proposed regulation fails to comply with the RFA because it reaches the conclusion that this rule would not have a significant economic impact on a substantial number of small entities without providing a factual basis for this certification, and it is incorrect in its assumption that this rule would not impact small business in Pennsylvania.

Response: The commenter is incorrect in asserting that EPA has no basis for its Section 605(b) certification. Further, as explained above, though not required by the RFA, EPA prepared with contractor assistance an assessment which identified and evaluated, as best it could given the unknown, the potential costs to small entities that might follow state implementation of today's standards. The assessment is based on data developed by the contractor from a variety of sources including data from the U.S. Department of Commerce, EPA reports, and telephone surveys of industrial and municipal dischargers and each Commonwealth regional office. EPA referenced this assessment in the proposal (61 FR 45379, 45384), made it available in the administrative record, and specifically invited comment on it. No comments were received pointing out errors in this assessment, or the data on which it was based. With regard to the impact to small businesses, EPA stands by its assessment.

I. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

As noted above, this rule is limited to antidegradation designations within the Commonwealth of Pennsylvania. EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. EPA has also determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year.

Thus, today's rule is not subject to the requirements of section 202, 203, or 205 of the UMRA.

Comment: One commenter stated that EPA failed to comply with UMRA in that it did not provide the basis for conclusions that this rule will not significantly or uniquely affect small governments, that this rule will not result in expenditure of $100 million or more for State, local and tribal governments, in the aggregate, or the private sector in any one year, or develop a small government agency plan.

Response: EPA disagrees. EPA has assessed the effects of this regulatory action on State and local governments and the private sector, and based its conclusions on the report entitled *Economic Analysis of the Potential Impact of the Proposed Antidegradation Requirements for Pennsylvania.*

J. Paperwork Reduction Act

This action requires no information collection activities subject to the Paperwork Reduction Act, and therefore no Information Collection Request (ICR) will be submitted to the Office of Management and Budget (OMB) for review in compliance with the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

List of Subjects in 40 CFR Part 131

Environmental protection, Water pollution control, Water quality standards.

Dated: November 27, 1996.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, part 131 of title 40 of the Code of Federal Regulations is amended as follows:

PART 131—WATER QUALITY STANDARDS

1. The authority citation for part 131 continues to read as follows:

Authority: 33 U.S.C. 1251 et seq.

Subpart D—[Amended]

2. Section 131.32 is added to read as follows:

§ 131.32 Pennsylvania.

(a) Antidegradation policy. This antidegradation policy shall be applicable to all waters of the United States within the Commonwealth of Pennsylvania, including wetlands.

(1) Existing in-stream uses and the level of water quality necessary to protect the existing uses shall be maintained and protected.

(2) Where the quality of the waters exceeds levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water, that quality shall be maintained and protected unless the Commonwealth finds, after full satisfaction of the inter-governmental coordination and public participation provisions of the Commonwealth's continuing planning process, that allowing lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located. In allowing such degradation or lower water quality, the Commonwealth shall assure water quality adequate to protect existing uses fully. Further, the Commonwealth shall assure that there shall be achieved the highest statutory and regulatory requirements for all new and existing point sources and all cost-effective and reasonable best management practices for nonpoint sources.

(3) Where high quality waters are identified as constituting an outstanding National resource, such as waters of National and State parks and wildlife refuges and water of exceptional recreational and ecological significance, that water quality shall be maintained and protected.

(b) (Reserved)

[FR Doc. 96–31007 Filed 12–6–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

46 CFR Part 572

[Docket No. 94–31]

Information Form and Post-Effective Reporting Requirements for Agreements Among Ocean Common Carriers Subject to the Shipping Act of 1984

AGENCY: Federal Maritime Commission.

ACTION: Amendment to final rule.

SUMMARY: The Federal Maritime Commission is amending the final rule in this proceeding so that the list of effective agreements that must be included in the Information Form for a new filed agreement is limited to those agreements which authorize specified activities that are of significant regulatory concern. The purpose of this amendment is to lessen the reporting burden on ocean carriers, while ensuring that the Commission obtains information relevant to its regulatory responsibilities.

EFFECTIVE DATE: December 9, 1996.

FOR FURTHER INFORMATION CONTACT:

Austin L. Schmitt, Director, Bureau of Economics and Agreement Analysis, Federal Maritime Commission, 800 North Capitol Street, N.W., Washington, D.C. 20573–0001, (202) 523–5787.

SUPPLEMENTARY INFORMATION: In Docket No. 94–31, *Information Form and Post-Effective Reporting Requirements for Agreements Among Ocean Common Carriers Subject to the Shipping Act of 1984*, the Federal Maritime Commission amended its regulations set forth in 46 CFR Part 572 governing the filing, processing and review of agreements subject to the Shipping Act of 1984. 61 FR 11564 (Mar. 21, 1996). The revised Information Forms for newly filed agreements, codified as Appendices A and B to Part 572, require the submission of a list of all effective agreements covering all or part of the geographic scope of the filed agreement, whose parties include one or more of the parties to the filed agreement.

In implementing the new regulations, the Commission has received inquiries regarding the scope of ''effective agreements.'' For example, it has been suggested that there is no useful purpose in including agreements that are exempt from filing because of their lack of competitive impact (see 46 CFR 572.302–311).

In response to these concerns, the Commission is amending the instructions to Appendices A and B to state that the required list should include only agreements that authorize specified activities that are of significant regulatory concern. These are rate agreements (including agreements that authorize discussion of rates or ''non-binding'' rate agreements), joint service agreements, pooling agreements, agreements authorizing discussion or exchange of data on vessel-operating costs, sailing agreements, space charter agreements, agreements authorizing regulation or discussion of service contracts, and agreements authorizing capacity management or capacity regulation. This amendment will lessen the burden on agreement carriers, while ensuring that the Commission obtains information relevant to its regulatory responsibilities.

Notice and opportunity for public comment were not necessary prior to issuance of this amendment because it reduces existing requirements and is less burdensome on the public. For the same reasons, the amendments are effective upon publication in the Federal Register, rather than being delayed for 30 days. 5 U.S.C. 553.

List of Subjects in 46 CFR Part 572

Administrative practice and procedure, Maritime carriers, Reporting and recordkeeping requirements.

Therefore, pursuant to 5 U.S.C. 553 and sections 4, 5, 6, 10, 15 and 17 of the Shipping Act of 1984, 46 U.S.C. app. 1703, 1704, 1705, 1709, 1714 and 1716, Part 572 of Title 46, Code of Federal Regulations, is amended as follows:

PART 572—AGREEMENTS BY OCEAN COMMON CARRIERS AND OTHER PERSONS SUBJECT TO THE SHIPPING ACT OF 1984

1. The authority citation for Part 572 continues to read as follows:

Authority: 5 U.S.C. 553, 46 U.S.C. app. 1701–1707, 1709–1710, 1712 and 1714–1717.

2. In Appendix A to Part 572, Part II of the Instructions is revised as follows:

Appendix A to Part 572—Information Form for Class A/B Agreements and Instructions

* * * * *

Part II

Part II requires a list of all effective agreements (1) that cover all or part of the geographic scope of the filed agreement, (2) whose parties include one or more of the parties to the filed agreement, and (3) that fall within at least one of the following categories: an agreement that authorizes ''capacity management'' or ''capacity regulation'' as defined by 46 CFR 572.104(e); a ''joint service agreement'' as defined by 46 CFR 572.104(o); a ''pooling agreement'' as defined by 46 CFR 572.104(y); a ''rate agreement'' as defined by 46 CFR 572.104(bb); a ''sailing agreement'' as defined by 46 CFR 572.104(cc); an agreement that authorizes regulation or discussion of ''service contracts'' as defined by 46 CFR 572.104(dd); a ''space charter agreement'' as defined by 46 CFR 572.104(hh); or an agreement that authorizes discussion or exchange of data on ''vessel-operating costs'' as defined by 46 CFR 572.104(kk).

* * * * *

3. In Appendix B to Part 572, Part II of the Instructions is revised as follows:

Appendix B to Part 572—Information Form for Class C Agreements and Instructions

* * * * *

Part II

Part II requires a list of all effective agreements that (1) cover all or part of the geographic scope of the filed agreement, (2) whose parties include one or more of the parties to the filed agreement, and (3) that fall within at least one of the following categories: an agreement that authorizes ''capacity management'' or ''capacity regulation'' as defined by 46 CFR 572.104(e); a ''joint service agreement'' as defined by 46 CFR 572.104(o); a ''pooling agreement'' as defined by 46 CFR 572.104(y); a ''rate agreement'' as defined by 46 CFR 572.104(bb); a ''sailing agreement'' as defined by 46 CFR 572.104(cc); an agreement that authorizes regulation or discussion of ''service contracts'' as defined by 46 CFR 572.104(dd); a ''space charter agreement'' as defined by 46 CFR 572.104(hh); or an agreement that authorizes discussion or exchange of data on ''vessel-operating costs'' as defined by 46 CFR 572.104(kk).

* * * * *

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 96–31223 Filed 12–6–96; 8:45 am]

BILLING CODE 6730–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1843 and 1852

Addition of Coverage to NASA FAR Supplement (NFS) on NASA Shared Savings Clause

AGENCY: Office of Procurement, National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: Parts 1843 and 1852 are amended to establish the conditions for use and the administrative procedures for a ''Shared Savings Clause'' to be used in solicitations and contracts.

EFFECTIVE DATE: December 9, 1996.

ADDRESSES: Mr. James A. Balinskas, Code HC, NASA Headquarters, 300 E Street SW, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Mr. James A. Balinskas, NASA Headquarters, Code HC, telephone: (202) 358–0445.

SUPPLEMENTARY INFORMATION:

Background

On October 20, 1995, a proposed rule to amend the NFS to add a ''Shared Savings Clause'' was published in the Federal Register (60 FR 54208). The intent of the clause was to provide an incentive for contractors to identify and implement significant cost reduction programs. In return, they would be eligible for a share of realized savings which resulted from those cost-cutting projects once they were approved by the contracting officer. Comments were received both from within NASA and from industry. All comments were reviewed and the rule was revised to reflect the comments where it was considered warranted. Many of the revisions were made to clarify definitions, improve consistency of terms used throughout the contract clause, limit applicability of the clause to the appropriate classes of contracts, and better communicate how the provisions of the clause were intended to operate. In addition, the location of the proposed rule within the NFS was also changed.

Impact

NASA certifies that this regulation will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). This rule does not impose any recordkeeping requirements subject to the Paperwork Reduction Act.

List of Subjects in 48 CFR Parts 1843 and 1852

Government procurement.

Tom Luedtke,

Deputy Associate Administrator for Procurement.

Accordingly, 48 CFR 1843 and 1852 are amended as follows:

1. The authority citation for 48 CFR 1843 and 1852 continues to read as follows:

Authority: U.S.C. 2473(c)(1).

PART 1843—CONTRACT MODIFICATIONS

Subpart 1843.71—[Added]

2. Subpart 1843.71 is added to read as follows:

Subpart 1843.71—Shared Savings

1843.7101 Shared Savings Program.

This subpart establishes and describes the methods for implementing and administering a Shared Savings Program. This program provides an incentive for contractors to propose and implement, with NASA approval, significant cost reduction initiatives. NASA will benefit as the more efficient business practices that are implemented lead to reduced costs on current and follow-on contracts. In return, contractors are entitled to share in cost savings subject to limits established in the contract. The contracting officer may require the contractor to provide periodic reporting, or other justification, or to require other steps (e.g., cost segregation) to ensure projected cost savings and being realized.

1843.7102 Solicitation provision and contract clause.

The contracting officer shall insert the clause at 1852.243–71, Shared Savings, in all solicitations and contracts expected to exceed $1,000,000, except those awarded under FAR part 12, NRA,

or AO procedures, or those awarded under the SBIR or STTR programs.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1852.243–71 [Added]

3. Section 1852.243–71 is added to read as follows:

1852.243–71 Shared Savings.

As prescribed in 1843.7102, insert the following clause:

SHARED SAVINGS

December 1996

(a) The Contractor is entitled, under the provisions of this clause, to share in cost savings resulting from the implementation of cost reduction projects which are presented to the Government in the form of Cost Reduction Proposals (CRP) and approved by the Contracting Officer. These cost reduction projects may require changes to the terms, conditions or statement of work of this contract. Any cost reduction projects must not change the essential function of any products to be delivered or the essential purpose of services to be provided under the contract.

(b) *Definitions:* (1) *Cost savings,* as contemplated by this clause, means savings that result from instituting changes to the covered contract, as identified in an approved Cost Reduction Proposal.

(2) *Cost Reduction Proposal (CRP)*—For the purposes of this clause, a Cost Reduction Proposal means a proposal that recommends alternatives to the established procedures and/or organizational support of a contract or group of contracts. These alternatives must result in a net reduction of contract cost and price to NASA. The proposal will include technical and cost information sufficient to enable the Contracting Officer to evaluate the CRP and approve or disapprove it.

(3) *Covered contract*—As used in this clause, covered contract means the contract, including unexercised options but excluding future contracts, whether contemplated or not, against which the CRP is submitted.

(4) *Contractor implementation costs*—As used in this clause, contractor implementation costs, or ''implementation costs'', shall mean those costs which the Contractor incurs on covered contracts specifically in developing, preparing, submitting, and negotiating a CRP, as well as those costs the Contractor will incur on covered contracts to make any structural or organizational changes in order to implement an approved CRP.

(5) *Government costs*—As used in this clause, the term government costs means internal costs of NASA, or any other government agency, which result directly from development and implementation of the CRP. These may include, but are not limited to, costs associated with the administration of the contract or with such contractually related functions such as testing, operations, maintenance and logistics support. These costs also include costs associated with other Agency contracts (including changes in contract price or cost and fee) that may be affected as a result of the implementation of a CRP. They do not include the normal administrative costs of reviewing and processing the CRP.

(c) *General.* The Contractor will develop, prepare and submit CRPs with supporting information, as detailed in paragraph (e) of this clause, to the Contracting Officer. The CRP will describe the proposed cost reduction activity in sufficient detail to enable the Contracting Officer to evaluate it and to approve or disapprove it. The Contractor shall share in any net cost savings realized from approved and implemented CRPs in accordance with the terms of this clause. The Contractor's actual percentage share of the cost savings shall be a matter for negotiation with the Contracting Officer, but shall not, in any event, exceed 50 percent of the total cost savings recognized by the Contracting Officer. The Contractor may propose changes in other activities that impact performance on its contract, including government and other contractor operations, if such changes will optimize cost savings. A Contractor shall not be entitled to share, however, in any cost savings that are internal to the Government, or which result from changes made to any contracts to which it is not a party even if those changes were proposed as a part of its CRP. Early communication between the Contractor and the Government is encouraged. The communication may be in the form of a concept paper or preliminary proposal. The Government is not committed to accepting any proposal as a result of these early discussions.

(d) *Computation of cost savings.* The cost savings to be shared between the Government and the Contractor will be computed by the Contracting Officer by comparing a current estimate to complete (ETC) for the covered contract, as structured before implementation of the proposed CRP, to a revised ETC which takes into account the implementation of that CRP. The cost savings to be shared shall be reduced by any cost overrun, whether experienced or projected, that is identified on the covered contract before implementation of the CRP. Although a CRP may result in cost savings that extend far into the future, the period in which the Contractor may share in those savings will be limited to no more than five years. Implementation costs of the Contractor must be considered and specifically identified in the revised ETC. The Contracting Officer shall offset Contractor cost savings by any increased costs (whether implementing or recurring) to the Government when computing the total cost savings to be shared. The Contractor shall not be entitled, under the provisions of this clause, to share in any cost reductions to the contract that are the result of changes stemming from any action other than an approved CRP. However, this clause does not limit recovery of any such reimbursements that are allowed as a result of other contract provisions.

(e) *Supporting Information.* As a minimum, the Contractor shall provide the following supporting information with each CRP:

(1) Identification of the current contract requirements or established procedures and/or organizational support which are proposed to be changed.

(2) A description of the difference between the current process or procedure and the proposed change. This description shall address how proposed changes will meet NASA requirements and discuss the advantages and disadvantages of the existing practice and the proposed changes.

(3) A list of contract requirements which must be revised, if any, if the CRP is approved, along with proposed revisions. Any changes to NASA or delegated contract management processes should also be addressed.

(4) Detailed cost estimates which reflect the implementation costs of the CRP.

(5) An updated ETC for the covered contract, unchanged, and a revised ETC for the covered contract which reflects changes resulting from implementing the CRP. If the CRP proposes changes to only a limited number of elements of the contract, the ETCs need only address those portions of the contract that have been impacted. Each ETC shall depict the level of costs incurred or to be incurred by year, or to the level of detail required by the Contracting Officer. If other CRPs have been proposed or approved on a contract the impact of these CRPs must be addressed in the computation of the cost savings to ensure that the cost savings identified are attributable only to the CRP under consideration in the instant case.

(6) Identification of any other previous submissions of the CRP, including the dates submitted, the agencies and contracts involved, and the disposition of those submittals.

(f) *Administration.*

(1) The Contractor shall submit proposed CRPs to the Contracting Officer who shall be responsible for the review, evaluation and approval. Normally, CRPs should not be entertained for the first year of performance to allow the Contracting Officer to assess performance against the basic requirements. If a cost reduction project impacts more than a single contract, the contractor may, upon concurrence of the Contracting Officer's responsible for the affected contracts, submit a single CRP which addresses fully the cost savings projected on all affected contracts that contain this Shared Savings Clause. In the case of multiple contracts affected, responsibility for the review and approval of the CRP will be a matter to be decided by the affected Contracting Officers.

(2) Within 60 days of receipt, the Contracting Officer shall complete an initial evaluation of any proposed cost reduction plan to determine its feasibility. Failure of the Contracting Officer to provide a response within 60 days shall not be construed as approval of the CRP. The Government shall promptly notify the Contractor of the results of its initial evaluation and indicate what, if any, further action will be taken. If the Government determines that the proposed CRP has merit, it will open discussions with the Contractor to establish the cost savings to be recognized, the Contractor's share of the cost savings, and a payment schedule. The Contractor shall continue to perform in accordance with the terms and conditions of the existing contract until a contract

modification is executed by the Contracting Officer. The modification shall constitute approval of the CRP and shall incorporate the changes identified by the CRP, adjust the contract cost and/or price, establish the Contractor's share of cost savings, and incorporate the agreed to payment schedule.

(3) The Contractor will receive payment by submitting invoices to the Contracting Officer for approval. The amount and timing of individual payments will be made in accordance with the schedule to be established with the Contracting Officer. Notwithstanding the overall savings recognized by the Contracting Officer as a result of an approved CRP, payment of any portion of the Contractor's share of savings shall not be made until NASA begins to realize a net cost savings on the contract (i.e., implementation, startup and other increased costs resulting from the change have been offset by cumulative cost savings). Savings associated with unexercised options will not be paid unless and until the contract options are exercised. It shall be the responsibility of the Contractor to provide such justification as the Contracting Officer deems necessary to substantiate that cost savings are being achieved.

(4) Any future activity, including a merger or acquisition undertaken by the Contractor (or to which the Contractor becomes an involved party), which has the effect of reducing or reversing the cost savings realized from an approved CRP for which the Contractor has received payment may be cause for recomputing the net cost savings associated with any approved CRP. The Government reserves the right to make an adjustment to the Contractor's share of cost savings and to receive a refund of moneys paid if necessary. Such adjustment shall not be made without notifying the Contractor in advance of the intended action and affording the Contractor an opportunity for discussion.

(g) *Limitations.* Contract requirements that are imposed by statute shall not be targeted for cost reduction exercises. The Contractor is precluded from receiving reimbursements under both this clause and other incentive provisions of the contract, if any, for the same cost reductions.

(h) Disapproval of, or failure to approve, any proposed cost reduction proposal shall not be considered a dispute subject to remedies under the Disputes clause.

(i) Cost savings paid to the Contractor in accordance with the provisions of this clause do not constitute profit or fee within the limitations imposed by 10 U.S.C. 2306(d) and 41 U.S.C. 254(b).

(End of clause)

[FR Doc. 96–31134 Filed 12–6–96; 8:45 am]

BILLING CODE 7510–01–M

Proposed Rules

Federal Register
Vol. 61, No. 237
Monday, December 9, 1996

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 95–AWA–10]

RIN 2120–AA66

Proposed Establishment of Class C Airspace and Revocation of Class D Airspace, Springfield Regional Airport, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This NPRM proposes to establish a Class C airspace area and revoke the existing Class D airspace area at the Springfield Regional Airport, Springfield, MO. The Springfield Regional Airport is a public-use facility with an operating control tower served by a Level III Terminal Radar Approach Control Facility (TRACON). The establishment of this Class C airspace area would require pilots to maintain two-way radio communications with air traffic control (ATC) while in the Class C airspace area. Implementation of the proposed Class C airspace area would promote the efficient control of air traffic and reduce the risk of midair collision in the terminal area.

DATES: Comments must be received on or before January 29, 1997.

ADDRESSES: Send comments on the proposal in triplicate to the Federal Aviation Administration, Office of Chief Counsel, Attention: Rules Docket, AGC–200, Airspace Docket No. 95–AWA–10, 800 Independence Avenue, SW., Washington DC 20591. 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 5:00 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: Steve Brown, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

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. 95–AWA–10.'' 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 NPRM by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should call the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System. This circular describes the application procedure.

Background

On April 22, 1982, the National Airspace Review (NAR) plan was published in the Federal Register (47 FR 17448). The plan encompassed a review of airspace use and procedural aspects of the ATC system. Among the main objectives of the NAR was the improvement of the ATC system by increasing efficiency and reducing complexity. In its review of terminal airspace, NAR Task Group 1–2 concluded that Terminal Radar Service Areas (TRSA's) should be replaced. Four types of airspace configurations were considered as replacement candidates, of which Model B, since designated Airport Radar Service Area (ARSA), was recommended by a consensus of the task group.

The FAA published NAR Recommendation 1–2.2.1, ''Replace Terminal Radar Service Areas with Model B Airspace and Service'' in Notice 83–9 (48 FR 34286, July 28, 1983) proposing the establishment of ARSA's at the Robert Mueller Municipal Airport, Austin, TX, and the Port of Columbus International Airport, Columbus, OH. ARSA's were designated at these airports on a temporary basis by SFAR No. 45 (48 FR 50038, October 28, 1983) to provide an operational test bed of the ARSA concept for potential application on a national basis.

Following a confirmation period of more than a year, the FAA adopted the NAR recommendation and, on February 27, 1985, issued a final rule (50 FR 9252; March 6, 1985) defining ARSA airspace and establishing air traffic rules for operation within such an area.

Concurrently, by separate rulemaking action, ARSA's were permanently established at the Austin, TX, Columbus, OH, and the Baltimore/Washington International Airports (50 FR 9250; March 6, 1985). The FAA stated that future notices would propose ARSA's for other airports at which TRSA procedures were in effect.

Additionally, the NAR Task Group recommended that the FAA develop quantitative criteria for proposing to establish ARSA's at locations other than those which were included in the TRSA replacement program. The task group

recommended that these criteria include, among other things, traffic mix, flow and density, airport configuration, geographical features, collision risk assessment, and ATC capabilities to provide service to users. These criteria have been developed and are being published via the FAA directives system.

The FAA has established ARSA's at 121 locations under a paced implementation plan to replace TRSA's with ARSA's. This is one of a series of notices to implement ARSA's at locations with or without TRSA's that warrant implementation of an ARSA.

The airspace reclassification initiative, effective September 16, 1993, reclassified ARSA's as Class C airspace areas. This change in terminology is reflected in the remainder of this NPRM.

This NRPM proposes Class C designation at a location which was not identified as a candidate for Class C airspace in the preamble to Amendment No. 71–10 (50 FR 9252). Other candidate locations will be proposed in future NPRM's published in the Federal Register.

Pre-NPRM Public Input

As announced in the Federal Register on July 21, 1994 (59 FR 37282), a pre-NPRM airspace meeting was held on September 7, 1994, in Springfield, MO. The purpose of this meeting was to provide local airspace users an opportunity to present input on the planned establishment of the Springfield Class C airspace area prior to issuance of an NPRM. All comments received during the pre-NPRM informal airspace meeting were considered and incorporated, in part, in this NPRM. An analysis of the comments received during this effort are summarized below.

Discussion of Comments

The Aircraft Owners and Pilots Association (AOPA), Experimental Aircraft Association (EAA), Missouri Pilots Association (MPA), and other individuals opposed the planned Class C airspace area at Springfield Regional Airport. These commenters believe that the FAA has not used alternate nonrulemaking solutions to meet safety issues concerning Springfield Regional Airport and enplanement numbers should not be the only criteria used.

The FAA does not agree, and further believes that all nonrulemaking alternatives to provide for an acceptable level of safety have been exhausted. For example, over the past several years, the FAA has updated its equipment, improved its radar services, and in the last year alone, held at least seven meetings in the Springfield area informing the public of its growing safety concerns. These concerns are centered around: (1) potential conflicts between en route visual flight rules (VFR) traffic using the Springfield Very High Frequency Omnidirectional Range (VOR) navigational aid and arriving traffic; (2) conflicts between aircraft on instrument approach to Runway 20 and the VFR flyway area to the southeast; (3) conflicts between aircraft using the localizer procedure and transiting aircraft for the Springfield Downtown Airport; and (4) congestion caused by military use of Springfield Regional Airport for practice approaches and training. In addition, Springfield Regional Airport is the only airport in southwest Missouri that has a radar facility. This capability attracts several aviation flight training schools, thus adding to a mixed traffic environment.

For a site to be a candidate for Class C airspace consideration, it must have an airport with an operational airport traffic control tower (ATCT) that is serviced by a radar approach control and meet one of the following: (1) 75,000 annual instrument operations count at the primary airport; (2) 100,000 annual instrument operations count at the primary and secondary airport in the terminal area hub; or (3) 250,000 annual enplaned passengers at the primary airport. In this case, Springfield Regional Airport meets the FAA criteria and qualifies as a candidate for Class C airspace.

Several commenters believe the construction of two new airports would affect traffic at Springfield Regional Airport. The FAA disagrees with these concerns. Currently, there are no new airport proposals, private or public, on file. At one point, there had been proposals for new airports (Stone County and Four Cities Regional). However, these sites were either found unacceptable and a new site was not selected, or the sponsor elected not to file an extension on the airport proposal.

One commenter did not object to the Class C airspace area; however, he requested that Bird Field Airport be excluded from the Class C airspace surface area. The FAA concurs with this recommendation. The Bird Field Airport is located near the 5 NM outer boundary, and there are only three private ''Cherokee'' type of aircraft that routinely use this airport and generally would not require ATC services. The airspace above this airport is not needed for the proposed Class C area; therefore, under this proposal, appropriate airspace surrounding the Bird Field Airport for 1 NM is excluded.

None of the airlines were represented at the informal airspace meeting, and one commenter interpreted their absence as a statement that safety must be adequate at Springfield Regional Airport and, consequently, that Class C airspace would not be necessary.

The FAA disagrees with this interpretation. Conversely, the FAA agrees with several other commenters in their belief that establishing Class C airspace will enhance safety in this mixed airspace environment and that the requirements imposed on pilots outweigh the perceived complexities and costs associated with the safety characteristics achieved within a Class C airspace area. Additionally, this action is supported by US Air Express, American Airlines, the Airport Manager of the Springfield Downtown Airport, and other entities that use the Springfield Regional Airport.

The Proposal

The FAA is proposing an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish a Class C airspace area and revoke the Class D airspace area at Springfield Regional Airport located in Springfield, MO. Springfield Regional Airport is a public-use facility with an operating control tower served by a Level III TRACON. Implementation of the proposed Springfield Class C airspace area would promote the efficient control of air traffic and further reduce the risk of midair collision in the terminal area.

The FAA published a final rule (50 FR 9252, March 6, 1985) that defines Class C airspace and prescribes operating rules for aircraft, ultralight vehicles, and parachute jump operations in Class C airspace areas. The final rule provides, in part, that all aircraft arriving at any airport in Class C airspace or flying through Class C airspace must: (1) prior to entering the Class C airspace, establish two-way radio communications with the ATC facility having jurisdiction over the area and (2) while in Class C airspace, maintain two-way radio communications with that facility. For aircraft departing from the primary airport within Class C airspace, or a satellite airport with an operating control tower, two-way radio communications must be established and maintained with the control tower and thereafter as instructed by ATC while operating in Class C airspace. For aircraft departing a satellite airport without an operating control tower and within Class C airspace, two-way communications must be established with the ATC facility jurisdiction over the area as soon as practicable after takeoff and thereafter maintained while

operating within the Class C airspace (14 CFR 91.130).

Pursuant to the Federal Aviation Regulations § 91.130 (14 CFR part 91) all aircraft operating within Class C airspace are required to comply with §§ 91.129 and 91.13. Ultralight vehicle operations and parachute jumps in Class C airspace areas may only be conducted under the terms of an ATC authorization.

The FAA adopted the NAR Task Group recommendation that each Class C airspace area be of the same airspace configuration insofar as is practicable. The standard Class C airspace area consists of that airspace within 5 nautical miles (NM) of the primary airport, extending from the surface to an altitude of 4,000 feet above airport elevation (AAE), and that airspace between 5 and 10 NM from the primary airport from 1,200 feet above ground level (AGL) to an altitude of 4,000 feet AAE. Proposed deviations from this standard have been necessary at some airports because of adjacent regulatory airspace, international boundaries, topography, or unusual operational requirements.

Definitions and operating requirements applicable to Class C airspace may be found in § 71.51 of part 71 and §§ 91.1 and 91.130 of part 91 of the Federal Aviation Regulations (14 CFR parts 71, 91). The coordinates for this airspace docket are based on North American Datum 83. Class C and Class D airspace designations are published, respectively, in paragraphs 4000 and 5000 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class C and Class D airspace designations listed in this document would be published or removed subsequently from the Order.

The volume of passenger enplanements at Springfield Regional Airport has steadily increased. In 1993, it was 309,440; in 1994, 343,671; and in 1995, 328,766. This volume of passenger enplanements meets the FAA criteria for establishing Class C airspace. Establishment of the proposed Springfield Regional Airport Class C airspace area would contribute to the improvement in aviation safety.

Regulatory Evaluation Summary

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this proposed rule is not ''a significant regulatory action'' as defined in the Executive Order and the Department of Transportation Regulatory Policies and Procedures; would not have a significant impact on a substantial number of small entities; and would not constitute a barrier to international trade. These analyses, available in the docket, are summarized below.

Cost-Benefit Analysis

Cost

The FAA has determined that the establishment of the proposed Springfield, MO, Class C airspace area at the Springfield Regional Airport would impose a one-time FAA administrative cost of $575 (1995 dollars). The FAA has also determined that the proposed rule would not impose any cost impact on the aviation community (namely, aircraft operators and fixed based operators). The potential costs of the proposed Class C airspace area are discussed below.

For the proposed Springfield Class C airspace, the FAA does not expect to incur any additional costs for ATC staffing, training, or facility equipment. The FAA is confident that it can accommodate any additional traffic that would participate in radar services at the proposed Class C airspace area through more efficient use of personnel at current authorized staffing levels. The FAA expects to train its controller force in Class C airspace procedures during regularly scheduled briefing sessions routinely held at the airport. Thus, no additional training costs or equipment requirements are anticipated.

Establishment of Class C airspace throughout the country has made it necessary to revise sectional charts by removing existing airspace configurations and incorporating the new Class C airspace boundaries. The FAA currently revises these sectional charts every six months to reflect changes to the airspace environment. Changes required to depict Class C airspace are made routinely during these charting cycles. The periodic changes to these charts are considered as routine operating expenses of the FAA. Thus, the FAA does not expect to incur any additional charting costs as a result of the proposed Springfield Class C airspace area.

The FAA holds an informal public meeting at each proposed Class C airspace location. These meetings provide pilots with the best opportunity to learn about Class C airspace operating procedures. The routine expenses associated with these public meetings are incurred regardless of whether Class C airspace is ultimately established. Thus, the expenses from these meetings are considered routine costs to the FAA. If the proposed Springfield Class C airspace area were to become a final rule, the FAA would distribute a ''Letter To Airmen'' to all pilots residing within 50 miles of the Class C airspace site that would explain the operation and airspace configuration of the proposed Class C airspace area. The ''Letter to Airmen'' costs would be about $575 (1995 dollars). This one-time negligible cost would be incurred upon the establishment of the proposed Class C airspace area.

The FAA anticipates that some pilots who currently transit the terminal area without establishing radio communications may choose to circumnavigate the proposed Springfield Class C airspace area. However, the FAA contends that these operators could circumnavigate the proposed Class C airspace area without significantly deviating from their regular flight paths. Operators could remain clear of the proposed Class C airspace area by flying above the ceiling of 5,300 feet MSL, flying west beneath the outer floor of 2,500 feet MSL, or flying just beyond the lateral boundaries. The operators who choose to fly beyond the lateral boundaries would be required to navigate an additional 5 NM, adding an additional 10 minutes of flight time. The FAA has determined that the proposed rule would have a negligible, if any, cost impact on non-participating general aviation (GA) aircraft operations because of these small deviations from current flight paths.

The Springfield Regional Airport is designated as a ''high-passengertraffic'' airport under Phase II of the Mode C Rule (''Transponder With Automatic Altitude Reporting Capability Requirement''—53 FR 23356, June 21, 1988) which went into effect on December 30, 1990. Phase II of the Mode C Rule requires aircraft operators to have Mode C transponders in and above Class C airspace up to 10,000 feet MSL. When the proposed Springfield Class C airspace is established, it would continue to be subject to Phase II of the Mode C Rule. Since the cost of the Mode C requirement has already been addressed (Phase II of the Mode C Rule),

it will not be considered as part of this proposal in order to avoid double-counting the cost of one action. The FAA assumes that nearly all aircraft operating in the vicinity of the proposed Springfield Class C airspace area already have Mode C transponders and two-way radio communications capability. This assessment is based on the most recent General Aviation and Avionics Survey Report. The report indicates an estimated 82 percent of all GA aircraft operators are already equipped with two-way radios. In addition, Traffic Alert and Collision Avoidance Systems (TCAS) allow air carriers, commuter airplanes, and corporate aircraft to determine the position of other aircraft from the signal emitted by Mode C transponders. The FAA has adopted regulations requiring certain aircraft operators to install TCAS (54 FR 940, January 10, 1989). As of December 30, 1990, all aircraft (except those aircraft without an electrical systems), balloons, and gliders flying in the vicinity of the Springfield Regional Airport must have a Mode C transponder (14 CFR 91.215). The FAA has traditionally accommodated GA aircraft operators without two-way radio communication equipment via letters of agreement, when practical to do so without jeopardizing aviation safety. Since not all GA aircraft operators receive letters of agreement, such operators would be required to use circumnavigation procedures.

The establishment of the proposed Springfield Class C airspace area is not expected to have any adverse impacts on the operations at Bird Field. Bird Field is a small satellite airport, approximately 5 NM north of Springfield Regional Airport. The proposed Class C airspace would place a 1 NM exclusion area around Bird Field. Most pilots using this airport would probably circumnavigate the proposed Class C airspace without participating in radar services.

Benefits

The benefits of the proposed Springfield Class C airspace area would be enhanced aviation safety (lowered risk of midair collisions) and improved operational efficiency (higher air traffic controller productivity with existing resources). The potential benefits of this proposed rule are discussed below.

The NAR Task Group found that airspace users, especially GA users, encountered significant problems with terminal radar services. Different levels of radar service offered within terminal areas caused confusion about existing restrictions and privileges. The standardization and simplification of operating procedures provided by Class C airspace is expected to alleviate many of these problems. As both pilots and controllers become familiar with Class C airspace operating procedures, air traffic would flow more efficiently and expeditiously. The benefits of the Class C airspace program cannot be specifically attributed to individual airports. Rather, the benefits would result from overall improvements in terminal area ATC procedures realized as Class C airspace is implemented throughout the country. Establishment of the proposed Springfield Class C airspace area would contribute to these overall improvements.

The proposed Springfield Class C airspace area would lower the risk of midair collisions due to increased positive control of airspace around the Springfield Regional Airport. Due to the proactive nature of the proposed Class C airspace area, the potential safety benefits are difficult to quantify in monetary terms. Since traffic trends indicate an increased risk of a midair collision at the airport, the FAA created Class C airspace areas for the purpose of reducing the likelihood of this potential safety problem. These traffic trends consist of an increased volume of passenger enplanements and an increased complexity of aircraft operations. Complexity refers to air traffic conditions resulting from a mix of controlled and uncontrolled aircraft that vary widely in speed and maneuverability. Enplanements at the airport were 328,766 in 1995; 343,671 in 1994; and 309,440 in 1993. The current volume of passenger enplanements have made the airport eligible to become Class C airspace.

The FAA has conservatively estimated that the Class C airspace program would reduce the risk of midair collision by 50 percent at Class D airspace locations. This estimate is based on before and after studies of near midair collision (NMAC) trends and radar tracking data from the original Columbus, OH, Class C airspace area location and a review of the National Transportation Safety Board's (NTSB) midair collision accident records from January 1978 to October 1984. This 50 percent reduction translates into one midair collision prevented nationally every one to two years. The FAA currently values the prevention of a human fatality at $2.7 million and the prevention of a serious injury at $518,000. The quantifiable benefits of preventing a midair collision (based on the aforementioned reports) can range from less than $177,000 (1995 dollars), a minor non-fatal accident between two GA aircraft in which both aircraft need to be replaced, to $452 million (1995 dollars), the weighted average of a midair collision between an air carrier and a GA aircraft in which there are no survivors. The benefits of the proposed Springfield Class C airspace area and other designated airspace actions that require Mode C transponders cannot be separated from the benefits of the Mode C Rule and the TCAS Rule. These rules work together to prevent midair collisions from occurring. These airspace actions would share potential benefits totaling $4.66 billion (discounted 7%, 15 years, 1995 dollars).

Conclusion

The FAA has determined that in view of the minimal cost of compliance, enhanced aviation safety and operational efficiency, the proposed establishment of Springfield Regional Airport Class C airspace area would be cost-beneficial. The establishment of the Springfield Class C airspace would impose a negligible, if any, cost on the aviation community and a cost of about $575 on the agency. When this cost estimate of $575 is added to the total cost of the Class C airspace program, the Class B airspace program, the Mode C Rule, and the TCAS Rule, the combined cost would still be less than their total potential safety benefits.

Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by Federal regulations. The RFA requires a regulatory flexibility analysis if a proposed rule would have ''a significant economic impact on a substantial number of small entities.'' FAA Order 2100.14A outlines the FAA's procedures and criteria for implementing the RFA. Small entities are small businesses and small not-for-profit organizations which are independently owned and operated, and small government jurisdictions. A substantial number of small entities means a number which is not less than eleven and which is more than one-third of the small entities subject to a proposed or existing rule. A significant economic impact refers to the annualized threshold assigned to each entity group potentially impacted by the rulemaking actions.

For the purpose of this evaluation, the small entities that would be potentially affected by the proposed rule are defined as fixed-base operators, airport operators, flight schools, agricultural operators, and other small aviation businesses operating in the vicinity of

the proposed Springfield Class C airspace area. Sport aviation interests that may be affected include ballooning, parachuting, and gliding. Mandatory participation in the proposed Class C airspace area and special conditions around the Springfield Regional Airport could potentially impose certain costs (i.e., avionics equipment) on aircraft operators. Based on historical experience of other Class C airspace areas, the FAA would develop special procedures to accommodate these operators through local agreements between ATC and the affected entities. Since the proposed Springfield Class C airspace area falls in this category, the FAA does not anticipate any adverse impacts to occur as a result of the Class C airspace area.

The FAA has determined that the proposed rule would not result in a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required under the terms of the RFA.

International Trade Impact Assessment

The proposed rule would not constitute a barrier to international trade, including the export of American goods and services to foreign countries and the import of foreign goods and services into the United States. The proposed rule would not impose costs on aircraft operators or aircraft manufacturers in the U.S. or foreign countries. The establishment of the proposed Class C airspace area would only affect U.S. terminal airspace operating procedures at and in the vicinity of Springfield, MO. The proposed rule would not have international trade ramifications because it is a domestic airspace matter that would not impose additional costs or requirements on affected entities.

Federalism Implications

This proposed rule would not have substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612 (52 FR 41695; October 30,1987), it is determined that this proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

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 part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 4000—Subpart C-Class C Airspace

* * * * *

ACE MO C Springfield, MO [New]
Springfield Regional Airport, MO
(lat. 37°14′39″N., long. 93°23′13″W.)
Bird Field Airport
(lat. 37°19′00″N., long. 93°25′00″W.)
Springfield VORTAC
(lat. 37°21′22″N., long. 93°20′24″W.)

That airspace extending upward from the surface to, and including, 5,300 feet MSL within a 5 NM radius of Springfield Regional Airport, excluding that airspace within a 1 NM radius of the Bird Field Airport and that airspace extending upward from 2,500 feet MSL to, and including, 5,300 feet MSL within a 10-mile radius of Springfield Regional Airport. This Class C airspace area is effective during the specific dates and times established in advance by a Notice to Airman. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 5000—Subpart D-Class D Airspace

* * * * *

ACE MO D Springfield, MO [Removed]

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Issued in Washington, DC, on November 20, 1996.

Harold W. Becker,

Acting Program Director for Air Traffic Airspace Management.

Note: The following appendix will not appear in the Code of Federal Regulations.

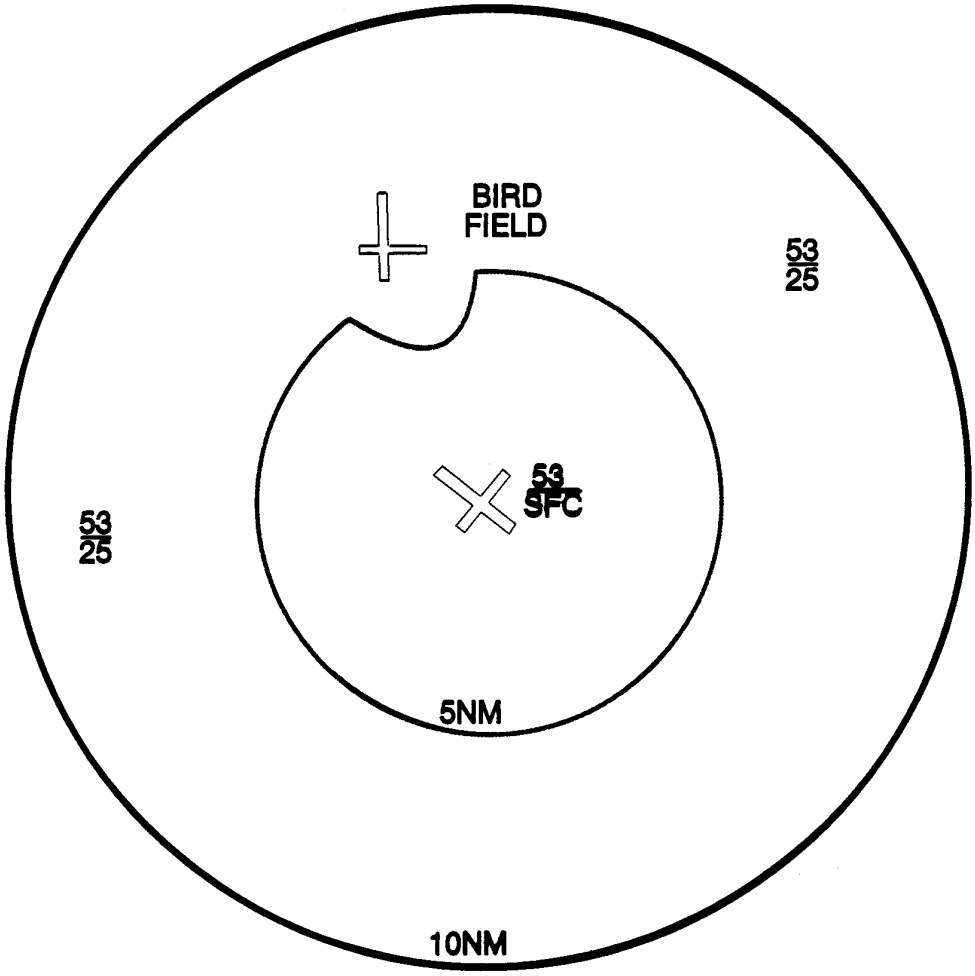
Appendix—Class C Airspace Area.

BILLING CODE 4910–13–P

SPRINGFIELD REGIONAL

CLASS C AIRSPACE AREA

(NOT TO BE USED FOR NAVIGATION)



Prepared by the

FEDERAL AVIATION ADMINISTRATION

Air Traffic Publications

ATX-420

[FR Doc. 96–30374 Filed 12–6–96; 8:45 am]
BILLING CODE 4910–13–C

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Parts 1190 and 1191

Accessibility Guidelines for Play Facilities; Meeting of Regulatory Negotiation Committee

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of committee meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) has established a regulatory negotiation committee to develop a proposed rule on accessibility guidelines for newly constructed and altered play facilities covered by the Americans with Disabilities Act and the Architectural Barriers Act. This document announces the times and location of the next meeting of the committee, which is open to the public.

DATES: The next committee meeting will be on January 6–9, 1997, beginning at 8:30 a.m. each day. The meeting will end at 5:00 p.m. each day, except on January 9, 1997 when it will end at 12 noon.

ADDRESSES: The committee will meet at 800 Hearst Avenue, Berkeley, California.

FOR FURTHER INFORMATION CONTACT: Peggy Greenwell, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC. 20004–1111. Telephone number (202) 272–5434 extension 34 (Voice); (202) 272–5449 (TTY). This document is available in alternate formats (cassette tape, braille, large print, or computer disc) upon request.

SUPPLEMENTARY INFORMATION: In February 1996, the Access Board established a regulatory negotiation committee to develop a proposed rule on accessibility guidelines for newly constructed and altered play facilities covered by the Americans with Disabilities Act and the Architectural Barriers Act. (61 FR 5723, February 14, 1996). The committee will hold its next meeting on the dates and at the location announced above. The meeting is open to the public. The meeting site is accessible to individuals with disabilities. Individuals with hearing impairments who require sign language interpreters should contact Peggy Greenwell by December 20, 1996, by calling (202) 272–5434 extension 34 (voice) or (202) 272–5449 (TTY).

Lawrence W. Roffee,

Executive Director.

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DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

43 CFR Part 418

RIN 1006–AA37

Adjustments to 1988 Operating Criteria and Procedures (OCAP) for the Newlands Irrigation Project in Nevada

AGENCY: Bureau of Reclamation, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule adjusts the 1988 OCAP for the Newlands Irrigation Project (Project). The 1988 OCAP anticipated that irrigated acreage in the Project would increase to 64,850 acres. In 1995, irrigated Project acreage was approximately 59,023 acres. Adjustments are proposed to the Project efficiency requirements, maximum allowable diversion calculations, and Lahontan Reservoir storage targets in the 1988 OCAP to reflect current irrigated acreage and court decrees which have lowered the water duty applicable to certain Project lands. To better manage diversions from the Truckee River to the Project, additional proposed adjustments to the 1988 OCAP provide flexibility in using snowpack and runoff forecasts and extending the time frame for storing water in Truckee River reservoirs in lieu of diversions to the Project from the Truckee River.

DATES: Written comments should be submitted to be received by February 7, 1997. All comments received by the close of the comment period will be considered and addressed in the Final Rule. Comments received after that date will be reviewed and considered as time allows.

ADDRESSES: Comments should be sent to: Adjusted OCAP, Truckee-Carson Coordination Office, 1000 E. William Street, Suite 100, Carson City, Nevada 89701–3116.

FOR FURTHER INFORMATION CONTACT: Additional copies of 1988 OCAP with proposed adjustments may be obtained from: Lahontan Area Office, Bureau of Reclamation, P.O. Box 640, Carson City, Nevada 89702, Phone (702) 882–3436.

If you have questions or need additional information contact:

Ann Ball, Manager, Lahontan Area Office, (702) 882–3436

or

Jeffrey Zippin, Team Leader, Truckee-Carson Coordination Office, (702) 887–0640.

SUPPLEMENTARY INFORMATION:

Background

On April 15, 1988, the Secretary of the Interior (Secretary) implemented new Operating Criteria and Procedures (OCAP) governing management of water diverted to and used within the Newlands Project. These 1988 OCAP were approved by the U.S. District Court for the District of Nevada, subject to a hearing on objections raised by various parties. In 1990, Congress directed in the Truckee-Carson-Pyramid Lake Water Rights Settlement Act (Title II of Pub. L. 101–618, Section 209(j) (104 Stat. 3294) that the 1988 OCAP remain in effect until December 31, 1997, unless changed by the Secretary in his sole discretion. Prior to this proposed rule, the 1988 OCAP have not been published in the Federal Register.

These OCAP were designed to further increase the reliance of the Project on water from the Carson River, minimize the use of water from the Truckee River as a supplemental supply, increase efficiency of water use in the Project, and establish a regulatory scheme to manage deliveries to Project water users including incentives for efficiency and penalties for inefficiency.

An environmental impact statement (EIS) was prepared on the 1988 OCAP. That EIS serves as the basis for reviewing the environmental effects of proposed adjustments.

The Department of the Interior (Department) has prepared a draft environmental assessment on the adjustments which tiers off of the analysis in that EIS. Copies of the draft environmental assessment may be obtained from the Truckee-Carson Coordination Office.

The Department is proposing at this time to make a number of revisions to the 1988 OCAP to adjust for changes in use of water rights, to increase flexibility, and to clarify and fine-tune the language of the OCAP based on experience gained in administering the 1988 OCAP through eight irrigation seasons. These revisions are proposed within the basic framework of the 1988 OCAP and its environmental documentation. They are also proposed for codification.

The need for additional changes to the 1988 OCAP beyond those proposed in this rule may be appropriate as well, but consideration of such changes is

expected to require further examination including the preparation of an environmental impact statement (EIS).

Description of the 1988 OCAP

The 1988 OCAP provisions were preceded by a preamble and introduction which are equally applicable to the Adjusted OCAP proposed. The 1988 OCAP preamble and introduction are here reproduced with minor grammatical editing. The following two headings, *1988 OCAP Preamble* and *1988 OCAP Introduction* are taken from the 1988 OCAP.

1988 OCAP Preamble

The development of Operating Criteria and Procedures (OCAP) for the Newlands Project (Project) in western Nevada was initiated in the late 1960's and has proven to be a divisive, contentious issue for the people in Nevada who rely on the waters of the Carson and Truckee Rivers. Competition for the water in the Project's desert environment is intense and growing. The conflicts among uses are clearly apparent in the effects forecast on various areas where the Department of the Interior (Department) has program responsibilities. The issue is complicated further by the requirements of the Endangered Species Act and the listing of the Cui-ui, a fish inhabiting the lower Truckee River and Pyramid Lake.

In order to proceed effectively and fairly, the Department had to have guiding principles for the OCAP. These are to:

—Provide water deliveries sufficient to meet the water right entitlements of Project water users;
—Meet the requirements of the Endangered Species Act as they specifically relate to the Truckee River/Pyramid Lake Cui-ui;
—Fulfill Federal trust responsibilities to the Pyramid Lake Paiute Indian Tribe;
—Conserve wetland and wildlife values in both the Truckee and Carson River basins;
—Give cognizance to the State laws affecting water rights and uses;
—Provide for stable economies and improve quality of life in the region to the extent it is influenced by the Department-managed resources and facilities;
—Allow local control and initiative to the maximum extent possible; and
—Provide stability and predictability through straightforward operation based on actual versus forecast conditions.

The Department believes that the proposed OCAP best satisfy these principles within the limits of the Department's legal authority.

Each of the competing uses for the water is critical in its own right. They are all essentially separable for decision making purposes even though they clearly impact upon each other since the available supply is far less than the demand.

The OCAP deal with the operation and use of Federal facilities related to the Newlands Project. Therefore, their primary responsibility is supplying the water rights to the Project water users. To the extent this can be done effectively and efficiently, then the remaining water supply is available for other competing uses. The secondary impacts of the OCAP must, however, act to support or encourage results which benefit the other competing uses.

The basic structure of the OCAP relies on both rules and incentives which we believe will ensure reasonable, efficient water management through reliance on local control and initiatives. The direct consequences of the OCAP will be delivery of full water entitlements within the Newlands Project, protection of endangered species, fulfillment of trust responsibilities, and encouragement for the protection of other environmental and quality of life values.

1988 OCAP Introduction

The OCAP shall govern the operation and use of federal facilities on the Project.

When approved by the United States District Court for the District of Nevada (Court), the OCAP will supersede all OCAP previously issued by the Secretary of the Interior (Secretary) and the 1973 OCAP previously issued by the Court in Pyramid Lake Paiute Tribe of Indians v. Morton, 354 F. Supp. 252 (D.D.C. 1973). The OCAP are believed to be consistent with the decrees in *United States* v. *Alpine Land and Reservoir Co.*, 503 F. Supp. 877 (D. Nev. 1980), substantially affirmed, 697 F. 2d 851 (9th Cir. 1983), cert. denied, 464 U.S. 863 (1983) and *United States* v. *Orr Water Ditch Co.*, Equity No. A–3 (D. Nev.) (Orr Ditch and Alpine decrees, respectively). Implementation of the OCAP will ensure that the Secretary: (i) supplies the Project with water to meet all valid water rights; (ii) fulfills the federal trust responsibility to the Pyramid Lake Paiute Tribe of Indians; (iii) fulfills the federal trust responsibility to the Fallon Paiute-Shoshone Tribes of Indians; (iv) meets the requirements of the Endangered Species Act (16 U.S.C. 1531 et seq.); and (v) provides a framework for local decision making which can contribute to the protection of wetlands, recreation, economic, and other regional values. Procedures are included to monitor water use and Project operations and to enforce these OCAP.

Fundamentally the OCAP are predicated on water being used on the water-righted land in a manner similar to the past coupled with the Project operating at a reasonable efficiency. The Department believes that the OCAP efficiency targets are reasonable because they are at a level that can be shown to be achievable, can be obtained without significant capital expenditures and are within the range of efficiencies achieved in comparable systems.

The OCAP are designed to operate in a manner to produce a long term average effect recognizing that each year will necessarily be different as weather and actions by individual water users vary. It is also critical that OCAP compliance be measured based on facts which can be readily determined and reviewed, rather than on forecasts, theories, or models. In combination, the use of a factual base and a long-term average project efficiency yield a methodology which will operate in a predictable fashion that minimizes disputes and allows the landowners and others to make knowing, rational decisions for themselves.

The OCAP assure proper water use and a reasonable efficiency by establishing a methodology consisting of three basic elements. First, it requires monitoring headgate deliveries against the acreage eligible to receive Project water multiplied by the court set water duty.

Second, the OCAP establish efficiency targets for the Project distribution system. The efficiency target varies with the actual valid headgate deliveries. Since many of the system losses are relatively constant, the system efficiency declines with smaller headgate deliveries and increases with larger deliveries. This also allows an automatic adjustment in efficiency for drought conditions. The OCAP provide for incentives if the District's operation is more efficient and for disincentives if it is less efficient than the OCAP target efficiency. Thus, through use of the incentive provisions, the District can offset deficiencies in time of drought or use the water saved for its desired purposes (e.g., wetlands, recreation, power, etc.) consistent with Nevada and Federal Law.

Third, as a protection against the first two elements allowing the operation to become excessively out of balance, the OCAP establish a maximum allowable diversion (MAD) limit for irrigation and a maximum efficiency deficit (MED). No

limit has been placed on the ability of the District to gain through the incentive feature.

The MAD and MED limits are set to provide an operating cushion approximately 26,000 acre-feet above and below, respectively, the expected irrigation diversions, assuming the District's operation is at an average annual efficiency at the OCAP target level. Neither limit is expected to ever be encountered in actual operation.

The operating cushion size was chosen in relation to historic operations. Historically, not all water users have used their full entitlements in a given year. Either the season doesn't require it, the crops planted need less, or the land cannot productively accommodate the full amount. Whatever the reason, the Project uses about 26,000 acre-feet less every year on average than its entitlement for actual irrigated acres. This provides a reasonable cushion, or insurance protection, above the normal expected use, yet does not in any way limit or impact on the water users' rights. It is also an important protection for other uses. Therefore, rather than trying to forecast the expected actual use each year and adding the operating cushion to get the MAD, it is more direct and predictable to simply determine the anticipated acreage to be irrigated at its full water duty for the MAD.

The MED is a fixed number set equal to the operating cushion. It is the limit on how much accumulated storage can be borrowed from the future to satisfy a less efficient operation. The MED is for the protection of the water users against too severe an impact in the case of a low water year. Only the MAD can affect current operations within an irrigation season. The MED operates on the subsequent year only.

These OCAP will be enforced in cooperation with the Federal Water Master and the Nevada State Engineer and will govern delivery of all Project water. The OCAP are applicable to the Truckee-Carson Irrigation District or any other Project operating entity.

1996 Revisions to the OCAP in General

1. Changes in Water Demand: The 1988 OCAP envisioned and provided for increasing irrigated acreage. It was assumed the project would grow from about 60,900 irrigated acres and a headgate entitlement of 226,450 acre feet of water on average beginning in 1988 to as much as 64,850 irrigated acres and a headgate entitlement of 237,485 acre feet on average by 1992 and thereafter with certain efficiency targets and assumptions about water duties and use of entitlements. The annual calculations of the maximum allowable diversion (MAD) to the Project and efficiency requirements in use today are based, in part, on this assumed projected growth to 64,850 irrigated acres and the other 1992 project water demand assumptions. In practice, this growth has not occurred. Actual acreage served in 1995 and assumed for 1996 and thereafter for at least several years, and other key parameters in determining project water use are displayed in Table A below along with the comparable assumptions made in the 1988 OCAP.

TABLE A.—COMPARISON OF PROJECT WATER BALANCE ASSUMPTIONS

	1988 OCAP assumptions		Current assumptions	
	1988	1992	1995	Proposed
Acres	61,630	64,850	59,023	59,023
Average duty in acre-feet per acre (af/a) [1]	3.67	3.66	3.49	3.49
Headgate entitlements in acre-feet	226,555	237,485	206,230	206,230
Estimated percent use of entitlement	90	90	90	93.2
Resulting demand	203,900	213,740	185,555	192,206
Percent target efficiency [2]	59.3	66.7	66.7	65.7
Expected diversion in acre-feet	343,845	320,450	278,193	292,627
Maximum allowable diversion in acre-feet	371,055	346,985	301,506	308,319

[1] Average duty includes bench lands at 4.5 af/a, bottom lands at 3.5 af/a, pasture lands at 1.5 af/a, and deliveries to wetlands of less than full entitlement.

[2] The target efficiencies for 1988, 1992, and 1995 are as prescribed in the 1988 OCAP; the Proposed target efficiency is calculated.

The differences between 1992 and 1995 stem from the following:

- *Acreage:* The anticipated increase in acreage has not materialized; actual irrigated acreage in 1995 was 59,023 acres. This amount reflects the efforts of the Bureau of Reclamation (BOR) to limit irrigation to water-righted lands and that, on average, irregators have not increased the acreage of lands in production.

- *Average Water Duty:* The average water duty for the project has been reduced as a result of the so-called ''bench/bottom litigation'' (1995 Order of Judge McKibben, in *U.S.* v. *Alpine,* United States District Court for the District of Nevada No. D–185). This bench/bottom court ruling approved a change in the designation of some Project lands from bench lands to bottom lands. Bench lands have a maximum water duty of 4.5 acre-feet/acre; bottom lands have a maximum water duty of 3.5 acre-feet/acre. (The Project includes pasture lands with a duty of 1.5 acre-feet/acre.) The bench/bottom decision reclassified approximately 9,000 acres of irrigated lands in the project, reducing Project water entitlements by approximately 9,000 acre-feet. The change in demand is expected to be approximately 5,000 acre-feet of water when measured at the farm headgates. This is based on historic use of about 90 percent of the headgate entitlement at 4.5 acre-feet/acre versus projected use of 100 percent of the 3.5 acre-feet/acre entitlement.

- *Average Use of Entitlement:* Actual water use as a percentage of entitlement is usually less than 100 percent, historically about 90 percent. The reduced percentage of entitlement use results from on-farm practices and efficiencies, fallowing of lands, and varying weather conditions. The current projected percent use of entitlement is 93.4 percent. This is based on irrigation use of 91.8 percent and 95 percent for Carson and Truckee Divisions, respectively, and 100 percent water use for pasture lands and wetlands. Several factors will affect use of entitlement in the future:

—As noted above, irrigators whose lands were reclassified from bench lands with a water duty of 4.5 acre-feet per acre to bottom lands with a 3.5 acre-feet per acre duty may use more than 90 percent of their entitlement, an increase in use.

—The Fallon Paiute-Shoshone Tribes reservation is within the Project and Tribes have a cap on the water they receive. The Tribes are expected to use their full water entitlement every irrigation season.
—The Naval Air Station Fallon, as part of an agreement with the U.S. Fish and Wildlife Service (FWS), will use less of its irrigation water and is also developing less water intensive cropping strategies decreasing percent use of entitlement.
—The FWS and the State of Nevada are acquiring water rights within the Newlands Project for restoration of wetlands at Stillwater National Wildlife Refuge. The FWS and Nevada are transferring the consumptive use portion, 2.99 acre-feet per acre, of the water rights they acquire. This changes their entitlement to 2.99 acre-feet per acre of which they are expected to take 100%, thus increasing percent use of entitlement.

These and other changes in water use will cause the percent use of entitlement to vary from year to year. The percent use will be determined based on actual experience and used in calculating the expected irrigation diversion for each irrigation season.

• *Efficiency:* Within the same size project, more irrigated acreage results in greater efficiency; with less irrigated acreage lower efficiencies are expected. Project irrigated acreage never reached the level anticipated in the 1988 OCAP but the associated target efficiencies have remained in effect. As water rights are acquired for Stillwater Wildlife Refuge (Pub. L. 101–618, section 206), the effect on Project efficiencies may vary at first, but as more water is acquired and moves to the Refuge, efficiencies should improve stemming from the concentration of deliveries through the system.

Specific Proposed Adjustments to 1988 OCAP

Even with the prospect of revising the OCAP in the future, there are a number of adjustments to the 1988 OCAP that will help manage the Project during the interim period until a revised OCAP can be promulgated. This proposed rulemaking addresses only those adjustments to the 1988 OCAP in the following areas:

1. Target Efficiency adjustments (§ 418.1(c)(3)(i)(A) and Newlands Project Water Budget table): The 1988 OCAP envisioned and allowed for increasing irrigated acreage, assuming the Project would grow to over 64,850 irrigated acres by 1992 compared to a base of approximately 60,900 acres being irrigated in 1987. The annual calculations of the maximum allowable diversion (MAD) to the Project and efficiency requirements currently in use are based on a Project of 64,850 or more irrigated acres and a commensurate target efficiency of 68.4 percent. However, the acreage increase has not materialized and current irrigated acreage is approximately 59,023 acres. The Project efficiency that can be achieved, which is the relationship between the total annual diversion to the Project and total delivery to farm headgates, is directly related to irrigated acreage; efficiency generally decreases as the irrigated acreage in the Project decreases. The 1988 OCAP does not accurately reflect the current acreage, and as a consequence, the higher efficiency requirement remains in effect. This may decrease the water available to the Project as calculated in the MAD and increases the likelihood of penalties for inefficiency.

In response to less acreage and varying water demand, the Department proposes to calculate the annual Project water budget for each irrigation season in accordance with the elements in the Newlands Project Water Budget table of the Adjusted OCAP. Each year the Maximum Allowable Diversion (MAD) would be based on the projected irrigated acreage for that year and applicable water duties. The other elements in Newlands Project Water Budget, including appropriate Project efficiency, would be calculated to determine the MAD and Project efficiencies. Through this proposal, the Project water budget can accommodate anticipated changes in Project characteristics.

Using the 1995 Actual Acres column from the Newlands Project Water Budget, Maximum Headgate Entitlement (line 2) is the product of Irrigated Acres (line 1) and the average water duty (calculated annually). Variable distribution system losses of Canals/Laterals Evaporation (line 3), Canals/Laterals Seepage (line 5), and Operational Losses (line 7) are interpolated to determine the Total Losses (line 8) for a given Project size. The combined Maximum Headgate Entitlement (line 2) and the Total Losses (line 8) determines the MAD (line 9), and the relationship of Maximum Headgate Entitlement (line 2) to Total Losses (line 8) determines Project Efficiencies at 100 percent water use (line 10). Actual use of entitlement, based on historic patterns, is less than 100 percent, so the Maximum Headgate Entitlement is adjusted by the projected percent use of entitlement (calculated annually) to yield Expected Headgate Entitlement Unused (line 11) and the Diversion Reduction for Unused Water (line 12). The Diversion Reduction for Unused Water (line 12) is subtracted from the MAD (line 9) to determine Expected Irrigation Diversions (line 13). Finally, the adjusted Project demand (calculated from line 2 minus line 11) is divided by the Expected Irrigation Diversions (line 13) to determine the Expected Efficiency (line 14).

The effect of this proposal is to have OCAP that more accurately reflect the Project water demand. Reducing the annual Project efficiency target will recognize the limitation of the present water distribution system facilities and assist the Project in achieving efficiency requirements. No changes are proposed for the 1988 OCAP relative to how the MAD is calculated and administered, determination of eligible land, reporting, or calculation of credits or debits.

2. Adjustments in Storage Targets (§ 418.3(e) and tables of Monthly Values for Lahontan Storage Computations and End of Month Storage Targets for July Through December): The 1988 OCAP prescribes when water may be diverted from the Truckee River to supplement Carson River inflow to Lahontan Reservoir to serve the Carson Division of the Project. (The Truckee Division of the Project is supplied entirely by water from the Truckee River.) The Truckee River diversion to the Carson Division is governed by end-of-month storage target levels in Lahontan Reservoir. Water is diverted from the Truckee to the Reservoir only if its is forecast that the storage target will not be met by Carson River inflow by the end of the month. In years of low flow on the Carson River, a greater percentage of the Carson Division Project water supply is diverted from the Truckee River. In wet years, the Carson Division supply may come entirely from the Carson River. Thus, storage targets are used to help maintain a steady water supply despite the natural climatic variability and differences in annual runoff between the two river basins.

The formula used to determine how much water may be diverted to Lahontan Reservoir from the Truckee River in January through June relies, in part, on the runoff forecast for the Carson River. The imprecision inherent in such forecasting can lead to variable consequences. Sometimes more Truckee River is diverted than is needed to serve Project water users. This is particularly problematic when the Carson River fills Lahontan Reservoir to the point that water spills over Lahontan Dam or so that a precautionary spill (release) of water must be made to avoid later

flooding. In either situation, spilled water that cannot be transported to water-righted lands or Lahontan Valley wetlands flows into Carson Sink in the desert. This situation occurred most recently in 1996 with the consequence that Truckee River water that could have flowed into Pyramid Lake contributed to water that was spilled.

Because of their imprecision, forecasts for Carson River runoff do not always reflect actual conditions and the water may not materialize. If not enough water was brought over from the Truckee River earlier in the water year, or Truckee River flow is insufficient to make up for the shortfall from the Carson River, then the water supply may be inadequate to meet the annual irrigation demand. This situation occurred in 1994 when the Carson River was forecast to have a 100 percent water year but only produced a 50 percent water supply.

Two of the objectives of OCAP are to minimize spills and moderate shortages. It is important to note that for the 94 years of records, the climatic/hydrologic variability of both rivers is so great that even if there were no limits on the diversion of Truckee River water, in some years shortages would result. Conversely, even if no Truckee River water were diverted, in some years Lahontan Reservoir would spill just from Carson River inflow.

The 1988 OCAP has a June end-of-month storage target of 215,000 acre feet in Lahontan Reservoir. The 215,000 acre-feet was based on serving at least 5,000 more acres of water-righted and irrigated land than has been irrigated in actual practice. The reclassification of some bench lands to bottom lands further reduces water demand in the Carson Division. The difference in headgate demand between what the 1988 OCAP projected and current Carson Division demand is approximately 21,000 acre-feet. The current storage targets permit unnecessary diversions from the Truckee River to the Project. The proposed Adjusted OCAP storage targets are based on the lower Carson Division demand and reducing water loss to seepage and evaporation. Accordingly, the proposed end-of-June storage target is adjusted to 174,000 acre-feet, as shown in the table Monthly Values for Lahontan Storage Calculations. The June storage target is important because it is one of the terms in the formula used to calculate the monthly Truckee River diversion to the Project for January through June.

A comparison of the 1988 OCAP and proposed Adjusted OCAP storage targets for Lahontan Reservoir are shown in Table B of this preamble.

TABLE B.—COMPARISON OF 1988 OCAP AND PROPOSED ADJUSTED OCAP LAHONTAN RESERVOIR STORAGE TARGETS

[In acre-feet]

Month	1988 OCAP	Adjusted OCAP
January–June	215,000	174,000
July	160,000	139,000
August	140,000	95,000
September	120,000	64,000
October	80,000	52,000
November	160,000	74,000
December	210,000	101,000

The adjusted storage targets for these months appear in the table End of Month Storage Targets for July Through December in the proposed rule. The adjusted storage targets would be used to calculate diversions from the Truckee River in accordance with § 418.3 of the proposed rule.

The proposed storage targets were developed using the Truckee River settlement negotiations water balance model. The model was used to examine how different storage targets affected spills, inflow to Pyramid Lake, and other parameters. Key assumptions used in modeling were reduced Project water demand from the 1988 OCAP, lower efficiency targets, current Truckee River operations, and Project shortages consistent with the 1988 OCAP. The model uses the 94-year (1901–1995) historic hydrologic record for the Truckee and Carson Rivers.

A series of modeled storage targets was evaluated based on the degree to which a set of targets reduced spills, increased inflow to Pyramid Lake, increased the estimated number of spawning years for cui-ui, increased the estimated number of cui-ui, reduced Lahontan Reservoir and Truckee Canal seepage and evaporation losses, and held frequency and magnitude of Project shortages consistent with the 1988 OCAP. These goals are consistent with the Secretary of the Interior's responsibilities as the District Court ruled in *Tribe* v. *Morton*.

Though not a specific feature of the Adjusted 1988 OCAP, the modeling used in making decisions on this proposed rule took cognizance of the 4,000 acre foot minimum pool that the Truckee-Carson Irrigation District voluntarily has maintained in Lahontan Reservoir to protect fish resources there. Though this action to maintain a minimum pool is purely voluntary on the part of TCID and Newlands Project water right holders, it provides environmental benefits, was assumed to be continued into the future, and was credited in the modeling used to establish new Lahontan storage targets; that is to say, the targets would have been somewhat lower to achieve the same release shortage percentage and Truckee River inflow volume to Lahontan Reservoir assuming no anticipation of the 4,000 acre-foot minimum pool.

Table C compares the modeled current conditions under the 1988 OCAP to those under the Adjusted 1988 OCAP for each of these elements.

TABLE C.—MODELED RESULTS FOR OCAP STORAGE REGIMES

Parameter	1988 OCAP [1]	Proposed adjusted OCAP	Difference
Truckee Canal and Lahontan Reservoir Losses	61,800 af [2] ...	53,600 af	8,200 af.
Reservoir Spills	42,100 af	37,500 af	4,600 af.
Lahontan Release Shortage	7,820 af	6,880 af	940 af.
Release Shortage as Percentage of Demand	2.68%	2.54%	0.14%.
Mininum Pool	0	4,000 af	4,000 af.
Number of Shortage Years	9 years	9 years	
Truckee River Inflow to Pyramid Lake	445,500 af	480,700 af	35,200 [3] af.
Cui-ui Spawning Years	69 years	74 years	5 years.
Ending Number of Adult Female Cui-ui	40,300	304,300	264,000.

[1] Modeled results based on the 1992 Newlands demand assumptions from the 1988 OCAP, the 94-year hydrologic record (1901–1995), and 1995 Truckee River operating conditions.

[2] af=acre-fee.

[3] The difference in inflow to Pyramid Lake results from reduced Project acreage and reduced Truckee Canal and Reservoir losses.

The values are averages for the 94-year period of record. In every category listed above, the modeled results show improvement under the proposed storage targets as compared with the 1988 OCAP modeled with 64,800 irrigated Project acres and current Truckee River conditions. A reduction of water loss and spill from the Project will increase inflow to Pyramid Lake. Shortages to the Project are reduced under the proposed storage targets by approximately 2,500 acre-feet compared to the current target regime using the 1988 OCAP and 1995 acreage and water use. However, today's irrigated acreage has not matched what was anticipated in the 1988 OCAP so Project water supply has benefited from storage targets based on higher water demand assumptions in place.

3. Truckee River Storage in Lieu of Diversions (§ 418.3(e)(8)): Project diversions from the Truckee River may be fine-tuned by retaining water in upper Truckee River reservoirs that would otherwise have been diverted to Lahontan Reservoir to meet storage targets. Depending upon how much Carson River runoff reaches Lahontan Reservoir and whether storage targets are met by the Carson River inflow, the water retained in storage may be released later in that year and diverted to Lahontan Reservoir for delivery to the Carson Division, or retained for Pyramid Lake if the water is not needed for Carson Division irrigation.

Under the 1988 OCAP, water may be stored upstream on the Truckee River in lieu of diversion only from April to June. In 1995, this limitation contributed to approximately 70,000 acre-feet of water being diverted from the Truckee River to Lahontan Reservoir before March 31, then spilling because of high Carson River runoff. None of the Truckee River water was needed because the Carson River more than filled Lahontan Reservoir and precautionary releases were made to avoid spilling over the dam. While the 70,000 acre-foot-diversion from the Truckee was controversial, it resulted from managing the diversion in strict adherence with the 1988 OCAP targets. The proposed Adjusted OCAP provides more flexibility to reduce such unnecessary diversions.

Consistent with managing Projects diversions from the Truckee River, the proposed rule expands the opportunity to credit store water for the Project in reservoirs on the upper Truckee River by allowing storage as early as January of each year. The water would be credited based on water actually retained in Trukee River reservoirs or, if water was not being released for Project diversion, credited as Newlands Project water in Stampede Reservoir adverse to other water (fish water) stored in Stampede Reservoir. In the latter situation, concurrence by the U.S. Fish and Wildlife Service (FWS) will be required. For example, a reduction of diversions in January through March of 1995, would have required FWS approval because water was not being released for Project diversion. Stored water could be released for diversion to Lahontan Reservoir, if needed, as early as July 1 through the end of the irrigation season, but not thereafter. The Water would only be used for the Carson Diversion. Water in storage could be exchanged to other reservoirs but it will not carry over to the next year for use in the Project. If it is not used in the year in which it is stored, it will not be available thereafter to the project. To protect the water users, the water held in storage on the Truckee River would not be reduced as a result of spill or evaporation and would be gaged at the U.S. Geological Survey gage on the Truckee Canal near Wadsworth, Nevada, to ensure that the diversion to the Project matches the diversion foregone earlier in the season. Water stored but not needed for the Project would be managed to benefit endangered cui-ui in Pyramid Lake.

The proposed adjustment provides the flexibility to reduce excessive diversions from the Truckee River. As proposed, there is no risk to the Project water users and there is potential benefit for Pyramid Lake. The BOR is expected to use this proposed provision only in years when Carson River runoff is forecast to be above average and is intended to fine tune diversions and avoid over-diversions from the Truckee River. Such storage in Stampede Reservoir or other Truckee River Reservoirs is not intended to make up for shortages in drier years. There is little advantage to foregoing diversions in below average runoff years if the likelihood is that all the credit stored water would need to be diverted to the Project in any event. The changes proposed in § 418.3(e)(8) of the rule include provisions for BOR to consult with TCID, the Federal Water Master, FWS, Bureau of Indian Affairs (BIA), and the Pyramid Lake Paiute Tribe before any credit storing is initiated.

4. Expanded Forecasting (§ 418.3(e)(1)): In calculating the January to June monthly diversions from the Truckee River, the 1988 OCAP uses the monthly forecast for April through July runoff published by the Natural Resources Conservation Service (NRCS) (formerly the Soil Conservation Service). Rather than continuing to rely on that forecast alone, § 418.3(e)(1) of the proposed Adjusted OCAP provides flexibility to examine other forecasts and allows use of a deliberative process to determined how to manage Truckee River diversions. The intent of this change is to allow the BOR to take advantage of other forecasts and the experience and knowledge of the Federal Water Master, the TCID water master, and other parties. The desired effect of this change is to improve precision in forecasting and managing the Truckee River diversion to the Project to avoid spills and shortages.

5. Additional Revisions: In addition to the proposed change identified in 1. through 4. above, a number of minor revisions have been made to the 1988 OCAP. Most changes are editorial and do not affect the meaning of the text. Some changes provide opportunities for consultation with interested and effected parties before BOR makes a decision.

A few changes add language to clarify or interpret the meaning of the 1988 OCAP in light of experience administering the OCAP, passage of time, or new statutory provisions. Changes to the text of the 1988 OCAP occur at:

Section 418.1: Other Project purposes are added in accordance with Pub. L. 101–618, 104 Stat. 3289, Sec. 209 (a)(1).

Section 418.1 (c)(3) (i) (B): Explains the use of efficiencies in calculating the MAD.

Section 418.3 (c): Calculates terminal flow in the Truckee Canal by averaging flows during the time when water is not being diverted to Lahontan Reservoir.

Section 418.3 (g): Subtracts Rock Dam Ditch deliveries from Carson Division demand and adds it to Truckee Division demand.

Section 418.3 (h) (1): Water captured in Project facilities from a spill or precautionary draw down is used to make deliveries to eligible lands but does not count as a Project diversion or as Lahontan Reservoir storage.

Section 418.7(b): Deletes the reference to the February 14, 1984, Contract for Operation and Maintenance between the United States and the District.

Section 418.9 (f) (4): Adds new text clarifying that a natural drought greater than or equal to the debit will eliminate the debit.

Section 418.9 (h)(2): Allows TCID to divert up to the MAD if needed to meet headgate entitlements.

Coordination With the Public

The Department developed the proposed adjustments to the 1988 OCAP in consultation with the BOR, FWS, BIA, and other interested and affected

parties in western Nevada. Four public meetings were held in Fernley, Nevada, to discuss the four main revisions to the 1988 OCAP described above. Participants in the public meetings were representatives from the State of Nevada, Churchill, County, Washoe County, Town of Fernley, TCID, Pryamid Lake Paiute Tribe, Fallon Paiute-Shoshone Tribes, Lahontan Valley Environmental Alliance, Newlands Water Protective Association, The Nature Conservancy, and members of the public.

Administrative Matters

- This rule is not a significant rule under Executive Order (E.O.) 12866 and does not require review by the Office of Management and Budget.
- As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small business entities.
- This rule does not include any collections of information requiring approval under the Paperwork Reduction Act.
- The Department has preliminarily determined that the proposed rule is not a major Federal action having significant effects on the human and natural environment. A draft environmental assessment (EA) has been prepared on the effects of the proposed rule. The EA will be reviewed in light of comments on the proposed rule.
- The proposed rule has no substantial effects on Federalism under the requirements of E.O. 12612.
- The proposed rule does not have a significant impact on family formulation, maintenance, and general well being under the requirements of E.O. 12606.
- The proposed rule does not represent a government action that would interfere with constitutionally protected property rights and does not require a Takings Implications Assessment under E.O. 12630.
- The proposed rule meets the applicable standards of civil justice reform in accordance with E.O. 12988.
- The proposed rule will not result in aggregate annual expenditures in excess of $100 million by state, local, and tribal governments, or the private sector and is, therefore, not subject to the requirements of Section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

The author of this rule is Jeffrey Zippin of the Department of Interior, Truckee-Carson Coordination Office.

The proposed rule replaces the 1967 OCAP regulations at 43 CFR 418. That regulation was superseded by subsequent U.S. District Court-approved OCAP, including the 1988 OCAP, which are the basis for this proposed rule.

List of Subjects in 43 CFR Part 418; Irrigation, Water supply, Newlands Irrigation Project; Operating Criteria and Procedures.

Dated: November 27, 1996

John Garamendi,

Deputy Secretary.

For the reasons set forth in the preamble, 43 CFR part 418 is proposed to be revised as follows:

PART 418—OPERATING CRITERIA AND PROCEDURES FOR THE NEWLANDS RECLAMATION PROJECT, NEVADA

Sec.

Authority: 32 Stat. 388, et. seq,; 43 U.S.C. 373; 70 Stat. 775; 72 Stat. 705; 104 Stat. 3289.

§ 418.1 Conditions of water delivery.

Project water may be delivered only to serve valid water rights used for maintenance of wetlands, fish and wildlife including endangered and threatened species, recreation, domestic and other uses and for irrigation of eligible land. Domestic and other uses of Project water are as defined by the *Orr Ditch* and *Alpine!* decrees. Eligible land is defined as Project land which at the time of delivery has a valid water right and either: Is Classified as irrigable pursuant to Bureau of Reclamation (Bureau) land classification standards (Reclamation Instruction Series 510); or has a paid out Project water right.

(a) *Irrigation deliveries.* Project irrigation water deliveries may be only to eligible land to be irrigated. The District shall maintain records for each individual water right holder indicating the number of eligible acres irrigated and the amount of water ordered and delivered.

(1) *Eligible land actually irrigated.* During each year, the District, in cooperation with the Bureau, shall identify and report to the Bureau the location and number of acres of eligible land irrigated in the Project. Possible irrigation of ineligible land will also be identified. The Bureau will review data to assure compliance with these OCAP. The District in cooperation with the Bureau will be responsible for field checking potential violations and immediately stopping delivery of Project water to any ineligible land. The Bureau may also audit as appropriate.

(2) *Eligible land with transferred water rights.* The District water rights maps dated August 1981 through January 1983 will be used as the basis for determining lands which have a valid water right. The original maps will be maintained by the District. The District shall provide copies of the maps to the Bureau. The District will alter the maps and the copies to account for water right transfer as they are approved by the Nevada State Engineer.

(3) *Other eligible land.* The Bureau will also identify eligible land that was not irrigated during the prior irrigation season.

(4) *Notification and review.* (i) Eligible land anticipated to be irrigated. (A) Anticipated changes in irrigated eligible land from the prior year will be reported to the Bureau's Lahontan Basin Projects Office by the District by March 1 of each year. The District will adjust the acreage of the eligible land anticipated to be irrigated to correct for inaccuracies, water right transfer that have been finally approved by the Nevada State Engineer, and any other action than impacts the number of eligible acres, acres anticipated to be irrigated, or water deliveries. As the adjustments are made, the District will provide updated information to the Bureau for review and approval. The District shall adjust anticipated water allocations to individual water users accordingly.

The allocations will be based on a maximum annual entitlement of 3.5 acre-feet (AF) per acre of bottom land, 4.5 AF per acre of bench land, and 1.5 AF per acre of pasture land that is anticipated to be irrigate and not by the number of water-righted acres.

(B) The District will provide the individual water users with the approved data regarding the anticipated acreage to be irrigated and water allocations for each water user that year. Any adjustments based on changes in lands anticipated to be irrigated during the irrigation season must be reported by the individual water user to the District. The District will, in turn, notify the Bureau of any changes in irrigated acreage which must be accounted for. Each landowner's anticipated acreage must be less than or equal to the landowner's eligible acreage.

(C) Should a landowner believe that the number of acres of eligible land he or she is entitled to irrigate is different from the number of acres as approved by the Bureau, the landowner is

required to notify the District and present appropriate documentation regarding the subject acreage. The District shall record the information and present the claim to the Bureau for further consideration. If the Bureau determines that there is sufficient support for the landowner's claim, then adjustments will be made to accommodate the changes requested by the landowner. If the Bureau disallows the landowner's claim, the Bureau shall notify the District is writing. The District will, in turn, inform the landowner of the disposition of the claim and the reasons, therefore, and will further instruct the landowner that he or she may seek judicial review of the Bureau's determination pursuant to the *Orr Ditch* and *Alpine* decrees. If the dispute affects the current year, then the Bureau and the District will seek to expedite any court proceeding.

(ii) Changes in domestic and other uses. By March 1 of each year, the District shall reports to the Bureau all anticipated domestic and other uses. This notification shall include a detailed explanation of the criteria utilized in allowing the use and sufficient documentation on the type and amount of use by each water user to demonstrate to the satisfaction of the Bureau that each water user is in compliance with the criteria. With adequate documentation, the District may notify the Bureau of any changes in domestic water requirements at any time during the year.

(b) *Water duty.* (1) Eligible land may receive no more than the amount of water in acre-feet per year established as maximum farm headgate delivery allowances by the *Orr Ditch* and *Alphine* decrees. All water use is limited to that amount reasonably necessary for economical and beneficial use pursuant to the *Orr Ditch* and *Alpien* decrees.

(2) The annual water duty as assigned by the *Orr Ditch* and *Alpine* decrees is a maximum of 4.5 AF per acre for bench lands and a maximum of 3.5 AF per acre for bottom lands. The water duty for fields with a mixture of bench and bottom lands shall be the water duty of the majority acreage. Bench and bottom land designations as finally approved by the United States District Court for the District of Nevada will be used in determining the maximum water duty for any parcel of eligible land. The annual water duty for pasture land established by contract is 1.5 AF per acre.

(c) *Deliveries, efficiency, and maximum limits.* The OCAP will constrain the operation of the Project on a long term average basis to achieve the full benefits for all the region's water users through three basis elements: valid headgate deliveries; Project efficiency with incentives and disincentives; and maximum operating limits or cushions.

(1) *Valid headgate deliveries.* The valid water deliveries at the headgate are set by the product of eligible land actually irrigated multiplied by the appropriate water duty in accordance with §§ 418.1(a) and 418.1(b). The District will regularly monitor all water deliveries and report in accordance with § 418.1(a). No amount of water will be permitted to be delivered in excess of the individual water user's headgate entitlement. In the event it should occur, such amount will be automatically reflected in the efficiency deficit adjustment to the Lahontan storage. Water delivered in excess of entitlements shall not be considered valid for purposes of computing project efficiency.

(2) *Project efficiency.* (i) The principal feature of the OCAP is to obtain a reasonable level of efficiency in supplying water to the headgate by the District. The efficiency targets established by these OCAP are the cornerstone of the enforcement and the incentive provisions and when implemented will aid other competing uses.

(ii) The efficiency approach has the advantage of being readily calculable at the year's end, easily convertible to water appropriate to that year, able to be compared to other systems even though there may be many dissimilarities, appropriate for long term averaging, adjustable to any headgate delivery level including droughts or allocations, automatically adjusts to changes during the year, and it accurately accounts for misappropriated water. It also can be achieved through any number of measures from operations to changes in the facilities and can be measured as an end product without regard to the approach. Thus it is flexible to allow local decision making and yet is fact based to minimize disputes.

(iii) Assuming that the headgate deliveries are valid and enforceable, the efficiency is the only remaining variable in determining the water needed to be supplied to the District. Efficiency is a measure of how much water is required for system losses relative to actual headgate deliveries. Differences in efficiency, therefore, are directly convertible to acre-feet. The differences in efficiency, expressed as a quantity in acre-feet, may be added to or subtracted from the actual Lahontan Reservoir storage level before it is compared to the monthly storage objective. Thus the diversions from the Truckee River, operation of other facilities (e.g., Stampede Reservoir) and decisions related to Lahontan Reservoir are made after the efficiency storage adjustments have been made. Operating decisions are made as if the adjusted storage reflected actual conditions.

(A) *Effiency incentive credits.* In any year that the District's actual efficiency exceeds the target efficiency for the actual headgate delivery, two-thirds of the resultant savings, in water, will be credited to the District as storage in Lahontan. This storage amount will remain in Lahontan as water available to the District to use at its discretion consistent with Nevada and Federal law. Such uses may include wetlands (directly or incidentally), power production, recreation, a hedge against future shortages or whatever else the district determines. The storage is credited at the end of the irrigation season from which it was earned. This storage ''floats'' on top of the reservoir so that if it is unused it will be spilled first if the reservoir spills. The District may use all capacity of Lahontan Reservoir not needed for project purposes to store credits.

(B) *Efficiency disincentive debits.* In any year that the District's actual efficiency falls short of the target appropriate to the actual headgate deliveries, then the resultant excess water that was used is considered borrowed from the future. Thus it becomes a storage debit adjustment to the actual Lahonthan Reservoir storage level for determining all operational decisions. The debit may accumulate but may not exceed a maximum as defined in § 418.1(c)(3)(ii). The debit must be offset by an existing incentive credit or, if none is available, by a subsequent incentive at a full credit (not a 2/3 credit) or finally by an allocation by the District to restrict actual headgate deliveries. This would only be done prospectively (a subsequent year) so the District and the water users can prepare accordingly. Since the debit does not impact immediately on other competing uses or the District (except in a real drought), it allows for planning ahead and averaging over time.

(C) *Efficiency targets.* The goal is to have the District operate at a reasonably efficient level. The OCAP establish reasonable efficiency targets. The key to the target efficiencies, therefore, is the application of ''reasonable''. To determine the efficiency target, the system delivery losses were divided into categories such as seepage, evaporation and operational losses. The ''reasonable'' level of savings for each category was then determined by

starting with current operating experience and applying the added knowledge from several possible measures researched, identified and subjected to public comment. Not all of these measures were then utilized nor was their full potential savings claimed. The derivation of the efficiency targets, including the specific measures and amounts, is identified in the following table.

NEWLANDS PROJECT WATER BUDGET

Line		1988 OCAP,[1] Base	1988 OCAP, 1992 assumptions	1988 OCAP, 1992 w/o additional acres	Proposed 1995 example
1	Irrigated Acreage (acres)	60,900	64,850	61,630	59,023
2	Maximum Headgate Entitlement[2]	226,450	237,485	226,555	206,230
	Distribution System Losses				
	Evaporation:				
3	Canals/Laterals	6,000	6,200	6,000	5,838
4	Regulatory Reservoirs	15,000	7,500	7,500	7,500
	Seepage:				
5	Canals/Laterals	50,000	51,000	48,500	46,481
6	Regulatory Reservoirs	7,000	4,000	4,000	4,000
7	Operational Losses	87,980	40,800	39,400	38,270
8	Total Losses[3]	165,980	109,500	105,400	102,089
9	Max. Allowable Diversion[4] (MAD)	392,430	346,985	331,955	308,319
10	Projected Efficiency (%)[5] Assuming 100% Water Use	58.4	68.4	68.2	66.9
11	Expected Headgate Entitlement Unused[6]	20,930	23,700	22,700	13,611
12	Diversion Reduction for Unused Water[7]	25,430	26,500	25,400	15,279
13	Expected Irrigation Diversions[8]	367,000	320,485	306,555	293,040
14	Expected Efficiency (%)[9]	56.0	66.7	66.5	[10] 65.7

[1] All values are in acre-feet except where noted. The first 3 columns of numbers come from the 1988 OCAP, Table 1.
[2] Derived by multiplying the acreage by the appropriate water duty.
[3] In deriving the 1988 OCAP water budget, it was recognized that the District had reduced losses by 7,400 acre-feet prior to 1988.
[4] Maximum Headgate Entitlement (line 2) plus Total Losses (line 8).
[5] Maximum Headgate Entitlement (line 2) divided by Maximum Allowable Diversion (line 9) multiplied by 100.
[6] Water delivery records show that, historically, lands have been irrigated with less than their full entitlement. In the 1988 OCAP base the unused portion of the entitlement was assumed to be approximately 9%; in the 1988 OCAP 10%; in the 1995 example 6.8%.
[7] Unused Water (line 11) plus a proportional share of Operational Loss (line 7).
[8] Maximum Allowable Diversion (line 9) minus Diversion Reduction (line 12).
[9] Maximum Headgate Entitlement (line 2) minus Unused Water (line 11) divided by Expected Irrigation Diversion (line 13) multiplied by 100.
[10] Expected efficiency at 93.4% use of headgate entitlement; other entries based on 90%.

(*1*) These water conservation measures and others currently available to the District are listed in the following table. The table has been revised in this proposed OCAP based upon the Bureau of Reclamation's Final Report to Congress of the Newlands Project Efficiency Study, 1994.

POSSIBLE WATER CONSERVATION MEASURES FOR THE NEWLANDS PROJECT

Conservation measures[1]	Expected savings in acre-feet (AF) per year[2]	Notes
1. Water ordering	1,000	Require 48-hour advance notice.
2. Adjust Lahontan Dam frequently	[3]++	Match releases to demand with daily adjustments.
3. Increase accuracy of delivery records	16,630	Account for deliveries to nearest cfs and to nearest minute.
4. Change operation of regulating reservoirs	[4]??	Eliminate use of all or parts of regulating reservoirs; drain at end of season.
5. Shorten irrigation season	4,000	Reduced by 2 weeks.
6. Control delivery system	++	Eliminate spills, better scheduling grouping deliveries.
7. System improvements	??	O&M activity: repair leaky gates, reshape canals, improve measuring devices.
8. Dike off 2/3 S-Line Reservoir	2,720	500 ft. dike; (5′ evaporation, 0.75′ seepage).
9. Dike off south half of Harmon Reservoir	2,130	5,000 ft. dike; large savings considering canal losses 95′ evap., 1.8′ seepage).
10. Dike off west half of Sheckler Reservoir	2,400	6,000 ft. dike.
11. Eliminate use of Sheckler Reservoir	4,000	Use for Lahontan spill capture only; restore 200 ft. of E-Canal; A-Canal is OK.
12. Line 20 miles of Truckee Canal	20,000	Reduces O&M.
13. Line large canals	26,100–31,000	Line large net losers first.
14. Line regulatory reservoirs	2.3	
15. Reuse drain water for irrigation	7,100	Blended irrigation water quality would be adequate.
16. Ditch rider training each year	??	
17. Canal automation	??	Reduced canal fluctuations.
18. Community rotation system	??	Grouping deliveries by area.

POSSIBLE WATER CONSERVATION MEASURES FOR THE NEWLANDS PROJECT—Continued

Conservation measures [1]	Expected savings in acre-feet (AF) per year [2]	Notes
19. Reclamation Reform Act water conservation plan: a. Weed and phreatophyte control. b. Fix gate leaks. c. Water measurement. d. Automation. e. Communication.	??	District implementation of water conservation plan.
20. Pumps and wells for small diverters	400	
21. Water pricing by amount used	++	Incurs administrative costs to implement.
22. Incentive programs	??	For District personnel and/or water users.
23. Drain canals	1,065	

[1] The first seven measures were considered in developing the water budget in Table 1 for the 1988 OCAP. Additional measures could be implemented by the District to help achieve efficiency requirements.
[2] Water savings have been updated in accordance with Bureau of Reclamation's Report to Congress on Newlands Project Efficiency, April 1994.
[3] ++ indicates a positive number for savings but not quantifiable at this time.
[4] ?? indicates uncertainty as to savings.

(2) These measures are discretionary choices for the District. The range of measures available to the District provides a level of assurance that the target efficiency is reasonably achievable. The resultant efficiency targets were also compared to the range of efficiencies actually experienced by other irrigation systems that were considered comparable in order to provide a further check on ''reasonable''. Most of the delivery losses are relatively constant regardless of the amount of deliveries. The efficiency will necessarily vary with the amount of headgate deliveries.

(D) The target efficiency for any annual valid headgate delivery can be derived from the figure in Appendix A to this part.

(3) *Maximum allowable limits.* (i) *Maximum allowable diversions.* (A) The water budget in the table Newlands Project Water Budget shall be recalculated for each irrigation season to reflect anticipated water-righted acres to be irrigated. Based on the anticipated irrigation demand, the required target efficiency shall be recalculated each irrigation season. The maximum allowable diversion (MAD) for each year shall be determined based on: acres of eligible land anticipated to actually be irrigated in that year (§ 418.1(a)); the water duties for those lands (§ 418.1(b)); and the established efficiency of the project water distribution system (Appendix A). The MAD will be calculated annually to assure an adequate water supply for all water right holders whose water use complies with their decreed entitlement and these OCAP. The MAD is the maximum amount of water permitted to be diverted for irrigation use on the Project in that year. It is calculated to ensure full entitlements can be fulfilled, but is expected to be significantly in excess of Project requirements. The MAD will be established by the Bureau at least two weeks prior to the start of each irrigation season. All releases of water from Lahontan Reservoir and diversions from the Truckee Canal (including any diversions from the Truckee Canal to Rock Dam Ditch) shall be charged to the MAD except as provided in §§ 418.3 and 418.9 of these OCAP

(B) On the basis of the methodology adopted herein (i.e., actual irrigated acres multiplied by appropriate water duties divided by established project efficiency) an example of the MAD calculated for the projected irrigated acreage as shown in the table Newlands Project Water Budget would be 308,319 acre-feet for Proposed 1995 Example. The sample MAD corresponds to a system efficiency for full deliveries at 66.9% for 1995 actual acres. Appendix A shows the sliding scale for target efficiencies which will be used over the range of water supply condition and headgate deliveries expected in the future. Target efficiencies shall be based on the percentage of maximum headgate entitlement delivered and not on the percent of water supply available. In Appendix A of this part, the sliding scale for 1995 Actual Acres shall be used to determine that target efficiencies for all irrigation years subsequent to 1995.

(C) Adjustments in the MAD shall be made by the Bureau each year based on changes in irrigated eligible land from the prior year and subsequent decisions concerning transfers of Project water rights, using the methodology established herein.

(D) In the event the District concludes the MAD for a given year will not meet the water delivery requirements for the eligible land to be irrigated in that year due to weather conditions, canal breaks, or some other unusual or unforeseen condition, the District shall submit a written request to the Bureau for such additional water considered necessary to make up for the specified loss and supply decreed entitlements. The District shall set forth a full detailed, factual statement of the reasons for the request. The Bureau shall promptly review the request and after consultation with the Federal Water Master and other interested parties, will determine if the request or any portion of it should be approved. The Bureau will make reasonable adjustments for unforeseen cause or events but will not make adjustments to accommodate waste or Project inefficiency. The Bureau will then notify the District of its determination. If the District does not agree with the Bureau's decision, it may seek judicial review. The Bureau and the District will seek to expedite the court proceeding in order to minimize any potential adverse impacts.

(ii) Maximum Allowable Efficiency Debits (MED)—The debits in Lahontan Reservoir storage from the District's actual efficiency falling short of the target can accumulate over time. If these amounts of borrowed storage get too large they may not be offset later by increased efficiencies and may severely impact the District's water users by an added ''drought'' on top of a real one. Therefore, a limit was placed on how much could be borrowed or accumulated. The limit should also be large enough to allow reasonable opportunity to average out over time. This maximum efficiency debit cushion is 26,000 acre-feet. However, unlike the MAD, it only applies to the subsequent year's operation. The MED is approximately 9% of the headgate entitlements.

§ 418.2 Monitoring diversions.

(a) *Operations.* (1) By the end of each month, the District shall submit to the Bureau's Lahontan Basin Projects Office reports for the previous month which document monthly inflow and outflow in acre-feet from the Truckee and Carson divisions of the Project for that month. Reports shall include any data the Bureau may reasonably require to monitor compliance with these OCAP.

(2) Accounting for farm headgate deliveries shall be based on the amount of water actually delivered to the water user. Project operations shall provide for the amount of water ordered and the distribution system losses.

(3) The District shall keep records of all domestic and other uses showing the purpose and amount of water usage for each entity. The District shall make the records available for review by the Bureau upon request. The Bureau shall have the right to audit all records kept by the District.

(b) Operations monitoring. (1) The Bureau will work in cooperation with the District to monitor the operation of the Project. The Bureau's personnel shall perform field inspections of water distribution during the irrigation season. Staff members of the Bureau's Lahontan Basin Projects Office and the District will meet as often as necessary during the irrigation season after each water distribution report has been prepared to examine the amounts of water used to that point in the season. On the basis of the information obtained from field observations, water use records, and consultations with District staff, the Bureau will determine at monthly intervals whether the rate of diversion is consistent with the OCAP for that year. The District will be informed in writing of suggested adjustments that may be made in management of diversions and releases as necessary to achieve target efficiencies and stay within the MAD.

(2) Project operations will be monitored in part by measuring flows at key locations. Specifically, Project diversions (used in the calculations under § 418.1(c) above) will be determined by adding flows measured at:

(i) Truckee Canal near Wadsworth—U.S. Geological Survey (USGS) gauge number 10351300;

(ii) Carson River below Lahontan Dam—USGS gauge number 10312150;

(iii) Rock Dam Ditch near the end of the concrete lining; and subtracting:

(iv) Flows measured at the Truckee Canal near Hazen—USGS gauge number 10351400;

(v) The Carson River at Tarzyn Road near Fallon (below Sagouspe Dam) for satisfying water rights outside of the Project boundaries as described in § 418.3(I), USGS gauge number 10312275;

(vi) Estimated losses in the Truckee Canal; and

(vii) Spills, precautionary drawdown, and incentive water released at Lahontan Dam pursuant to §§ 418.3 and 418.9.

§ 418.3 Operations and management.

(a) *Power generation.* All use of water for power generation using Project water shall be incidental to releases charged against Project diversions, precautionary drawdown, incentive water (§ 418.9(c)), or spills.

(b) *Truckee and Carson River water use.* Project water shall be managed so that maximum use will be made of Carson River water and diversions of Truckee River water through the Truckee Canal will be minimized in order to make available as much Truckee River water as possible for use in the lower Truckee River and Pyramid Lake.

(c) *Diversions at Derby Dam.* Diversions of Truckee River water at Derby Dam shall be managed to the maximum extent practical with the objective of maintaining minimum terminal flow to Lahontan Reservoir or the Carson River except where these criteria specifically permit such diversions. Diversions to the Truckee Canal shall be managed to achieve an average terminal flow of 20 cubic feet per second (cfs) or less during times when diversions to Lahontan Reservoir are not allowed (the flows shall be averaged over the total time diversions are not allowed in that calendar year; i.e., if flows are not allowed in July and August and then are allowed in September then not allowed in October and November, the average flow will be averaged over the four months of July, August, October, and November). The Bureau will work cooperatively with the District on monitoring the flows at the USGS gage on the USGS gage on the Truckee Canal near Hazen to determine if and when flows are excessive and bringing the flows back into compliance when excessive. Increases in canal diversions which would reduce river flows below Derby Dam, by more than 20% in a 24-hour period will not be allowed when Truckee River flow, as measured by the gauge below Derby Dam, is less than or equal to 100 cfs. Diversions to the Truckee Canal will be coordinated with releases from Stampede Reservoir, in cooperation with the Federal Water Master, to minimize fluctuations in the Truckee River below Derby Dam in order to meet annual flow regimes established by the United States Fish and Wildlife Service for listed species in the lower Truckee River.

(d) Diversions from the Truckee River to the Truckee Division—Sufficient water, if available, shall be diverted from the Truckee River through the Truckee Canal to meet the direct irrigation, domestic and other entitlements of the Truckee Division.

(e) Criteria for Diversions from the Truckee River to Lahontan Reservoir, January through June.

(1) Truckee River diversions through the Truckee Canal will be made to meet Lahontan Reservoir end-of-month storage objectives for the months of January through June. The current month storage objective will be based in part on the monthly United States April through July runoff forecast for the Carson River near Fort Churchill, to meet anticipated diversion requirements for the Carson Division, and target storage for Lahontan Reservoir. The Bureau in consultation with the District, Federal Water Master, Fish and Wildlife Service, the Pyramid Lake Paiute Tribe, and other affected parties will determine the exceedance levels and predicted Carson River inflows to use, based on the reliability of the forecast and other information such as river forecasts available from other sources. The end-of-month storage targets may be adjusted any time during the month as new forecasts or other information become available.

(2) The January through June storage objective will be calculated using the following relationship:

$$LSOCM = TSM/J - (C1 \times AJ) + L + (C2 \times CDT)$$

where:

LSOCM=current end-of-month storage objectives for Lahontan Reservoir.

TSM/J=current end-of-month May/June Lahontan Reservoir target storage.

C1×AJ=forecasted Carson River inflow for the period from the end of the current month through May or June, with AJ being the Bureau's April through July runoff forecast for the Carson River at Fort Churchill and C1 being an adjustment coefficient.

L=an average Lahontan Reservoir seepage and evaporation loss from the end of the current month through May or June.

C2×CDT=projected Carson Division demand from the end of the current month through May or June, with CDT being the total Carson Division diversion requirement (based on eligible acres anticipated to be irrigated times the appropriate duty times a 95% usage rate), and C2 being the estimate of the portion of the total diversion requirement to

be delivered during this period. Values for TSM/J, C1, L and C2 are defined in the following table.

MONTHLY VALUES FOR LAHONTAN STORAGE COMPUTATIONS

	January	February	March	April	May	June
TSM/J	174.0	174.0	174.0	174.0	174.0	174.0
C1/MAY	0.863	0.734	0.591	0.394	.....	.....
C1/JUNE	1.190	1.061	0.918	0.721	0.327	.....
L/MAY	13.9	12.5	9.9	7.1	.....	.....
L/JUNE	18.2	16.8	14.2	11.4	4.3	.....
C2/MAY	0.30	0.30	0.28	0.18	.....	.....
C2/JUNE	0.47	0.47	0.45	0.35	0.17	.....

(3) For January through April, the Lahontan Reservoir storage objective for each month will be the lowest of the May calculation, the June calculation, or full reservoir (defined as 295,000 acre-feet using Truckee River diversions, but can fill above 295,000 acre-feet to 317,000 acre-feet with Carson River inflow and the use of flash boards).

(4) For May, the Lahontan Reservoir storage objective will be the lower of the June calculation or full reservoir.

(5) For June, the Lahontan Reservoir storage objective will be the June target storage.

(6) Once the monthly Lahontan Reservoir storage objective has been determined, the monthly diversion to the Project from the Truckee River will be based upon water availability and Project demand as expressed in the following relationship:

TRD =TDD+TCL+CDD+LRL
+LSOCM − ALRS − CRI

where:

TRD=current month Truckee River diversion acre-feet to the Project.

TDD=current month Truckee River Division demand.

TCL=current month Truckee Canal conveyance loss.

CDD=current month Carson Division demand.

LRL=current month Lahontan Reservoir seepage and evaporation losses.

LSOCM=current month end-of-month storage objective for Lahontan Reservoir.

ALRS=current month beginning-of-month storage in Lahontan Reservoir. (Includes accumulated Stampede credit described below and further adjusted for the net efficiency penalty or efficiency credit described in §§ 418.1 and 418.9).

CRI=current month anticipated Carson River inflow to Lahontan Reservoir (as determined by Reclamation in consultation with other interested parties).

(7) The following procedure is intended to ensure that monthly storage objectives are not exceeded. It may be implemented only if the following conditions are met:

(i) Diversions from the Truckee River are required to achieve the current month Lahontan Reservoir storage objective (LSOCM);

(ii) Truckee River runoff above Derby Dam is available for diversion to Lahontan Reservoir; and

(iii) Sufficient Stampede Reservoir storage capacity is available.

(8) The Bureau, in consultation with the Federal Water Master, the District, Fish and Wildlife Service, the Bureau of Indian Affairs, and the Pyramid Lake Paiute Tribe will determine whether the calculated current month Truckee River diversion to Lahontan Reservoir (TRD–TDD–TCL) may be reduced during the month and the amount of reduction credit stored in Stampede Reservoir. Reductions in diversions to Lahontan Reservoir with credit storage in Stampede Reservoir may be implemented to the extent that: The reduction is in lieu of a scheduled release from Stampede Reservoir for the purpose of supplementing flows to Pyramid Lake; and/or water is captured in Stampede Reservoir that is scheduled to be passed through and diverted to the Truckee Canal. Any proposal to reduce diversions to Lahontan Reservoir for Newlands Project credit purposes without a comparable reduction in release from Stampede Reservoir (any conversion of Stampede Reservoir project water to Newlands Project credit water) would have to be approved by the Fish and Wildlife Service.

(i) The diversion to Lahontan Reservoir may be adjusted any time during the month as revised runoff forecasts become available. The accumulated credit will be added to current Lahontan Reservoir storage (ALRS) in calculating TRD. If the sum of accumulated credit and Lahontan Reservoir storage exceeds 295,000 acre-feet, credit will be reduced by the amount in excess of 295,000 acre-feet. Credit will also be reduced by the amount of precautionary drawdown or spills in that month. If the end-of-month storage in Lahontan Reservoir plus the accumulated credit in Stampede Reservoir at the end of June exceeds the end-of-month storage objective for Lahontan, the credit will be reduced by the amount exceeding the end-of-month storage objective.

(ii) Following consultation with the District, the Federal Water Master, and other interested parties as appropriate, the Bureau may release credit water for Project purposes from July 1 through the end of the irrigation season in which the credit accrues with timing priority given to meeting current year Project irrigation demands. Conveyance of credit water in the Truckee Canal shall be in addition to regularly scheduled diversions for the Project and will be measured at the USGS gauge number 10351300 near Wadsworth. Newlands credit water in Stampede Reservoir storage will be subject to spill and will not carry over to subsequent years. Newlands credit water in Stampede can be exchanged to other reservoirs and retain its priority.

(iii) The Bureau, in consultation with the District, the Federal Water Master, and other interested parties, may release Newlands Project credit water before July 1. Prior to such release, the credit shall be reduced to the extent that Lahontan Reservoir storage plus accumulated credit at the end of the previous month exceeds the storage objectives for that month. If any Newlands credit water remains in Stampede Reservoir storage after the end of the current irrigation season in which it accumulated, it will convert to water for cui-ui recovery and will no longer be considered available for Newlands credit water. Newlands credit water stored in Stampede Reservoir shall be available for use only on the Carson Division of the Newlands Project.

(9) Subject to the provisions of § 418.3(c), LSOCM may be adjusted as frequently as necessary when new information indicates the need and

diversions from the Truckee River to the Truckee Canal shall be adjusted daily or otherwise as frequently as necessary to meet the monthly storage objective.

(f) *Criteria for Diversion of Truckee River Water to Lahontan Reservoir, July through December.* Truckee River diversions through the Truckee Canal to Lahonton Reservoir from July through December shall be made only in accordance with the following table.

Operating month	Storage target (AF)
July	139,000
August	95,000
September	64,000
October	52,000
November	74,000
December	101,000

[1] Diversions shall be started to achieve the end-of-month storage targets listed in the table above and will be discontinued when storage is forecast to meet or exceed the end-of-month storage targets at the end of the month. Diversions may be adjusted any time during the month as conditions warrant (i.e., new forecasts, information from other forecasts becoming available, or any other new information that may impact stream forecasts). The end-of-the-month storage targets may be adjusted by procedures provided in § 418.9.

(g) *Rock Dam Ditch*. Project water may be diverted directly to Rock Dam Ditch from the Truckee Canal only when diversions cannot be made from the outlet works of Lahontan Reservoir. Such diversions will require the prior written approval of the Bureau and be utilized in calculating Project diversions. During the period January through June of such operation, the projected total delivery to Rock Dam Ditch from the end of the current month through May or June will be subtracted from the projected Carson Division demand (C2* CDT) in calculating the current end-of-month storage objective for Lahontan Reservoir (LSOCM), and added to Truckee Division demand in calculating Truckee River diversion (TRD) in conformance with the procedures set forth in § 418.3(e).

(h) *Precautionary drawdown and spills from Lahontan Reservoir.* (1) Even though flood control is not a specifically authorized purpose of the Project, at the request of the District and in consultation with other interested parties and the approval of the Bureau, precautionary drawdown of Lahontan Reservoir may be made only for the purpose of limiting potential flood damage along the Carson River. Criteria for precautionary drawdown will be formulated by the Bureau in consultation with the District and other interested parties. The drawdown shall be scheduled sufficiently in advance and at such a rate of flow in order to divert as much water as possible into the Project irrigation system for delivery to eligible land or storage in reregulating reservoirs for later use on eligible land. During periods of precautionary drawdown, or when water is spilled from Lahontan Reservoir, Project diversions will be determined by comparison with other year's data and normalized by comparison of differences in climatological data. The Bureau will determine the normalization in consultation with the District and other interested parties. Spills from Lahontan Reservoir and precautionary drawdown of the reservoir to create space for storing flood waters from the Carson River Basin that are in excess of the normalized diversions will not be used in calculating Project diversions. Water captured in Project facilities as a result of a precautionary drawdown or spill will not be counted as diversions to the Project nor will they be counted as storage in Lahontan Reservoir for the purpose of calculating Truckee River Diversions. The precautionary drawdown or spills that are captured in Project facilities shall be measured, used to the maximum extent possible, and counted as deliveries to eligible lands in the year of the drawdown. If all the drawdown water captured in Project facilities cannot be used in the year of capture for delivery to eligible lands then that water shall be delivered to eligible lands in subsequent years to the maximum extent possible and counted on the water card of the water user.

(2) If a precautionary drawdown in one month results in a failure to meet the Lahontan Reservoir storage objective for that month, the storage objective in subsequent months will be reduced by one-half of the difference between that month's storage objective and actual end-of-month storage. The Bureau shall not be liable for any damage or water shortage resulting from a precautionary drawdown.

(i) *Water use for other than Newlands Project purposes.* The District will release sufficient water to meet the vested rights below Sagouspe Dam as specified in the *Alpine* decree. These water rights are usually met by return flows. Releases for these water rights will in no case exceed the portion of 1,300 acre-feet per year not supplied by return flows. This water shall be accounted for at the USGS gage number 10312275 (the Carson River at Tarzyn Road near Fallon). Releases for this purpose will not be considered in determining Project diversions since the lands to which the water is being delivered are not part of the Project (See § 418.2(b)). Any flow past this gage in excess of the amount specified herein will be absorbed by the District as an efficiency loss.

(j) *Charges for water use.* The District shall maintain a financing and accounting system which produces revenue sufficient to repay its operation and maintenance costs and to discharge its debt to the United States. The District should give consideration to adopting a system which provides reasonable financial incentives for the economical and efficient use of water.

(k) *Distribution system operation*. The District shall permit only its authorized employees or agents to open and close individual turnouts and operate the distribution system facilities. After obtaining Bureau approval, the District may appoint agents to operate individual headgates on a specific lateral if it can be shown that the water introduced to the lateral by a District employee is completely scheduled and can be fully accounted for with a reasonable allowance for seepage and evaporation losses. If agents need to adjust the scheduled delivery of water to the lateral to accommodate variable field conditions, weather, etc., they must immediately notify the District so proper adjustments can be made in the distribution system. Each agent shall keep an accurate record of start and stop times for each delivery and the flow during delivery. This record will be given to the District for proper accounting for water delivered. The program of using agents to operate individual headgates will be reviewed on a regular basis by the District and the Bureau. If it is found that problems such as higher than normal losses, water not accounted for, etc., have developed on an individual lateral, the program will be suspended and the system operated by District employees until the problems are resolved.

§ 418.4 Water rights

These OCAP govern water uses within existing rights. These OCAP do not in any way change, amend, modify, abandon, diminish, or extend existing rights. Water rights transfers will be determined by the Nevada State Engineer pursuant to the provisions of the *Alpine* decree.

§ 418.5 Prohibited deliveries.

The District shall not deliver Project water or permit its use except as provided in these OCAP. No Project water will be permitted to be released in excess of the MAD or delivered to ineligible lands. Delivery of water to land in excess of established water duties is prohibited.

§ 418.6 Violations.

Violations of the terms and provisions of these OCAP shall be reported immediately to the Bureau. The District or individual water users will be responsible for any shortages to water users occasioned by waste or excess delivery or delivery of water to ineligible land as provided in the OCAP.

§ 418.7 Enforcement.

(a) *Conditions of delivery.* There are four basic elements for enforcement with all necessary quantities and review determined in accordance with the relevant sections of this OCAP

(1) *Valid headgate deliveries.* In the event it is determined that water was delivered in ineligible land or in excess of the appropriate water duty then:

(i) The District will stop such illegal delivery immediately;

(ii) The District will notify the Bureau of the particulars including location and amounts—known or estimated;

(iii) The amount will not be included as a valid headgate for purposes of computing the Project efficiency and resultant incentive credit or debit to Lanhontan storage; and

(iv) If the amount applies to a prior year, then the amount will be treated directly as a debit to Lahontan storage in the same manner as an efficiency debit.

(2) *District efficiency.* To the extent that the actual District efficiency determined for an irrigation season is greater or less than the OCAP established target efficiency as determined for the corresponding actual valid headgate deliveries, then the difference in efficiency, expressed as a quantity in acre-feet, may be added to or subtracted from the actual Lahontan Reservoir storage level before it is compared to the monthly storage objective as follows:

(i) *Greater efficiency.* Credited to the District as storage in Lahontan (subtracted) from any accumulated debit, or two-thirds as storage in Lahontan for their discretionary use in accordance with state law.

(ii) *Less efficient.* Debited (added) to Lahontan storage as an adjustment to the actual storage level.

(3) *Maximum Allowable Diversion (MAD).* The MAD shall be computed each year to deliver full entitlements at established Project efficiencies. Project diversions shall not exceed the MAD. Within the operating year, the Bureau will notify the District in writing of any expected imminent violations of the MAD. The District will take prompt action to avoid such violations. The Bureau will exercise reasonable latitude month-to-month to accommodate the District's efforts to avoid exceeding the MAD.

(4) *Maximum Efficiency Debit (MED).* If the MED exceeds 26,000 AF at the end of any given year, the District shall prepare and submit to the Bureau for review and approval, a plan detailing the actions the District will take to either earn adequate incentive credits or to restrict deliveries to reduce the MED to less than 26,000 AF by the end of the next year. The plan shall be submitted to the Bureau in writing prior to the date of March 1 immediately subsequent to the exceeding of the MED. If the District fails to submit an approvable plan, Project allocations will be reduced by an amount equal to the MED in excess of 26,000 plus 13,000 (one-half the allowable MED). Nominally this will mean a forced reduction of approximately five percent of entitlements. The Bureau will notify the District in writing of the specific allocation and method of derivation in sufficient time for the District to implement the allocation. Liabilities arising from shortages occasioned by operation of this provision shall be the responsibility of the District or individual water users.

(b) *Project management.* In addition to the provisions of § 418.7(a), in the event the District is found to be operating Project facilities or any part thereof in substantial violation of these OCAP, then, upon the determination by the Bureau, the Bureau may take over from the District the care, operation, maintenance, and management of the diversion and outlet works (Derby Dam and Lahontan Dam/Reservoir) or any or all of the transferred works by giving written notice to the District of such determination and the effective date thereof. Following written notification from the Bureau, the care, operation, and maintenance of the works may be retransferred to the District.

(c) *Future contracts.* The Bureau shall provide in new, amended, or replacement contracts for the operation and maintenance of Project works, for the reservation by the Secretary of rights and options to enforce these OCAP.

§ 418.8 Water management and conservation.

(a) *Conservation measures.* (1) Specific conservation actions will be needed for the District and its members to achieve a reasonable efficiency of operation as required by the OCAP. The District is best able to determine the particular conservation measures that meet the needs of its water users. This assures that the measures reflect the priorities and collective judgment of the water users; and will be practical, understandable and supported. The District also has the discretion to make changes in the measures they adopt as conditions or results dictate

(2) The District will keep the Bureau informed of the measures they expect to utilize during each year. This will allow appropriate monitoring for information helpful to evolving other suggestions and for use by other Districts. The Bureau will work cooperatively in support of the District's selection of measures and methods of implementation.

(b) *Cooperative programs.* The Bureau and the District will work cooperatively to develop a water management and conservation program to promote efficient management of water in the Project.

(1) The Bureau will provide technical assistance to the District and cooperatively assist the District in their obligations and efforts to:

(i) Document and evaluate existing water delivery and measurement practices;

(ii) Implement improvements to these practices; and

(iii) Evaluate and, where practical, implement physical changes to Project facilities.

(2) The program will emphasize developing methods, including computerization and automation, to improve the District's operations and procedures for greater water delivery conservation.

§ 418.9 Implementation.

The intent of the implementation strategy for these OCAP is to ensure that the Project delivers water within entitlements at a reasonable level of efficiency as a long term average. The incentives and disincentives provided herein are designed to encourage local officials with responsibilities for Project operations to select and implement through their discretionary actions, operating strategies which achieve the principles of the OCAP. The specified efficiencies (Appendix A of this part) were developed considering implementation of reasonable conservation measures, historic project operations, economics, and environmental effects. The efficiency target will be used as a performance standard to establish at the end of each year on the basis of actual operations, whether the District is entitled to a performance bonus in the form of incentive water or a reduction in storage for the amount borrowed ahead. The components of the implementation strategy are outlined below.

(a) *Valid headgate deliveries.* Project water may be delivered to headgates

only as provided in § 418.1(a). Water delivered outside the entitled irrigable land and/or outside the court set water duty is difficult to quantify at best because it is not typically measured. Since it is not likely to be a part of the total actual headgate deliveries, yet is a part of the total deliveries to the Project it will manifest itself directly as a lower efficiency. Thus, it will either reduce the District's incentive credit or increase the storage debit by the amount improperly diverted. All other users outside the Project are thereby held harmless but the District incurs the consequence. This approach should eliminate any potential disputes between the District and the Bureau over quantifying the amount of water misappropriated.

(b) *Efficiencies.* The established target efficiencies pursuant to these OCAP are shown in Appendix A of this part. The efficiency of the Project will vary with the amount of entitlement water actually delivered at the headgates. Since most of the distribution system losses such as evaporation and seepage do not change significantly with the amount of water delivered (i.e., these losses are principally a function of water surface area and the wetted perimeter of the canals), the Project efficiency requirement is higher as the percent of entitlement water actually delivered at the headgates increases. The actual efficiency is calculated each year after the close of the irrigation season based on actual measured amounts. The application of any adjustments to Lahontan Reservoir storage or Truckee River diversions resulting from the efficiency is always prospective.

(c) *Incentives for additional long term conservation.* As an incentive for the District to increase the efficiency of the delivery system beyond the expected efficiency of 65.7% (66.9% with full delivery) as shown in the table Newlands Project Water Budget, Proposed 1995 Example, the District will be allowed to store and use the Carson River portion of the saved water at their discretion, in accordance with Nevada State Law. Thus, if the District is able to operate the Project in such a manner that the expected efficiency is exceeded, the District may store in Lahontan Reservoir two-thirds (⅔) of the additional water saved. (The remaining one-third (⅓) of the water saved will remain in the Truckee River or through reduced diversions to Lahontan Reservoir). This water will be considered incentive water saved from the Carson River and will not be counted as storage in determining diversions from the Truckee River on computing the target storage levels for Lahontan Reservoir under these OCAP. For purposes of these OCAP, incentive water is no longer considered Project water. The District may use the water for any purpose (e.g., wetlands, storage for recreation, power generation, shortage reduction) that is consistent with Nevada State Law and Federal Law. The water will be managed under the District's discretion and may be stored in Lahontan Reservoir until needed subject to the limitations in § 418.9(d).

(d) The amount of incentive water stored in Lahontan Reservoir will be reduced under the following conditions:

(1) There is a deficit created and remaining in Lahontan Reservoir from operations penalties in a prior year;

(2) The District releases the water from the reservoir for its designated use;

(3) During a spill of the reservoir, the amount of incentive water shall be reduced by the amount of spill; and

(4) At the discretion of the District, incentive water may be used to offset the precautionary drawdown adjustment to the Lahontan storage objective.

(5) At the end of each year, the amount of incentive water will be reduced by the incremental amount of evaporation which occurs as a result of the increased surface area of the reservoir due to the additional storage. The evaporation rate used will be either the net evaporation measured or the net historical average after precipitation is taken into account. The method of calculation will be agreed to by the District and the Bureau in advance of any storage credit.

(e) An example of this concept is:

Example: Incentive Operation—At the end of the 1996 irrigation season, the Bureau and the District audit the District's water records for 1996. The District's water delivery records show that 194,703 acre-feet of water were delivered to farm headgates. On the basis of their irrigated acreage that year (59,075) the farm headgate entitlement would have been 216,337 acre-feet. On the basis of 90% deliveries for 59,075 acres (194,203 divided by 216,337 = 0.90) the established Project efficiency requirements was 65.1%. On the basis of the established Project efficiency (66.1%), the Project diversion required to make the headgate deliveries would be expected to be 291,909 acre-feet (194,703 divided by 0.651 = 291,909). An examination of Project records reveals that the District only diverted 286,328 acre-feet which demonstrated actual Project efficiency was 68% and exceeded requirements of these OCAP. The 5,581 acre-feet of savings (291,909 − 286,328 = 5,581) constitutes the savings achieved through efficiency improvements and the District would then be credited two-thirds (3,721 acre-feet = 5,581 × ⅔) of this water (deemed to be Carson River water savings) as incentive water. This incentive water may be stored in Lahontan Reservoir or otherwise used by the District in its discretion consistent with State and Federal Law (e.g., power generation, recreation storage, wildlife, drought projection, etc.).

(f) *Disincentives for lower efficiency.* (1) If the District failed to meet the efficiencies established by these OCAP, then, in effect, the District has borrowed from a subsequent year. The amount borrowed will be accounted for in the form of a deficit in Lahontan Reservoir storage. This deficit amount will be added to the actual Lahontan Reservoir storage quantity for the purpose of determining the Truckee River diversions to meet storage objectives as well as all other operating decisions.

(2) The amount of the deficit will be cumulative from year to year but will not be allowed to exceed 26,000 acre-feet (the expected variance between the MAD and actual water use). This limit is expected to avoid increasing the severity of drought and yet still allow for variations in efficiency over time due to weather and other factors. This approach should allow the District to plan its operation to correct for any deficiencies.

(3) The deficit can be reduced by crediting incentive water earned by the District or reducing the percentage of headgate entitlement delivered either through a natural drought or by the District and its water users administratively limiting deliveries while maintaining an efficiency greater than or equal to the target efficiency.

(4) In the event of a natural drought if the shortage to the headgates is equal to or greater than the deficit then the deficit is reduced to zero. If the shortage to headgates is less than the deficit then the deficit is reduced by an amount to the headgate shortage. During a natural drought, if the percentage of maximum headgate entitlement delivered is 75% or more than the District will be subject to the target efficiencies and resultant deficits or credits.

(5) If the District has a deficit in Lahontan Reservoir and earns incentive water, the incentive water must be used to eliminate the deficit before it can be used for any other purpose. The deficit shall be credited on a 1 to 1 basis (i.e., actual efficiency savings rather than ⅓–⅔ for incentive water).

(g) An example of the penalty concept is:

Example: Penalty—In 1996 the District delivers 90% of the maximum headgate entitlement or 194,703 acre-feet 216,337 × .90) but they actually divert 308,000 acre-feet. The efficiency of the Project is 63.2% (194,703 divided by 308,000). Since the

established efficiency of 65.1% would have required a diversion of only 299,083 acre-feet (194,703 divided by .651) the District has operated the system with 8,917 acre-feet of excess losses. Therefore, 8,917 acre-feet was borrowed and must be added to the actual storage quantities of Lahontan Reservoir for calculating target levels and Truckee River diversions.

(h) *Maximum Allowable Diversion (MAD).* (1) The MAD established in these OCAP is based on the premise that the Project should be operated to ensure that it is capable of delivering to the headgate of each water right holder the full water entitlement for irrigable eligible acres and includes distribution system losses. The MAD will be established (and is likely to vary) each year. The annual MAD will be calculated each year based on the actual acreage to be irrigated that year.

(2) Historically, Project water users have not ordered or used their full entitlement. Actual deliveries at farm headgates have been approximately 90 percent of entitlements and this practice is expected to continue but the percentage is expected to change. This variance between headgate deliveries and headgate entitlement will be calculated annually under these OCAP and is allowed to be diverted if needed and thereby provides an assurance that full headgate deliveries can be made. The expected diversion and associated efficiency target for the examples shown in the Newlands Project Water Budget table would be: 285,243 AF and 65.1% in 1996 and beyond. These are well below the MAD limits; however, the District may divert up to the MAD if it is needed to meet valid headgate entitlements.

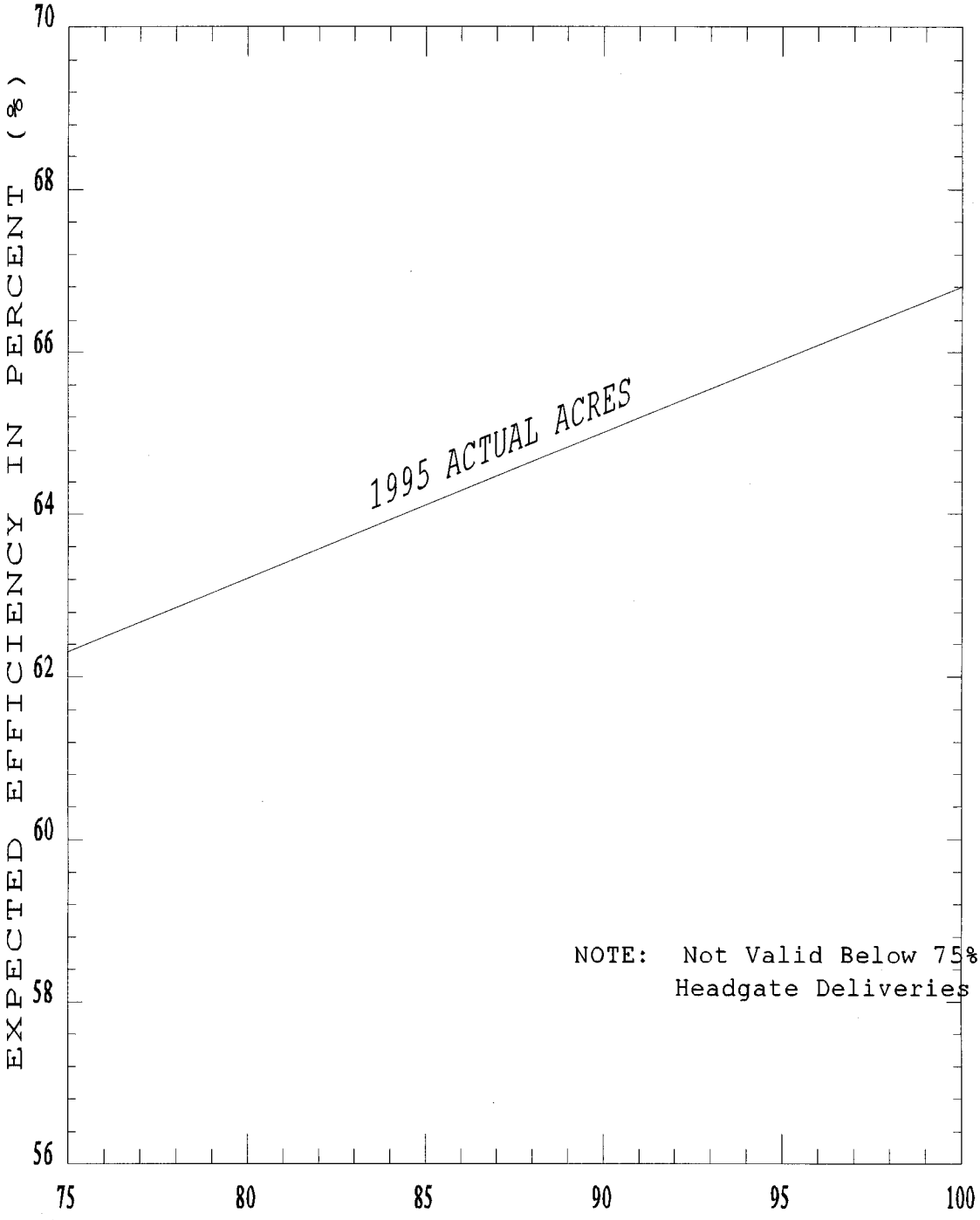
§ 418.10 Fallon Paiute-Shoshone Indian Reservation.

Nothing in these OCAP shall affect the authority of the Fallon Paiute-Shoshone Tribes to use water on Tribes' reservation which was delivered to the Reservation in accordance with these OCAP, nor shall these OCAP operate to restrict the Secretary's trust responsibility with respect to the Fallon Paiute-Shoshone Tribes.

Appendix A to Part 418—Expected Project Distribution System Efficiency

BILLING CODE 4310–RK–M

FIGURE 1: EXPECTED PROJECT DISTRIBUTION SYSTEM EFFICIENCY



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BILLING CODE 4310–RK–C

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

49 CFR Ch. XI

Negotiated Rulemaking Committee to Revise the Motor Carrier Financial and Operating Data Collection Program

AGENCY: Bureau of Transportation Statistics (BTS), DOT.

ACTION: Proposed establishment of negotiated rulemaking advisory committee.

SUMMARY: The Bureau of Transportation Statistics (BTS) proposes to establish a negotiated rulemaking advisory committee (the Committee) under the Federal Advisory Committee Act and the Negotiated Rulemaking Act to consider the relevant issues and attempt to reach a consensus in developing regulations governing the collection of financial and operating data from motor carriers of property. This effort also is in response to the President's Regulatory Reinvention Initiative, which specifically directed agencies to increase use of regulatory negotiation in rulemaking proceedings. The Committee would be composed of people who represent the interests that would be substantially affected by the rule. BTS invites interested parties to comment on the proposal to establish the Committee, on the proposed membership of the Committee, and on the proposed issues for consideration by the Committee. Persons are also invited to submit applications or nominations for membership on the Committee.

DATES: Interested parties may file comments and nominations for committee membership on or before January 8, 1997.

ADDRESSES: When sending comments and/or nominations, send the original plus three copies. Mail to Docket Clerk, Docket No. BTS–96–1979, Department of Transportation, 400 Seventh Street, SW., Room PL–401,Washington, D.C. 20590. Commenters desiring notification of receipt of comments must include a stamped, self-addressed postcard. The Docket Clerk will date stamp the postcard and mail it back to the commenter.

FOR FURTHER INFORMATION CONTACT: David Mednick, Bureau of Transportation Statistics, K–2, 400 Seventh Street, SW., Washington, D.C. 20590; by phone at (202) 366–8871; by e-mail at david.mednick@bts.gov; or by Fax at (202) 366–3640.

SUPPLEMENTARY INFORMATION:

Background

The Secretary of Transportation has authority to establish regulations for the collection of certain data from motor carriers of property and others. Section 103 of the ICC Termination Act of 1995 (the Act), Pub. L. 104–88, 109 Stat. 803 (1995) (to be codified at 49 U.S.C. 14123). This authority is delegated to the Director of the Bureau of Transportation Statistics.

For many years, the Interstate Commerce Commission (ICC) administered a motor carrier financial data collection program. 49 U.S.C. 11145 (*amended by* the Act). Under this statute and its implementing regulations, 49 CFR part 1249, the ICC collected data on an annual and quarterly basis from freight and passenger motor carriers. The program collected data on many aspects of the motor carrier industry including financial, employee, and operating statistics.

Before 1980, the ICC required detailed financial reports from all classes of motor carriers with annual revenues over $500,000. The reporting requirements reflected the ICC's close economic regulation of the industry. In the years following trucking deregulation, the ICC substantially reduced reporting requirements. It created classes of reporting carriers based on revenues, raised the revenue levels for the various carrier classes, and reduced the information required for each class.

The quality of the data in the latter years of ICC administration declined considerably, due to constraints on resources needed for support and enforcement. Regulatory use of the data by the Federal government has dwindled and is today, as far as BTS knows, almost nonexistent. BTS is uncertain as to the extent of use for statistical purposes or the value of the data as collected. Aggregate data have been and continue to be published. Unless otherwise prohibited by law, individual carrier reports are made available to the public.

For motor carriers of property, the current regulations create three classes of carriers based on revenue. Class I carriers are those with annual operating revenues of $10 million or greater and they file annual report form M1 and quarterly report form QFR. Class II carriers have annual operating revenues of between $3 and 10 million and file annual report form M2. Class III carriers have annual operating revenues of less than $3 million and are not required to file any financial reports. The term ''motor carriers'' used here includes only common and contract carriers—those providing motor vehicle transportation for compensation. Private motor carriers—a retail store's own fleet, for example—are excluded from the program.

The ICC Termination Act of 1995, which went into effect January 1, 1996, abolished the ICC and transferred some former ICC functions to the Department of Transportation (DOT). The Secretary of Transportation delegated responsibility and authority for the motor carrier financial data reporting program to DOT's Bureau of Transportation Statistics (BTS). Since Congress preserved the data collection provisions, albeit with some differences, the regulations remain in effect until ''modified, terminated, superseded, set aside, or revoked'' by BTS. That is, the program remains current and DOT will continue collecting motor carrier financial data as was done when the ICC administered the program.

Meanwhile, DOT is to redefine the reporting requirements within the bounds of the Act. Revision is necessary because the Act changed the laws governing data collection slightly. Similar to the old legislation, the Act requires DOT to collect certain data from motor carriers of property and motor carriers of passengers.

> The Secretary shall require Class I and Class II motor carriers to file with the Secretary annual financial and safety reports, the form and substance of which shall be prescribed by the Secretary; except that, at a minimum, such reports shall include balance sheets and income statements.

However, the earlier statute did not explicitly charge ICC to collect information relevant to safety. The Act also allows DOT to collect certain other data as needed.

> The Secretary may require motor carriers, freight forwarders, brokers, lessors, and associations, or classes of them as the Secretary may prescribe, to file quarterly, periodic, or special reports with the Secretary and to respond to surveys concerning their operations.

In designing the reporting program, DOT must consider, pursuant to the Act: (1) Safety needs; (2) the need to preserve confidential business information and trade secrets and prevent competitive harm; (3) private sector, academic, and public use of information in the reports; and (4) the public interest. Congress has also explicitly called on DOT to ''streamline and simplify'' reporting requirements to the maximum extent practicable. BTS notes that the data needs of the public and private sectors have changed, and the technology to

collect, process, and disseminate data is much improved. Further, as part of the Regulatory Reinvention Initiative, the President asked that agencies reduce by half the frequency of reports that the public is required to provide.

Unlike the previous legislation, the Act authorizes two types of exemptions from the reporting requirements. Each exemption is based on certain criteria and is granted for a three-year period. The first is an exemption from filing report forms. The requestor ''must demonstrate, at a minimum, that an exemption is required to avoid competitive harm and preserve confidential business information that is not otherwise publicly available.'' The second is an exemption from public release of data reported by the carrier. Similar to the other exemption, the requestor must demonstrate that ''the exemption requested is necessary to avoid competitive harm and to avoid the disclosure of information that qualifies as a trade secret or privileged or confidential information under section 552(b)(4) of title 5.'' Further, the requestor must not be a publicly held corporation and must not be subject to financial reporting requirements of the Securities and Exchange Commission.

As it redesigns the data collection program under the Act, BTS will seek to determine the government and private needs for motor carrier financial and operating data and how to balance these needs against the burden on respondents. This rulemaking will form the basis for addressing these questions, as well as others that may be identified as this process continues. When complete, the Bureau hopes to resolve: (1) Which motor carriers should report; (2) what data items should be collected; (3) how often data should be collected; and (4) whether BTS should release carrier-specific data in addition to aggregate data and, if so, what entities should have access.

Pursuant to the Negotiated Rulemaking Act, 5 U.S.C. 561–570, the agency is considering forming a negotiated rulemaking committee. The agency believes that this approach is most likely to lead to a program that provides the government with the data it needs for industry oversight while minimizing the impact on respondents. Unlike traditional, informal notice and comment rulemaking, this process would allow for the open exchange of ideas and information among and between parties with an interest in the outcome of this issue. The agency believes that in adopting this approach, the process would lead to creative, innovative approaches to resolving issues that might not emerge through the individual efforts of commenters to a docket. The process would still result in the promulgation of a notice of proposed rulemaking. This would provide an opportunity for comment by other interested parties and the general public, but the initial proposal published for comment would reflect the exchange of ideas and differing proposals that occur in negotiations. One result of the negotiations would be better informed providers and users of motor carrier data with a fuller understanding of the costs and benefits of the various methods for collecting and utilizing motor carrier financial and operating information.

Negotiated Rulemaking Process—Conveners

As provided for in 5 U.S.C. 563(b), a convener assists the agency in identifying the persons or interests that would be significantly affected by the proposed rule. The convener conducts discussions with representatives of such interests to identify the issues of concern to them and to ascertain the feasibility of establishing a negotiated rulemaking committee.

BTS retained the services of an attorney working for the United States Coast Guard to act as a convener and provide advice on the feasibility of using a negotiated rulemaking process for this rule. The convener met with BTS officials to review background information on the issues, including the history of the program, potential interested parties, and agency objectives.

The convener attempted to develop the range of interests that would be affected by the rule and identify individuals who would be able to represent or articulate those interests. The convener then sought to interview those individuals to determine their views on the issues involved and whether they would be interested in participating in the negotiated rulemaking. Each party was also asked if there were other individuals or groups which should be contacted and these additional parties were interviewed. Based upon these interviews, the convener submitted a convening report in October 1996 to BTS recommending that the agency proceed with the negotiated rulemaking process.

Determination of Need for a Negotiated Rulemaking Committee

The purpose of a negotiated rulemaking committee is to develop consensus on a proposed rule. ''Consensus'' means the unanimous concurrence among the interests represented on the negotiated rulemaking committee unless the committee explicitly adopts some other definition. This requirement also means that the agency itself participates in the negotiations in a manner similar to that of any other party.

Before establishing such a negotiated rulemaking committee, the Negotiated Rulemaking Act (5 U.S.C. 563(a)) directs the head of an agency to consider whether:

1. There is a need for the rule;
2. There are a limited number of identifiable interests that will be significantly affected by the rule;
3. There is a reasonable likelihood that a committee can be convened with a balanced representation of persons who can adequately represent those interests and are willing to negotiate in good faith to reach a consensus on a proposed rule;
4. There is a reasonable likelihood that a committee will reach consensus on the proposed rule within a fixed period of time;
5. The negotiated rulemaking will not unreasonably delay the issuance of the notice of proposed rulemaking and the final rule;
6. The agency has adequate resources and is willing to commit such resources, including technical assistance, to the committee; and
7. The agency, to the maximum extent possible, consistent with its statutory authority and legal obligations, will use the consensus of the committee as the basis for the rule proposed by the agency for notice and comment.

BTS believes that all of the requisite negotiated rulemaking factors are satisfied with regard to redesigning the motor carrier data collection program and that the negotiating process could provide significant advantages over conventional informal rulemaking. This determination is based on the convener's report. There is broad consensus among the parties contacted by the convener that the data collection program in place today does not serve current users' needs, warranting changes in the types of data collected as well as the universe of reporting carriers. The potentially affected interests are limited in number; there are clearly fewer than 25 distinct interests that would be affected by the rule. A balanced committee representing the various interests at stake in this matter can be empaneled. The parties contacted by the convener have expressed their interests in discussing the issues and believe that there is a strong likelihood of reaching consensus on the issues within a reasonable period of time. BTS believes that these negotiations would not delay, but

expedite the rulemaking process since the negotiations would enable the agency to benefit from the committee members' practical, first-hand insights and knowledge into what data are needed for what purposes, and how these data can be most efficiently obtained. The information BTS hopes to gain would be valuable to rulemaking even if full consensus is not reached. Further, BTS has a much greater chance of obtaining this information and resolving the controversies through negotiated rulemaking than through informal notice and comment rulemaking. The agency is committed to facilitating the negotiated rulemaking process and will devote the necessary resources, including technical assistance, to the Committee. The member or members of the Committee representing the agency shall participate in the deliberations and activities of the Committee with the same rights and responsibilities as other members of the Committee, and shall be authorized to fully represent the agency in discussions and negotiations of the Committee. The agency, to the maximum extent possible, consistent with its statutory authority and legal obligations, will use the consensus of the Committee as the basis for the rule proposed by the agency for notice and comment.

Therefore, based on this analysis of the seven factors mentioned above, the agency has concluded that the use of the negotiated rulemaking procedure in this case is in the public interest.

Potential Topics for the Negotiated Rulemaking Process

Based on the interviews conducted with potential committee members and the report provided by the convener, BTS proposes consideration of the following issues in the negotiated rulemaking process.

1. What financial and operating information about the motor carrier industry and individual motor carriers is needed by the Federal government, the private sector, academia, and the general public for statistical purposes?

2. What financial and operating information about the motor carrier industry and individual motor carriers is needed by the Federal government for the purpose of promoting safety?

3. What other sources exist to provide needed data?

4. What approach to data collection provides the optimum balance between minimizing the reporting burden to motor carriers on one hand and meeting governmental and other data needs on the other?

4. What approach to data use provides the optimum balance between preventing competitive harm and preserving confidential business information and trade secrets on one hand and meeting governmental and other data needs on the other?

5. What categories of reporting and non-reporting motor carriers should be created? Should all carriers within a category report or just a sample? What data items should each category report? How often should the data items be reported?

6. In addition to aggregate data, what carrier-specific data should be made available? What entities, inside and outside the Federal government, should have access to carrier-specific data?

Potential Participants Who Were Interviewed by the Convener

The following entities were identified as interested parties that should be included in the negotiated rulemaking process either directly as members of the Committee or as a part of a broader caucus of similar or related interests:

Government Agencies
- U.S. Department of Transportation

Carriers
- American Trucking Associations

Drivers
- International Brotherhood of Teamsters

Insurance
- American Insurance Association
- Central Analysis Bureau, Inc.

Industry Analysts
- Transportation Technical Services
- University of Michigan Program on the Trucking Service Industry

Proposed Agenda and Schedule

BTS anticipates that the negotiated rulemaking committee will hold six two-day meetings, approximately once a month. The first committee meeting will focus on such matters as: determining if there are additional interests that should be represented on the Committee; identifying issues to be considered; and setting ground rules, a schedule, and an agenda for future Committee meetings.

Administrative Support

BTS will select and fund a facilitator, who is neutral, has the relevant skills, and is acceptable to all participants. BTS will also supply logistical, technical, and administrative support to the Committee. The meetings will be held in Washington, D.C., where a majority of the prospective Committee members are likely to be located. In general, Committee members will be responsible for their own expenses, but BTS will consider requests for reimbursement in accordance with 5 U.S.C. 568(c).

Applications for Membership on Committee

BTS is soliciting comments on this proposal to establish a negotiated rulemaking advisory committee, on the proposed membership of the Committee, and on the proposed issues for consideration by the Committee. Persons may apply or nominate another person for membership on the Committee in accordance with the following procedures:

Persons who will be significantly affected by the proposed rule and who believe that their interests will not be adequately represented by any person on the previously discussed list of potential participants may apply for, or nominate another person for, membership on the negotiated rulemaking committee. Each application or nomination shall include:

1. the name of the applicant or nominee and a description of the interests such person shall represent;

2. evidence that the applicant or nominee is authorized to represent parties related to the interests the person proposes to represent;

3. a written commitment that the applicant or nominee shall actively participate in good faith in the development of the rule under consideration; and

4. the reasons that the persons specified in this notice do not adequately represent the interests of the person submitting the application or nomination.

As a general rule, the Federal Advisory Committee Act provides that no advisory committee may meet or take any action until an approved charter has been filed with the appropriate House and Senate committees with jurisdiction over the agency using the committee. Only upon the Secretary of Transportation's approval of the charter and the list of organizations or interests to be represented on the Committee and the filing of the charter will BTS form the Committee and begin negotiations.

After review of the comments received in response to this notice, BTS will issue a final notice announcing formation of the Committee, its members, the issues for consideration, and the date of the first Committee meeting.

Authority: 5 U.S.C. 561–570.

Issued in Washington, DC, on November 20, 1996.

Robert A. Knisely,

Deputy Director, Bureau of Transportation Statistics.

[FR Doc. 96–30218 Filed 12–6–96; 8:45 am]

BILLING CODE 4910–FE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 961125338–6328–01; I.D. 103196B]

RIN 0648–AJ06

Fisheries of the Northeastern United States; Amendment 6 to the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to implement measures contained in Amendment 6 to the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries (FMP). Amendment 6, which has been submitted by the Mid-Atlantic Fishery Management Council (Council) to NMFS for approval is intended to establish additional measures to prevent overfishing of the Atlantic squids and butterfish, allow for seasonal restrictions in the *Illex* squid fishery to improve yield per recruit, and change the closure trigger for all species from 80 percent to 95 percent of the domestic annual harvest (DAH). Also included in Amendment 6 is a revision of the trip limits on bycatch of these species when a fishery is closed.

DATES: Comments on the proposed rule must be received on or before January 21, 1997.

ADDRESSES: Comments on the proposed rule should be sent to: Dr. Andrew A. Rosenberg, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930–2298. Mark the outside of the envelope, ''Comments on Amendment 6 Atlantic Mackerel, Squid, and Butterfish.'' Copies of Amendment 6, the environmental assessment, regulatory impact review, and other supporting documents are available upon request from David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19904–6790.

FOR FURTHER INFORMATION CONTACT: Myles Raizin, Fishery Policy Analyst, 508–281–9104.

SUPPLEMENTARY INFORMATION:

Background

In 1994, NMFS conducted a national scientific review of the overfishing definitions in use in U.S. fisheries management plans (NMFS-F/SPO–17). The overfishing definitions for *Illex* squid, *Loligo* squid, and butterfish that were reviewed define overfishing as occurring when the 3-year moving average of pre-recruits from the Northeast Fisheries Science Center autumn bottom trawl survey falls within the lowest quartile of the time series 1968 to the present. The review found these definitions to be risky, given the short life span of each of these species. While previous assessments had assumed that both species of squid had a life span of up to 3 years, more recent scientific information has established that both species have only an annual life span. The life span for butterfish may not exceed 3 years. In response to the risk identified in the existing definitions, the 21st Northeast Stock Assessment Workshop (SAW 21) derived new overfishing definitions for each species of squid and for butterfish. The Council has submitted Amendment 6 in order to establish these new definitions and provide adequate protection from recruitment overfishing for each of these species.

Illex illecebrosus

If Amendment 6 is approved, overfishing for *Illex* would be defined as occurring when the catch associated with a threshold fishing mortality rate (F) of F_{20} is exceeded. F_{20} is the fishing mortality rate that would result in 20 percent of the maximum spawning potential (MSP) of the stock. This means that 20 percent of the maximum spawning biomass would remain in the population compared to an unfished population. For *Illex*, this overfishing definition would equate to roughly to F = 0.28, or an annual rate of removal of about 22 percent from the population due to fishing.

Maximum optimum yield (max OY) would also be specified as the catch that would result from F_{20}. To ensure that the overfishing F level is not closely approached, the annual quota would be specified to correspond to a target fishing mortality rate of F_{50}. F_{50} is the fishing mortality rate that results in 50 percent of the MSP of the stock. This means that 50 percent of the spawning biomass would remain in the population compared to an unfished population. For *Illex*, this would equate roughly to F = 0.11, and to an annual rate of removal of about 8 or 9 percent from the population due to fishing.

Loligo pealei

Overfishing for *Loligo* would be defined as occurring when the catch associated with a threshold fishing mortality rate of F_{max} is exceeded. F_{max} is the fishing mortality rate that results in the maximum yield per recruit. For *Loligo*, this overfishing threshold would equate roughly to F = 0.36, and to an annual rate of removal of about 27 percent from the population due to fishing. Max OY would also be specified as the catch that would result from fishing at F_{max}. To ensure that the overfishing threshold not closely approached, annual quota would be specified that correspond to a target fishing mortality rate of F_{50}. For *Loligo*, this would equate roughly to F = 0.13, and to an annual rate of removal of about 11 percent from the population due to fishing.

Atlantic Butterfish

Because current estimates of F are not statistically reliable, SAW 21 recommended amending the existing overfishing definition, to take a more conservative (lower risk) approach. Overfishing would be defined as occurring when the 3-year moving average of pre-recruits from the NMFS Northeast Fisheries Science Center's autumn bottom trawl survey (mid-Atlantic to Georges Bank) falls within the lowest quartile of the time series, or when landings exceed a level that would result from a threshold fishing mortality rate of F_{MSY}. Max OY would also be specified as the catch level that would result from fishing at F_{MSY}. Thus, when an estimate of F is available, it would be incorporated as a management tool. F_{MSY} is the fishing mortality rate that results in the maximum sustainable yield.

In addition to defining overfishing, the current FMP specifies that, in order to prevent the DAH from being exceeded, the directed fisheries for all species will be closed when 80 percent of the DAH is taken. The 80–percent closure trigger was adopted when the catch data used to monitor the fisheries were not available on a timely basis and coastwide coverage of the fisheries was generally poor. Since then, Amendment 5 to the FMP has made logbook and dealer reporting mandatory, so that data quality and timeliness of receipt is improved. The Council adopted, and NMFS seeks public comment on, the proposed measure that would close the directed fishery for each species when 95 percent of DAH for that species is projected to be taken. During the closure, any vessel of the United States could retain up to 2,500 lb (1.13 mt) of

Loligo or butterfish and up to 5,000 lb (2.27 mt) of *Illex*. These levels would allow the fishery to be prosecuted only as a bycatch fishery after 95 percent of DAH is taken and would be beneficial to the inshore/small boat fishery since the bycatch fishery would remain open for the remainder of the fishing year. These bycatch levels correspond to the non-moratorium bycatch specifications in Amendment 5 to the FMP.

Amendment 6 also contains a provision that would allow seasonal quotas to be specified annually for *Illex*. The FMP currently provides that seasonal quotas can be specified for *Loligo*, only. The Council proposes this measure to provide a mechanism that could be used to delay the opening of the *Illex* season and increase yield, since the animals will be given more time to grow before they are harvested. The seasonal closure would be implemented on an annual basis through the Monitoring Committee process specified in the FMP.

Classification

This regulatory action is being processed under the accelerated review schedule in accordance with the Magnuson-Stevens Fishery Conservation and Management Act as amended (Magnuson-Stevens Act). At this time, NMFS has not determined that the amendment these rules would implement is consistent with the national standards, other provisions of the Magnuson-Stevens Act, and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as follows:

The proposed rule would revise overfishing definitions for *Loligo* and *Illex* squid, and butterfish, adjust the closure trigger for these species from 80 percent to 95 percent of domestic annual harvest, revise trips limits on bycatch of these species when a fishery is closed, and establish a framework mechanism for seasonal closures in the *Illex* squid fishery.

The new overfishing definition for *Illex* would not affect the current fishing patterns in this fishery. During the observed period (1989 through 1994), annual catch in the *Illex* fishery did not exceed 19,000 mt, the catch associated with the target fishing mortality rate of F_{50} under Amendment 6. F_{50} is the fishing mortality rate that would result in 50 percent of the of the maximum spawning potential of the stock. Average catch during this period was 14,035 mt. Based on this information, the new definition would not adversely affect participants and would not have a significant economic impact on a substantial number of small entities. Landings data by individual vessels in regard to size, horsepower, length, and other vessel characteristics have not been recorded for the *Illex* fishery. Therefore, it is not possible to ascertain the economic impact on individual vessels or groups of vessels within the fishery that would result from the implementation of the target fishing mortality rate of F_{50}.

The new overfishing definition for *Loligo* is expected to have some economic effect on this fishery because it is likely to result in annual quotas that reduce landings from levels in recent years. The effects of the target fishing mortality rate of F_{50} on revenues when compared to the 1994 season would be a reduction of $2,231,455, that, if evenly distributed, would mean that each vessel would lose $4,668 (2.46 percent decrease in total gross revenue). On the other hand, when compared to the average revenue from landings for the 1989–1994 season, there would be an increase of $1,171,620 and each business unit would earn $2,451 (1.29 percent increase in total gross revenue). In either case, the impact would not be significant. As in the case of *Illex*, landings data by individual vessels in regard to size, horsepower, length, and other vessel characteristics have not been recorded for the *Loligo* fishery. Therefore, it is not possible to ascertain the economic impact on individual vessels or groups of vessels within the fishery that would result from the implementation of the target fishing mortality rate of F_{50}.

The revised overfishing definition for butterfish would have no economic impact on the butterfish fishery. The revision would add a threshold mortality rate associated with F_{MSY}. F_{MSY} is the fishing mortality rate that results in the maximum sustainable yield. However, the revision would not require any change in the proposed specification for domestic annual harvest of 5,900 mt for butterfish adopted by the Mid-Atlantic Fishery Management Council for 1997. This is the same specification as for 1996. Meanwhile, annual butterfish landings from 1989 to 1994 were at historically low levels, averaging only 3,084 mt. These landings ranged from 2,189 mt in 1991 to 4,430 mt in 1993.

The implementation of a closure trigger for the directed fisheries for squid and butterfish of 95 percent would not result in a significant economic impact on these fisheries. A closure trigger of 80 percent had been implemented in these fisheries for several years but had never been utilized. Increasing this trigger may have some positive effects, in that, more product may be available for the directed fishery markets as opposed to the bycatch markets. However, adequate price data is not available to assess this effect, although it is believed to be minimal.

The seasonal closure in the *Illex* fishery is proposed as a framework provision. The economic impacts on small businesses resulting from a seasonal closure are dependent on the timing and length of the closure. This action would be expected to provide additional management flexibility by allowing the harvest of larger squid, which, in turn, can be expected to provide positive net benefits for participants in the fishery. Analyses regarding impacts on small businesses resulting from a proposed closure cannot be initiated until a specific proposal is made regarding length and time of the closure. Prior to implementation of a seasonal closure, the effects on small business entities will be analyzed.

If the management measures contained in Amendment 6 are implemented there would be no additional costs of compliance, in terms of capital or variable costs, for affected vessels. No substantial changes in fishing behavior, e.g., areas closed to fishing that may leave vessels further from fishing areas, thus, requiring additional fuel and food costs, are associated with these measures. In addition, no physical changes to the vessel or its hull, e.g., new or additional nets, winches, leg irons, or chafing gear, would be required.

Landings data by individual vessels in regard to size, horsepower, length, and other vessel characteristics have not been recorded for these fisheries. Therefore, it is not possible to ascertain the economic impact on individual vessels or groups of vessels, i.e., small or large, within the fishery that would result from the implementation of these management measures. Therefore, comparison between large and small entities are not possible at this time.

These management measures would not be expected to directly impact exit or entry of vessels prosecuting these fisheries. Therefore, it is not expected that as many as 2 percent of the vessels or processors in these fisheries will be forced to cease operations if Amendment 6 is approved and implemented.

As a result, an initial regulatory flexibility analysis was not prepared.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: December 2, 1996.

Gary C. Matlock,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—[AMENDED]

1. The authority citation for part 648 continues to read as follows:

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

2. In § 648.20, paragraphs (b) through (d) are revised to read as follows:

§ 648.20 Maximum optimum yield (OYs).

* * * * *

(b) *Loligo*—the catch associated with a fishing mortality rate of F_{max}.

(c) *Illex* —the catch associated with a fishing mortality rate of F_{20}.

(d) Butterfish—the catch associated with a fishing mortality rate of F_{MSY}.

3. In § 648.21, paragraph (c)(5) is revised to read as follows:

§ 648.21 Procedures for determining initial annual amounts.

* * * * *

(c) * * *

(5) Commercial seasonal quotas/closures for *Loligo* and *Illex*.

* * * * *

4. In § 648.22, paragraphs (a) and (c) are revised to read as follows:

§ 648.22 Closure of the fishery.

(a) *General*. The Assistant Administrator shall close the directed mackerel fishery in the EEZ when U.S. fishermen have harvested 80 percent of the DAH of that fishery if such closure is necessary to prevent the DAH from being exceeded. The closure shall remain in effect for the remainder of the fishing year, with incidental catches allowed as specified in paragraph (c) of this section, until the entire DAH is attained. When the Regional Director projects that DAH will be attained for mackerel, the Assistant Administrator shall close the mackerel fishery in the EEZ, and the incidental catches specified for mackerel in paragraph (c) of this section will be prohibited. The Assistant Administrator shall close the directed fishery in the EEZ for *Loligo*, *Illex*, or butterfish when 95 percent of DAH has been harvested. The closure of the directed fishery shall be in effect for the remainder of the fishing year with incidental catches allowed as specified in paragraph (c) of this section.

* * * * *

(c) *Incidental catches*. During the closure of the directed fishery for mackerel, the trip limit for mackerel is 10 percent by weight of the total amount of fish on board. During a period of closure of the directed fishery for *Loligo*, *Illex*, or butterfish, the trip limit for *Loligo* and butterfish is 2,500 lb (1.13 mt) each, and the trip limit for *Illex* is 5,000 lb (2.27 mt).

[FR Doc. 96–31158 Filed 12–6–96; 8:45 am]

BILLING CODE 3510–22–F

50 CFR Part 648

[Docket No. 961129337–6337–01; I.D. 112096A]

RIN 0648–XX75

Fisheries of the Northeastern United States; Summer Flounder, Scup and Black Sea Bass Fisheries; 1997 Scup Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed specifications for the 1997 scup fishery; request for comments.

SUMMARY: NMFS proposes specifications for the 1997 scup fishery that include commercial catch quotas and other restrictions. The implementing regulations for the fishery require NMFS to publish proposed specifications for the upcoming fishing year and provide an opportunity for the public to comment. The intent of these measures is to prevent overfishing of the scup resource.

DATES: Public comments must be received on or before January 6, 1997.

ADDRESSES: Copies of the Mid-Atlantic Fishery Management Council's analysis and recommendations are available from David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19904–6790. Comments on the proposed specifications should be sent to: Dr. Andrew A. Rosenberg, Regional Administrator, Northeast Region, NMFS, 1 Blackburn Drive, Gloucester, MA 01930–2298. Mark the outside of the envelope, ''Comments—1997 Scup Specifications.''

FOR FURTHER INFORMATION CONTACT: Lucille L. Helvenston, Fishery Management Specialist, 508–281–9347.

SUPPLEMENTARY INFORMATION: Comprehensive measures enacted by Amendment 8 to the Summer Flounder and Scup Fishery Management Plan (FMP) were designed to rebuild the severely depleted scup stock. Amendment 8 established a Monitoring Committee that meets annually to review the best available scientific data and make recommendations regarding the catch quota and other management measures in the FMP. The Committee's recommendations are made to achieve the target exploitation rates established in the Amendment to reduce overfishing. The Committee bases its recommendations on: (1) Commercial and recreational catch data; (2) current estimates of fishing mortality; (3) stock status; (4) recent estimates of recruitment; (5) virtual population analysis (VPA); (6) levels of regulatory noncompliance by fishermen or individual states; (7) impact of fish size and net mesh regulations; (8) impact of gear other than otter trawls on the mortality of scup; and (9) other relevant information.

Based on the recommendations of the Monitoring Committee, the Mid-Atlantic Council's Demersal Species Committee makes a recommendation to the Council, which in turn makes a recommendation to the Regional Administrator. The Council recommended a commercial quota, recreational harvest limit, and changes in the minimum mesh regulations for 1997.

The proposed action would set the coastwide commercial quota at 6.0 million lb (2.7 million kg). The recreational harvest limit would be 1.947 million lb (0.88 million kg). These values are derived by the following process: (1) The TAC (9.11 million lb) (4.1 million kg) was divided into two allocations of 78 percent for the commercial quota and 22 percent for the recreational harvest limit, and (2) discard estimates for each sector were deducted from each allocation to establish commercial quota and recreational harvest limits. The commercial quota of 6.0 million lb (2.7 million kg) is derived by subtracting an estimated 1997 discard of 1.103 million lb (0.5 million kg) from the 7.103 million lb (3.2 million kg) allocated to the commercial sector. The recreational harvest limit of 1.947 million lb (0.88 million kg) was derived by subtracting the estimated 1997 discard of 0.060 million lb (0.03 million kg) from the 2.007 million lb (0.9 million kg) allocated to the recreational sector. Based on stochastic projections, this proposed catch level has a 50 percent probability of achieving the target exploitation rate (47 percent) in 1997. Current exploitation rates on this stock are approximately 67 percent.

Amendment 8 contains provisions that allow for annual changes in the minimum fish size and minimum otter trawl mesh requirement. Current regulations require a 9-inch (22.9-cm) total length (TL) minimum fish size in the commercial fishery and a 4-inch (10.2-cm) minimum mesh in the codend of the net for vessels possessing in excess of a 4,000-lb (1,814-kg) threshold level of scup. The proposed action does not change the minimum fish size, but would increase the minimum mesh size to 4.5 inches (11.43 cm). The proposed action would also implement seasonal minimum mesh threshold levels of 4,000 lb (1,814 kg) in the winter months (November–April) and 1,000 lb (453 kg) in the summer months (May–October).

The coastwide quota would be implemented January 1, 1997. However, the Council has proposed a regulatory change in a separate action that would divide the quota into three seasons with landing limits: Winter 1 (January–April), Summer (May–October) and Winter 2 (November–December). The summer quota would be allocated on a

state-by-state basis. If this proposal is approved, it would be implemented about mid-1997.

Classification

This action is authorized by 50 CFR Part 648, and has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation, Department of Commerce, certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule issued under the authority of the Magnuson-Stevens Fishery Conservation and Management Act will not have a significant economic impact on a substantial number of small entities as follows:

The proposed rule would implement an allocation of 6 million pounds for the annual commercial quota, and 1.947 million pounds for the recreational harvest limit, increase the minimum mesh size from 4.0 inches to 4.5 inches, and change the catch threshold that triggers the mesh requirement to 4,000 pounds in November through April, and 1,000 pounds from May through October.

This action includes a measure that would divide the 1997 Total Allowable Catch (TAC) of 9.11 million pounds into allocations for the commercial and the recreational sectors of the fishery. After subtracting an estimate of discards for each sector from the respective allocations, the proposed commercial quota is 6 million pounds and the proposed recreational harvest limit is 1.947 million pounds. The effect of this quota on participants is expected to be minimal, as it will not differ significantly from the amount of commercial catch from 1995. In 1995, the last year for which data are available, commercial landings equaled 5.9 million pounds, with an ex-vessel value of $0.85/pound. The 1995 catch levels represent a decrease relative to landings in 1994, but an increase in ex-vessel revenue (versus $0.66/pound in 1994). The Mid-Atlantic Fishery Management Council (Council) concluded that, based on historical data, ex-vessel revenues often increase when scup are less available.

Other measures include increasing the mesh size from 4.0 inches to 4.5 inches and establishing a variable threshold catch level that triggers the minimum mesh requirement (4,000 pounds from November through April and 1,000 pounds from May through October). Comments received at Council meetings indicated that 4.5-inch mesh is currently being used to catch 9-inch fish by many members of the industry. Therefore, most industry members will not be required to invest in additional gear if they intend to direct on the scup fishery. In addition, the retail price for a 4.5-inch mesh codend is estimated to account for between 0.5 percent and 1.69 percent of total estimated costs for an otter trawl vessel.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: November 29, 1996.

Gary C. Matlock,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

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

2. In § 648.123, paragraph (a)(1) is revised to read as follows:

§ 648.123 Gear restrictions.

(a) *Trawl vessel gear restrictions*—(1) *Minimum mesh size.* The owners or operators of otter trawlers issued a scup moratorium permit, and that possess 4,000 lb or more (1,814 kg or more) of scup from November 1 through April 30 or 1,000 lb or more (454 kg or more) of scup from May 1 through October 31, must fish with nets that have a minimum mesh size of 4.5 inches (11.4 cm) diamond mesh, applied throughout the codend for at least 75 continuous meshes forward of the terminus of the net, or for codends with less than 75 meshes, the minimum-mesh-size codend must be a minimum of one-third of the net, measured from the terminus of the codend to the head rope, excluding any turtle excluder device extension. Scup on board these vessels shall be stored separately and kept readily available for inspection.

* * * * *

[FR Doc. 96–31157 Filed 12–6–96; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 61, No. 237
Monday, December 9, 1996

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

Public Briefing on World Food Summit

AGENCY: Foreign Agricultural Service.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that a public briefing on the November 13–17, 1996 World Food Summit meeting in Rome will be held December 10, 1996. The purpose of the meeting is for members of the U.S. delegation to brief the public on the Summit and related activities in Rome and to discuss issues relating to Summit follow-up.

DATES: The meeting will be held Wednesday, December 10, 1996 from 2:00 to 4:00 p.m. in room 107–A in the Jamie Lee Whitten Building at the U.S. Department of Agriculture in Washington, D.C.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Inquiries may be directed to the Office of the National Secretary, Foreign Agricultural Service, Room 3008 South Building, U.S. Department of Agriculture, 14th and Independence Ave. SW, Washington, D.C. 20250, telephone (202) 690–0776 or fax (202) 720–6103. Additional information is available on the FAS Homepage (http://ffas.usda.gov/ffas/food__ summit/summit.html) or by calling (202) 690–0776.

Signed in Washington, D.C. November 27, 1996.

August Schumacher, Jr.,

Administrator, Foreign Agricultural Service.

[FR Doc. 96–31152 Filed 12–6–96; 8:45 am]

BILLING CODE 3410–10–M

Forest Service

Title to Forest Lieu Selection Lands

AGENCY: Forest Service, EDUA.

ACTION: Correction of legal descriptions.

SUMMARY: The Forest Service is removing the legal descriptions of three parcels from Table 1, Nationally Significant Lands List (Final Identification of Lands Retained by the United States), and is correcting the legal descriptions of two parcels in Table 2, Final List of Lands Quitclaimed by the United States, included in the notice concerning Title to Forest Lieu Selection Lands that was published in the Federal Register December 26, 1995 (60 FR 66791). A correction for another legal description in this notice was published in the Federal Register June 13, 1996 (61 FR 30032).

EFFECTIVE DATE: This correction is effective December 9, 1996.

FOR FURTHER INFORMATION CONTACT: Marsha Butterfield, Lands Staff, Forest Service, USDA, Washington, D.C. 20090–6090, (202) 205–1248.

SUPPLEMENTARY INFORMATION: The parcels being removed from Table 1 are listed as: On page 66783, the first line under Fresno County, ''8, Collins, J., T.8S., R.25E., sec. 14, SENW NENE, 80''; the third line under Fresno County, ''12, Collins, J., T.8S., R.25E., sec. 15, SENWSW ENENWSE, 15''; and the fourth line under Fresno County, ''13, Collins, J., T.8S., R.25E., sec. 15, SSSENE, 10.'' These lands were erroneously listed as ''in-lieu'' lands.

The legal descriptions in Table 2 are corrected as follows: On page 66791, the third line under Los Angeles County, ''64, Campbell, John, T.3N., R.8W., sec. 1, SESW SWSE, 20'' should read ''64, Campbell, John, T.3N., R.8W., sec. 1, POR. SESW & SWSE, 20''; and the seventh line under Los Angeles County, ''93, Elliott, T., T.5N., T.15W., sec. 30, Lot 3 SWNW, 80'' should read ''93, Elliott, T., T.5N., R.15W., sec. 30 Lot 3 SENW, 80.''

Dated: November 26, 1996.

David G. Unger,

Associate Chief.

[FR Doc. 96–31159 Filed 12–6–96; 8:45 am]

BILLING CODE 3410–11–M

Rural Business-Cooperative Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Proposed collection; comments request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Rural Business- Cooperative Service (RBS) to request an extension of a currently approved information collection in support of the Cooperative Development Division (CDD), Cooperative Development Program.

DATES: Comments on this notice must be received by February 7, 1997 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: John Wells, Director, CDD, Rural Business-Cooperative Service, USDA, Cooperative Development Division, STOP 3254, 1400 Independence Avenue SW, Washington, DC 20250–3254. Telephone: (202) 720–3350.

SUPPLEMENTARY INFORMATION:

Title: Cooperative Services Questionnaire: Market Potential for New Cooperatives, Buyer Survey for New Cooperative Activity.

OMB Number: 0570–0009.

Expiration Date of Approval: December 31, 1996.

Type of Request: Extension of a currently approved information collection.

Abstract: The Rural Business-Cooperative Service (RBS) USDA, formerly the Cooperative Services (ACS), conducts feasibility studies to assist in the development of new cooperatives. The Cooperative Development Division specializes in technical assistance to agricultural and rural producer groups interested in organizing a cooperative, and to emerging or developing co-ops, so they can: (a) use sensible economic judgment, (b) determine co-op feasibility, (c) meet an economic need, (d) successfully operate on sound business principles and, (e) increase member income. In order to carry out the Agency's mission, RBS needs to collect information from the cooperative community.

The authority to carry out RBS mission is defined in the Cooperative Marketing Act of 1926 (44 Stat. 802–1926), and other regulations listed below.

Authority and Duties of Division (7 U.S.C. & 453)

(a) The division shall render service to associations of producers of agricultural products, and federations and subsidiaries thereof, engaged in the cooperative marketing of agricultural products, including processing, warehousing, manufacturing, storage, the cooperative purchasing of farm supplies, credit, financing, insurance, and other cooperative activities.

(b) The division is authorized:

(1) To acquire, analyze and disseminate economic, statistical, and historical information regarding the progress, organization, and business methods of cooperative associations in the United States and foreign countries.

(2) To conduct studies of the economic, legal, financial, social, and other phases of cooperation, and publish the results thereof. Such studies shall include the analyses of the organization, operation, financial and merchandising problems of cooperative associations.

(3) To make surveys and analyses if deemed advisable of the accounts and business practices of representative cooperative associations upon their request; to report to the association so surveyed to results thereof, and with the consent of the association so surveyed to publish summaries of the results of such surveys, together with similar facts, for the guidance of cooperative associations and for the purpose of assisting cooperative associations in developing methods of business and market analysis.

(4) To confer and advise with committees or groups of producers, if deemed advisable, that may be desirous of forming a cooperative association and to make an economic survey and analysis of the facts surrounding the production and marketing of the agricultural product or products which the association, if formed, would handle or market.

(5) To acquire from all available sources information concerning crop prospects, supply, demand, current receipts, exports, imports, and prices of the agricultural products handled or marketed by cooperative associations, and to employ qualified commodity marketing specialists to summarize and analyze this information and disseminate the same among cooperative associations, and others.

(6) To promote the knowledge of cooperative principles and practices and to cooperate, in promoting such knowledge, with educational and marketing agencies, cooperative associations, and others.

(7) To make such special studies, in the United States and foreign countries, and to acquire and disseminate such information and findings as may be useful in the development and practice of cooperation.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .5 hours per response.

Respondents: Mainly buyers of agricultural products in domestic market areas in which proposed cooperatives would be expected to market their member's products.

Estimated number of Respondents: 105

Estimated number of responses per respondent: 1

Estimated total annual burden on respondents: 52.5 hours per year.

The Cooperative Development Division specializes in technical assistance to agricultural and rural producer groups interested in organizing a cooperative, and to emerging or developing co-ops, so they can: (a) use sensible economic judgment, (b) determine co-op feasibility, (c) meet an economic need, (d) successfully operate on sound business principles and, (e) increase member income.

Copies of this information collection can be obtained from Sam Spencer, Rural Business Team Information Collection Coordinator, at (202) 720–9588.

Comments: Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection techniques or other forms of information technology. Comments may be sent to Sam Spencer, Rural Business Team Information Collection Coordinator, Regulations and Paperwork Management Division, U.S. Department of Agriculture, Rural Development, STOP 0743, 1400 Independence Avenue SW, Washington, DC 20250–0743, or may be submitted via the Internet by addressing them to comments @ rus.usda.gov and must contain the words Buyer Survey. All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: November 2, 1996.

Wilbur T. Peer,

Acting Administrator, Rural Business-Cooperative Service.

[FR Doc. 96–31233 Filed 12–6–96; 8:45 am]

BILLING CODE 3410–XY–U

ASSASSINATION RECORDS REVIEW BOARD

Sunshine Act Meeting

DATE: December 16–17, 1996.

PLACE: ARRB, 600 E Street, NW, Washington, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Review and Accept Minutes of Closed Meetings
2. Review of Assassination Records
3. Other Business

CONTACT PERSON FOR MORE INFORMATION: Eileen Sullivan, Assistant Press and Public Affairs Officer, 600 E Street, NW, Second Floor, Washington, DC 20530. Telephone: (202) 724–0088; Fax: (202) 724–0457.

David G. Marwell,

Executive Director.

[FR Doc. 96–31387 Filed 12–5–96; 3:38 pm]

BILLING CODE 6118–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 112596B]

Marine Mammals; Scientific Research Permit (P772#63)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of application for amendment.

SUMMARY: Notice is hereby given that Southwest Fisheries Science Center, NMFS, P.O. Box 271, La Jolla, CA 92038–0271, has requested an amendment to Permit No. 873.

DATES: Written comments must be received on or before January 8, 1997.

ADDRESSES: The amendment request and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Director, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200,

Long Beach, CA 90802–4213 (310/980–4001).

Written data or views, or requests for a public hearing on this request, should be submitted to the Director, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Concurrent with the publication of this notice in the Federal Register, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

SUPPLEMENTARY INFORMATION: The subject amendment to permit no. 873, issued on July 28, 1993 (58 FR 34038), is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR part 222).

Permit no. 873 authorizes the permit holder to harass (i.e., through vessel approach, photogrammetry, photographic identification, and tissue biopsy) several marine mammal species in the Pacific, Southern, and Indian Oceans, over a 5-year period. The expiration date of the permit is December 31, 1997. The permit holder is now requesting that Permit 873 be amended to authorize the attachment of radio tags to up to 20 sperm whales (*Physeter macrocephalus*) per year in the eastern North Pacific Ocean.

Dated: November 27, 1996.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–31156 Filed 12–06–96; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title and OMB Control Number: Joint Recruiting Advertising Program (JRAP); OMB Control No. 0704–0351.

Type of Request: Reinstatement.

Number of Respondents: 33,650.

Responses Per Respondent: 1.

Annual Responses: 33,650.

Average Burden Per Response: 1 minute.

Annual Burden Hours: 561 hours.

Needs and Uses

This collection of information is necessary to conduct Congressionally directed recruiting campaigns for the Armed Forces. The Joint Recruiting Advertising Program (JRAP) supports Armed Forces recruitment efforts with cost-effective advertising. The JRAP ROTC Scholarship Folder, FUTURES magazine, and FUTURES magazine on-line, provide high school students with information about opportunities available in the Armed Forces. Students are provided with Business Reply Cards (BRCs) that they may voluntarily fill out to request additional information about the Armed Forces. When one branch of the Armed Forces receives a BRC, the information is promptly sent to the BRC respondent. The name of the BRC respondent is then added to mailing lists used by the Services for future mailings of Service-related enlistment and scholarship information brochures.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–31236 Filed 12–6–96; 8:45 am]

BILLING CODE 3810–01–M

Department of the Army, Corps of Engineers

Authorization Under the U.S. Army Corps of Engineers Nationwide General Permit Program of the U.S. Department of Transportation, U.S. Coast Guard Categorical Exclusions for Certain Activities Requiring Department of the Army Authorization

AGENCY: Army Corps of Engineers, DoD.

ACTION: Notice.

SUMMARY: The purpose of this notice is to provide the U.S. Army Corps of Engineers Regulatory Guidance Letter (RGL) regarding the U.S. Coast Guard categorical exclusions (CEs), which have been authorized under the Corps nationwide general permit number 23. The U.S. Coast Guard previously developed its CEs pursuant to the Council on Environmental Quality Regulation for Implementing the Procedural Provisions of the National Environmental Policy Act (NEPA) (40 CFR part 1500 et seq.).

DATES: Effective date, November 5, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Victor Cole, Regulatory Branch, Office of the Chief of Engineers, at (202) 761–0199.

SUPPLEMENTARY INFORMATION: The U.S. Coast Guard has requested Corps authorization, in accordance with the Corps nationwide general permit number 23, of its CEs originally published in the Federal Register on July 29, 1994 (59 FR 38654), and subsequently modified on September 6, 1995 (60 FR 46327), June 20, 1995 (60 FR 32197), and March 27, 1996, (61 FR 13563). The Corps issued the nationwide general permit to reduce duplicative Federal processes when another Federal agency has determined that certain activities are categorically excluded from a detailed NEPA analysis, and to expedite Department of the Army authorization for projects having no more that minimal adverse environmental effects either individually or cumulatively.

In 1983, the Corps approved the original U.S. Coast Guard CEs (45 FR 32819) under the nationwide permit and has been qualifying U.S. Coast Guard CE activities under the nationwide permit since then. We are publishing the existing U.S. Coast Guard CEs in their entirety, incorporating the subsequent changes made by the U.S. Coast Guard as identified in the Federal Register citations listed above. Several of the categorical exclusions do not require Department of the Army authorization but are listed to provide the complete

listing and same numbering system as the U.S. Coast Guard CEs. Information regarding the establishment of the CEs by the U.S. Coast Guard can be found in the Federal Register citations above.

The Corps provided notice [60 FR 18573, April 26, 1996] and requested comment on the appropriateness of the CEs for nationwide general permit authorization in accordance with Section 404 of the Clean Water Act (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), including any appropriate conditions or restrictions to such authorization. Only one comment was received. The U.S. Department of the Interior, National Parks Service, commented stating they had no comment on the proposal.

The Corps has reviewed the U.S. Coast Guard CEs and concurs with their determinations and we are hereby authorizing these activities in accordance with nationwide permit number 23, with appropriate nationwide permit general conditions and, including the requirement to notify the appropriate Corps office prior to initiation of work under CE numbers (6) and (8). A notification is necessary to address potential impacts to wetlands under CE number (6) and impacts/encroachment on Federal navigation projects for activities under CE number (8).

Dated: November 5, 1996.

Daniel R. Burns,

Chief, Operations, Construction, and Readiness Division, Directorate of Civil Works.

RGL 96–1, Date: 5 Nov 1996; Expires: 31 December 2001

Subject: Use of Nationwide Permit Number 23 for U.S. Coast Guard Categorical Exclusions

1. We have concurred with the categorical exclusions (CE) (enclosure) submitted by the U.S. Coast Guard pursuant to the subject nationwide permit number 23 at 33 CFR Part 330, including a notification requirement for CE numbers (6) and (8). The U.S. Army Corps of Engineers published the Coast Guard CEs in 61 FR 18573, April 26, 1996, for comment regarding the applicability of nationwide permit number 23 for those activities requiring Department of the Army authorization. This Regulatory Guidance Letter supersedes the U.S. Coast Guard CEs previously approved under nationwide permit number 23 in accordance with Regulatory Guidance Letter 83–5, dated April 18, 1983.

2. The Corps has conditioned the nationwide permit to require notification to the appropriate Corps office prior to beginning work under U.S. Coast Guard CE number (6) to address potential impacts to wetlands (notification is only required to the Corps for projects where wetlands impacts are proposed) and number (8) to address potential impacts/encroachment on Federal navigation projects. The District Engineer will review the notification and will either verify whether the activity meets the terms and conditions of nationwide permit 23, will require evaluation under standard permit procedures, or that additional conditioning of the activity is necessary to ensure that no unacceptable adverse effects will result to wetlands for projects under CE number (6) or to a Federal navigation project under CE number (8). Authorization of the U.S. Coast Guard CEs does not restrict the Division or District Engineers' authorities to exercise discretionary authority, or the Corps modification, suspension or revocation procedures. Development of local procedures to streamline coordination is encouraged where a Corps division or district further conditions the nationwide permit to require a notification for additional activities.

3. It should be noted that the U.S. Coast Guard provided a complete listing of CEs, including many that do not require Department of the Army authorization. However, to reduce confusion when referencing the CE number, we have included all U.S. Coast Guard CEs in the enclosure.

4. This guidance expires December 31, 2001, unless sooner revised or rescinded.

For the Director of Civil Works.

Daniel R. Burns,

Chief, Operations, Construction, and Readiness Division, Directorate of Civil Works.

Enclosure RGL 96–1

U.S. Coast Guard Categorical Exclusion List

The following is a consolidated list prepared from the U.S. Coast Guard Federal Register notices (59 FR 38654, July 29, 1994, 60 FR 46327, September 6, 1995, 60 FR 32197, June 20, 1995, and 61 FR 12563, March 27, 1996). The list does not include the procedures the U.S. Coast Guard must follow to determine whether certain activities qualify for a categorical exclusion. Activities conducted under number (8) require notification to the U.S. Army Corps of Engineers prior to initiation of work.

(1) Routine personnel, fiscal, and administrative activities, actions, procedures, and policies which clearly do not have any environmental impacts, such as military and civilian personnel recruiting, processing, paying, and recordkeeping.

(2) Routine procurement activities and actions for goods and services, including office supplies, equipment, mobile assets, and utility services for routine administration, operation, and maintenance.

(3) Maintenance dredging and debris disposal where no new depths are required, applicable permits as secured, and disposal will be at an existing approved disposal site.

(4) Routine repair, renovation, and maintenance actions on aircraft and vessels.

(5) Routine repair and maintenance of buildings, roads, airfields, grounds, equipment, and other facilities which do not result in a change in functional use, or an impact on a historically significant element or settings.

(6) Minor renovations and additions to buildings, roads, airfields, equipment, and other facilities which do not result in a change in functional use, a historically significant element, or historically significant setting. (When wetland impacts are proposed, notification is required to the appropriate office of U.S. Army Corps of Engineers prior to initiation of work)

(7) Routine repair and maintenance to waterfront facilities, including mooring piles, fixed floating piers, existing piers, and unburied power cables.

(8) Minor renovations and additions to waterfront facilities, including mooring piles, fixed floating piers, existing piers, and unburied power cables, which do not require special, site-specific regulatory permits. (Notification is required to the appropriate office of U.S. Army Corps of Engineers prior to initiation of work)

(9) Routine grounds maintenance and activities at units and facilities. Examples include localized pest management actions and actions to maintain improved grounds (such as landscaping, lawn care and minor erosion control measures) that are conducted in accordance with applicable Federal, State, and local directives.

(10) Installation of devices to protect human or animal life, such as raptor electrocution prevention devices, fencing to restrict wildlife movement on to airfields, and fencing and grating to prevent accidental entry to hazardous areas.

(11) New construction on heavily developed portions of Coast Guard property, when construction, use, and operation will comply with regulatory requirements and constraints.

(12) Decisions to decommission equipment or temporarily discontinue use of facilities or equipment. This does not preclude the need to review decommissioning under section 106 of the National Historic Preservation Act.

(13) Demolition or disposal actions that involve buildings or structures when conducted in accordance with regulations applying to removal of asbestos, PCB's, and other hazardous materials, or disposal actions mandated by Congress. In addition, if the building or structure is listed, or eligible for listing, in the National Register of Historic Places, then compliance with section 106 of the National Historic Preservation Act is required.

(14) Outleasing of historic lighthouse properties as outlined in the Programmatic Memorandum of Agreement between the U.S. Coast Guard, Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers.

(15) Transfer of real property from the U.S. Coast Guard to the General Services Administration, Department of the Interior, and other Federal departments and agencies, or as mandated by Congress; and the granting of leases, permits, and easements where there is no substantial change in use of the property.

(16) Renewals and minor amendments of existing real estate licenses or grants for use of government-owned real property where prior environmental review has determined that no significant environmental effects would occur.

(17) New grants or renewal of existing grants of license, easements, or similar

arrangements for the use of existing rights-of-way or incidental easements complementing the use of existing rights-of-way for use by vehicles; for such existing rights-of-way as electrical, telephone, and other transmission and communication lines; water, wastewater, stormwater, and irrigation pipelines, pumping stations, and irrigation facilities; and for similar utility and transportation uses.

(18) Defense preparedness training and exercises conducted on other than U.S. Coast Guard property, where the lead agency or department is not U.S. Coast Guard or Department of Transportation and the lead agency or department has completed its NEPA analysis and documentation requirements.

(19) Defense preparedness training and exercise conducted on U.S. Coast Guard property that do not involve undeveloped property or increase noise levels over adjacent property and that involve a limited number of personnel, such as exercises involving primarily electric simulation or command post personnel.

(20) Simulated exercises, including tactical and logistical exercises that involve small numbers of personnel.

(21) Training of an administrative or classroom nature.

(22) Operations to carry out maritime safety, maritime law enforcement, search and rescue, domestic ice breaking, and oil or hazardous substance removal programs.

(23) Actions performed as a part of U.S. Coast Guard operations and the Aids to Navigation Program to carry out statutory authority in the area of establishment of floating and minor fixed aids to navigation, except electronic sound signals.

(24) Routine movement of personnel and equipment, and the routine movement, handling, and distribution of nonhazardous materials and wastes in accordance with applicable regulations.

(25) U.S. Coast Guard participation in disaster relief efforts under the guidance or leadership of another Federal agency that has taken responsibility for NEPA compliance.

(26) Data gathering, information gathering, and studies that involve no physical change to the environment. Examples include topographic surveys, bird counts, wetland mapping, and other inventories.

(27) Natural and cultural resource management and research activities that are in accordance with interagency agreements and which are designed to improve or upgrade the U.S. Coast Guard's ability to manage those resources.

(28) Contracts for activities conducted at established laboratories and facilities, to include contractor-operated laboratories and facilities, on U.S. Coast Guard-owned property where all airborne emissions, waterborne effluents, external radiation levels, outdoor noise, and solid and bulk waste disposal practices are in compliance with existing applicable Federal, State, and local laws and regulations.

(29) Approval of recreational activities (such as a U.S. Coast Guard unit picnic) which do not involve significant physical alteration of the environment, increase disturbance by humans of sensitive natural habitats, or disturbance of historic properties, and which do not occur in, or adjacent to, areas inhabited by threatened or endangered species.

(30) Review of documents, such as studies, reports, and analyses, prepared for legislative proposals that did not originate in DOT and that relate to matters that are not the primary responsibility of the U.S. Coast Guard.

(31) Planning and technical studies which do not contain recommendations for authorization or funding for future construction, but may recommend further study. This includes engineering efforts or environmental studies undertaken to define the elements of a proposal or alternatives sufficiently so that the environmental effects may be assessed and does not exclude consideration of environmental matters in the studies.

(32) Bridge Administration Program actions which can be described as one of the following:

(a) Modification or replacement of an existing bridge on essentially the same alignment or location. Excluded are bridges with historic significance or bridges providing access to undeveloped barrier islands and beaches. (Approach fills regulated by the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act will require a separate individual or general permit.)

(b) Construction of pipeline bridges for transporting potable water.

(c) Construction of pedestrian, bicycle, or equestrian bridges and stream gauging cableways used to transport people.

(d) Temporary replacement of a bridge immediately after a natural disaster or a catastrophic failure for reasons of public safety, health, or welfare.

(e) Promulgation of operating regulations or procedures for drawbridges.

(f) Identification of advance approval waterways under 33 CFR 115.70.

(g) Any Bridge Program action which is classified as a CE by another Department of Transportation agency acting as lead agency for such action.

(33) Preparation of guidance documents that implement, without substantive change, the applicable Commandant Instruction or other Federal agency regulations, procedures, manuals, and other guidance documents.

(34) Promulgation of the following regulations:

(a) Regulations which are editorial or procedural, such as those updating addresses or establishing application procedures.

(b) Regulations concerning internal agency functions or organization or personnel administration, such as funding, establishing Captain of the Port boundaries, or delegating authority.

(c) Regulations concerning the training, qualifying, licensing, and disciplining of maritime personnel.

(d) Regulations concerning manning, documentation, admeasurement, inspection, and equipping of vessels.

(e) Regulations concerning equipment approval and carriage requirements.

(f) Regulations establishing, disestablishing, or changing the size of Special Anchorage Areas or anchorage grounds.

(g) Regulations establishing, disestablishing, or changing Regulated Navigation Areas and security or safety zones.

(h) Special local regulations issued in conjunction with a regatta or marine parade; provided that, if a permit is required, the environmental analysis conducted for the permit included an analysis of the impact of the regulations.

(i) Regulations in aid of navigation, such as those concerning rules of the road, International Regulations for the Prevention of Collisions at Sea (COLREGS), bridge-to-bridge communication, vessel traffic services, and marking of navigation systems.

(35) Approvals of regatta and marine parade event permits for the following events:

(a) Events that are not located in, proximate to, or above an area designated as environmentally sensitive by an environmental agency of the Federal, State, or local government. For example, environmentally sensitive areas may include such areas as critical habitats or migration routes for endangered or threatened species or important fish or shellfish nursery areas.

(b) Events that are located in, proximate to, or above an area designated as environmentally sensitive by an environmental agency of the Federal, State, or local government and for which the U.S. Coast Guard determines, based on consultation with the Government agency, that the event will not significantly affect the environmentally sensitive area.

[FR Doc. 96–31143 Filed 12–6–96; 8:45 am]

BILLING CODE 3710–92–M

DEPARTMENT OF ENERGY

Final Public Meeting on Electricity Restructuring

AGENCY: Office of Policy, U.S. Department of Energy.

ACTION: Notice of public meetings.

SUMMARY: On November 8, 1996, the U.S. Department of Energy announced two additional public meetings to solicit input from affected constituencies before formulating the Department's recommendation respecting electric industry restructuring (61 FR 57858). This announcement details the location of the southeast regional public meeting in Atlanta, GA. The last of four public meetings, the Atlanta meeting will provide an opportunity to revisit issues already covered as well as new ones such as research and development, the federal role in power marketing, and tax issues. Participants will be allowed to address other topics pertaining to electric industry restructuring.

DATE: December 12, 1996.

ADDRESS: Atlanta Hilton and Towers, 255 Courtland Street, NE, Atlanta, Georgia, 404.659.2000.

INFORMATION HOTLINE: (423) 576–3610.

Issued in Washington, D.C., December 3, 1996.

Marc Chupka,

Acting Assistant Secretary for Policy and International Affairs.

[FR Doc. 96–31213 Filed 12–6–96; 8:45 am]

BILLING CODE 6450–01–P

Bonneville Power Administration

Delivery of the Canadian Entitlement

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of Availability of Record of Decision (ROD).

SUMMARY: The United States Entity (the Administrator of the Bonneville Power Administration [BPA] and the Division Engineer, North Pacific Division of the US Army Corps of Engineers [Corps]) has decided to fulfill its obligation under the Columbia River Treaty (Treaty) between the United States of America (United States) and Canada by delivering Canada's Entitlement under the Treaty to points on the border between Canada and the United States near Blaine, Washington and Nelway, British Columbia (BC). Delivering the full Entitlement at existing interconnections at those locations will require no new transmission facilities in the United States or in Canada. However, construction of cross-Cascades transmission in the United States would be accelerated, to as early as 2005. Delivery of the Canadian Entitlement will begin April 1, 1998.

The Treaty, signed in 1961, led to the construction of three storage dams on the Columbia River system in Canada and one in the United States. Under the Treaty, Canada and the United States equally share the benefits of the additional power that can be generated at dams downstream in the United States because of the storage at the upstream Treaty reservoirs. Canada's half of the downstream power benefits, the Canadian Entitlement (Entitlement), is calculated to be approximately 1,200 to 1,500 megawatts (MW) of capacity and 550 to 600 average megawatts (aMW) of energy. Canada sold its share of the power benefits for 30-year periods to a consortium of United States utilities. The 30-year sale will begin to expire in 1998, when the first installment of the Entitlement must be delivered to Canada. The Treaty specifies that the Entitlement must be delivered to Canada at a point on the border near Oliver, BC, unless the parties agree to other arrangements. An interim agreement, signed in 1992, allowed the Entitlement to be delivered over existing facilities between 1998 and 2003.

In the Delivery of the Canadian Entitlement Final Environmental Impact Statement (DOE/EIS–0197, issued in January 1996), the United States Entity evaluated the potential environmental impacts of a range of alternatives for delivering the Entitlement to Canada, including various combinations of delivery points, power purchases, and resource development. Over a period of several years, the United States and Canadian Entities made a concerted effort to find a mutually agreeable alternative to delivery at Oliver on commercially reasonable terms. To comply with the Treaty, the United States Entity needed to be able to deliver the full Entitlement to Canada by March 31, 2003, when the interim agreement expired. In a Record of Decision (ROD) issued March 12, 1996, the United States Entity documented its decision to deliver the full Entitlement to Oliver. That decision reflected the inability of the United States and Canadian Entities to agree to an alternative arrangement to the Treaty-specified delivery point.

Delivery at Oliver would have required the construction and operation of a new single circuit, 500-kilovolt line from Grand Coulee or Chief Joseph Substation to the border. The United States Entity issued a Notice of Intent (NOI) to prepare the Oliver Delivery Project EIS on March 25, 1996, and began scoping activities to support that EIS.

Subsequent discussions have led to a mutually agreed upon alternative for Entitlement delivery. The United States and Canadian Entities are prepared to execute an Entity Agreement that would replace delivery of the Entitlement to Oliver with delivery of the Entitlement at existing transmission interconnections between the United States and Canada in the vicinity of Blaine, Washington and Nelway, BC.

The proposed Entity Agreement will supersede and terminate the interim agreement. The proposed Agreement does not address delivery of the Entitlement in the United States. If the United States and Canadian Entities propose delivery in the United States, the United States Entity will review the Delivery of the Canadian Entitlement EIS to ensure that the impacts are adequately analyzed. A decision to dispose of the Entitlement in the United States would be the subject of an additional United States Entity ROD.

This new ROD replaces the March 12, 1996 ROD and withdraws the NOI for the Oliver Delivery Project EIS.

ADDRESS: Copies of the ROD and Environmental Impact Statement may be obtained by calling BPA's toll-free document request line: 1–800–622–4520.

FOR FURTHER INFORMATION, CONTACT: Katherine Semple Pierce—EC, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon, 97208–3621, phone number (503) 230–3962, fax number (503) 230–5699.

Issued by the United States Entity in Portland, Oregon, on November 8, 1996.

Randall W. Hardy,

Chair.

Bartholomew B. Bohn, III,

U.S. Army Corps of Engineers.

[FR Doc. 96–31212 Filed 12–6–96; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. RP97–99–000]

Algonquin LNG, Inc.; Notice of Proposed Changes in FERC Gas Tariff

December 3, 1996.

Take notice that on November 26, 1996, Algonquin LNG, Inc. (Algonquin LNG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following Revised tariff sheets, with an effective date of December 31, 1996:

Second Revised Sheet No. 32
Third Revised Sheet No. 36
Second Revised Sheet No. 47

Algonquin LNG states that this filing is being made in order to comply with the regulations promulgated by Order Nos. 581 and 582, Docket Nos. RM95–3–000 and RM95–4–000 issued on September 28, 1995, FERC Stats 7 Regs.

Algonquin states that copies of this filing were mailed to all customers of Algonquin and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to

the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–31186 Filed 12–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–124–000]

ANR Pipeline Company; Notice of Termination of Gathering Service and Proposed Changes in FERC Gas Tariff

December 3, 1996.

Take notice that on November 29, 1996, ANR Pipeline Company (ANR) tendered for filing a notice of termination of gathering service upon the transfer of ANR's Southwest Area gathering facilities to GPM Gas Corporation (GPM) and ANR Field Services Company (ANRFS). GPM and ANRFS will continue to offer gathering service to all existing shippers who desire such service.

As part of the filing, ANR also tendered, as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to be effective January 1, 1997, which tariff sheets effectuate the abandonment and termination of service:

Second Revised Volume No. 1

Fifth Revised Sheet No. 6;
Second Revised Sheet No. 68G;
Second Revised Sheet No. 68H;
Third Revised Sheet No. 91.

ANR states that this filing is in compliance with the following Commission orders: (1) ''Order Authorizing Abandonment and Determining Jurisdictional Status of Facilities,'' issued August 2, 1996, at Docket No. CP96–186–000, 76 FERC ¶ 61,153 (1996); (2) ''Order Authorizing Abandonment and Determining Jurisdictional Status of Facilities,'' issued November 27, 1996, at Docket Nos. CP96–185–000 and CP96–188–000; (3) ''Order Authorizing Abandonment and Determining Jurisdictional Status of Facilities,'' issued November 20, 1996, at Docket No. CP97–64–000. ANR states that the filing is also in compliance with Section 4 of the Natural Gas Act (NGA); and Part 154, Subpart C of the Commission's Regulations under the NGA.

ANR has proposed an effective date of December 31, 1996, for the termination of gathering services on its Southwest Area gathering facilities which will be transferred to GPM and ANRFS and an effective date of January 1, 1996 for the tariff sheets.

ANR states that in accordance with the Commission's regulations, a copy of the filing has been mailed to all of ANR's customers and interested state commissions as well as to all parties to the proceedings in Docket Nos. CP96–185–000, CP186–000, CP96–188–000 and CP97–64–000.

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, 888 First Street, N.E., Washington, D.C., 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. Under section 154.210 of the Commission's Regulation, all such motions or protests should be filed on or before December 11, 1996. 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. 96–31173 Filed 12–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–113–000]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

December 3, 1996.

Take notice that on November 27, 1996, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to become effective December 1, 1996:

Seventeenth Revised Sheet No. 8
Nineteenth Revised Sheet No. 9
Eighteenth Revised Sheet No. 13
Nineteenth Revised Sheet No. 16
Twenty-Second Revised Sheet No. 18

ANR states that the above-referenced tariff sheets are being filed pursuant to the approved mechanism of its Tariff to implement recovery of $8.3 million of costs that are associated with the obligations to Dakota Gasification Company (Dakota). ANR proposes a reservation surcharge applicable to its Part 284 firm transportation customers to collect ninety percent (90%) of the Dakota costs and an adjustment to the maximum base tariff rates of Rate Schedule ITS and overrun rates applicable to Rate Schedule FTS–2 so as to recover the remaining ten percent (10%). ANR advises that the proposed changes would increase current quarterly Dakota Above-Market cost recoveries from $6.2 million to $8.3 million, based upon costs incurred from August 1996 through October 1996.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–31194 Filed 12–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–118–000]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

December 3, 1996.

Take notice that on November 27, 1996, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to become effective December 1, 1996:

Eighteenth Revised Sheet No. 8
Twentieth Revised Sheet No. 9
Nineteenth Revised Sheet No. 13
Twentieth Revised Sheet No. 16
Twenty-Third Revised Sheet No. 18

ANR states that the above-referenced tariff sheets are being filed to commence recovery of approximately $2.2 million of gas supply realignment (GSR) and carrying costs that have been incurred by ANR during the period of May, 1994 through August 31, 1996 as a result of the implementation of Order Nos. 636, *et seq.* ANR proposes a reservation fee surcharge applicable to its Part 284 firm transportation customers to recover ninety percent (90%) of the GSR costs, and an adjustment to the maximum base tariff rates applicable to Rate Schedule ITS and overrun service rendered pursuant to Rate Schedule FTS–2, so as to recover the remaining ten percent (10%).

ANR advises that the proposed charges would increase its GSR

surcharge from $0.041 to $0.053, pending expiration of its existing GSR surcharge.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–31198 Filed 12–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–121–000]

Carnegie Interstate Pipeline Company; Notice of Compliance Filing

December 3, 1996.

Take notice that on November 27, 1996, Carnegie Interstate Pipeline Company (CIPCO), tendered for filing in compliance with the letter order issued in the above-captioned proceeding on October 31, 1996, the following revised tariff sheet to its FERC Gas Tariff, Original Volume No. 1:

Substitute Eleventh Revised Sheet No. 74

CIPCO proposed that the tariff sheet become effective on November 1, 1996.

CIPCO states that the purpose of the compliance filing is to credit $135,000 to its subaccount for Unrecovered Transportation Costs pursuant to the terms of the Commission-approved settlement in Docket No. RP96–110–000 et al. As directed by the Commission in its letter order approving the settlement in that proceeding, CIPCO filed a substitute sheet to reflect this credit and to revise is TCR Surcharge accordingly effective November 1, 1996.

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, 888 First Street, N.E., Washington, D.C. 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–31201 Filed 12–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP96–492–000 and CP96–606–000]

CNG Transmission Corporation, Texas Eastern Transmission; Notice of Site Visit

December 3, 1996.

On December 9, 10, and 11, 1996, the Office of Pipeline Regulation (OPR) staff will inspect with CNG Transmission Corporation (CNG) personnel the locations related to the facilities proposed by CNG in New York, Pennsylvania, Maryland, and Virginia (Seasonal Service Expansion Project).

On December 12, 1996, the OPR staff will inspect with Texas Eastern Transmission Corporation (Texas Eastern) personnel the locations related to the facilities proposed by Texas Eastern in Pennsylvania (Winternet Project).

All interested parties may attend. Those planning to attend the site inspections must provide their own transportation.

For further information on procedural matters, call Jennifer Goggin at (202) 208–2226.

Lois D. Cashell,

Secretary.

[FR Doc. 96–31178 Filed 12–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP97–124–000]

CNG Transmission Corporation; Notice of Application

December 3, 1996.

Take notice that on November 25, 1996, CNG Transmission Corporation (CNGT), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP97–124–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon in place 2,640 feet of 16-inch pipeline, known as Line H–45, located in Doddridge County, West Virginia, which was authorized in Docket No. G–290,[1] all as more fully set forth in the application of file with the Commission and open to public inspection.

CNGT proposes to abandon by retirement a portion of Line H–45 totaling 2,640 feet in length due to age. CNGT states that the line was constructed in 1912 and is no longer needed for service; natural gas production from wells which used this line has been rerouted to other gathering lines. CNGT states that no producer, shipper or consumer will be affected by the retirement of the subject line.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 24, 1996, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

[1] See *Hope Natural Gas Company,* 3 FPC 994 (1943).

unnecessary for CNGT to appear or be represented at the hearing.

Lois D. Cashell,

Sectetary.

[FR Doc. 96–37181 Filed 12–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–122–000]

Colorado Interstate Gas Company; Notice of Proposed Changes in FERC Gas Tariff

December 3, 1996.

Take notice that on November 27, 1996, Colorado Interstate Gas Company (CIG), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Twentieth Revised Sheet No. 11, with an effective date of January 1, 1997.

CIG states that the filing was made pursuant to CIG's FERC Gas Tariff, First Revised Volume No. 1, General Terms and Conditions, Article 21.7 (Account No. 858 Stranded Costs).

CIG states that copies of the filing were served upon the company's jurisdictional firm customers and interested state commissions.

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, 888 First Street, N.W., Washington D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–31167 Filed 12–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP96–213–000, CP96–213–001, and CP96–559–000]

Columbia Gas Transmission Corporation; Texas Eastern Transmission Corporation; Notice of Site Visit

December 3, 1996.

On December 9, 10 and 11, 1996, the Office of Pipeline Regulation (OPR) staff will conduct a site visit of facilities proposed by Texas Eastern Transmission Corporation (Texas Eastern) in Greene, Fayette, Somerset, and Fulton Counties, Pennsylvania and Columbia Gas Transmission Corporation (Columbia) in Bedford County Pennsylvania in the above dockets.

On December 9 and 10, 1996 the staff will inspect:

- the Wind Ridge Discharge Replacement, Greene County, PA;
- the Uniontown Discharge Replacement in Somerset County, PA; and
- the Bedford Discharge Replacement in Fulton County, PA.

On December 11, 1996 the staff will inspect:

- the Artemas Storage Field facilities in Bedford County, PA.

All interested parties may attend. Those planning to attend must provide their own transportation.

For further procedural information, call Howard Wheeler, (202) 208–2299.

Lois D. Cashell,

Secretary.

[FR Doc. 96–31177 Filed 12–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–120–000]

Columbia Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

December 3, 1996.

Take notice that on November 27, 1996, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to become effective January 1, 1997.

Original Sheet No. 99I
Original Sheet No. 99J

Columbia states that the instant filing is being submitted pursuant to Article VII, Section C, Accrued-But-Not-Paid Gas Costs, of the ''Customer Settlement'' in Docket No. GP94–02, et al., approved by the Commission on June 15, 1995 (71 FERC ¶ 61,337 (1995)). The Customer Settlement became effective on November 28, 1995, when the Bankruptcy Court's November 1, 1995 order approving Columbia's Plan of Reorganization became final. Under the terms of Article VII, Section C, Columbia is entitled to recover amounts for Accrued-But-Not-Paid Gas Costs. As directed by Article VII, Section C, the tariff sheets contained herein are being filed in accordance with Section 39 of the General Terms and Conditions of the Tariff, to direct bill the Accrued-But-Not-Paid Gas Costs that have been paid subsequent to November 28, 1995.

Columbia states that the instant filing reflects Accrued-But-Not-Paid Gas Costs in the amount of $516,483.41 plus applicable FERC interest of $9,700.98. This is Columbia's fourth filing pursuant to Article VII, Section C, and Columbia reserves the right to make the appropriate additional filings pursuant to that provision. The allocation factors on Appendix F of the Customer Settlement were used as prescribed by Article VII, Section C.

Columbia states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected state commissions. Columbia also agrees to make available for this filing the data that it was required to provide in its June 13, 1996 compliance filing in Docket No. RP96–140–002 pursuant to a protective agreement.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. 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. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–31200 Filed 12–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–119–000]

El Paso Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

December 3, 1996.

Take notice that on November 27, 1996, El Paso Natural Gas Company (El Paso) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the following tariff sheets, to become effective January 1, 1997:

Third Revised Sheet No. 22
Ninth Revised Sheet No. 23
Tenth Revised Sheet No. 24
Ninth Revised Sheet No. 26
Eighth Revised Sheet No. 27
Eighth Revised Sheet No. 28
Fourth Revised Sheet No. 30
Second Revised Sheet No. 200
Second Revised Sheet No. 241
Second Revised Sheet No. 361

El Paso states that the tendered tariff sheets will, upon their acceptance, remove references to its Washington Ranch Surcharges and Monthly Billed Amounts and the related tariff sheets since the amortization period for the Washington Ranch costs ends on December 31, 1996. Additionally, El Paso states that it has included schedules showing the interest amounts to be credited to shippers due to an overcollection of interest.

El Paso requested that the Commission grant waiver of Section 31.4(b)(iv) of the General Terms and Conditions contained in its Volume No. 1–A Tariff so that El Paso may apply the interest credit referenced herein to its December, 1996 invoices to be mailed in January, 1997.

El Paso states that copies of the filing were served upon all of El Paso's interstate pipeline system transportation customers and interested state regulatory commissions.

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, 888 First Street, N.E. Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–31199 Filed 12–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–123–000]

Kern River Gas Transmission Co.; Notice of Proposed Changes in FERC Gas Tariff

December 3, 1996.

Take notice that on November 27, 1996, Kern River Gas Transmission (Kern River) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to become effective December 27, 1996:

Seventh Revised Sheet No. 5
Seventh Revised Sheet No. 6

Kern River states that the purpose of this filing is to comply with the Commission's Regulations adopted by Order No. 582, *et seq.*[1] Specifically, the filing is being submitted to comply with 18 CFR Section 154.107(b) which states that:

> All rates must be stated clearly in cents or dollars and cents per thermal unit. The unit of measure must be stated for each component of a rate.

Kern River also states that all other requirements adopted by Order No. 582 *et seq.* have been addressed by Kern River in its May 3, 1996 filing in Docket No. RP96–231.

Any person desiring to be heard or protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–31172 Filed 12–6–96; 8:45 am]

BILLING CODE 6717–01–M

Koch Gateway Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

[Docket No. RP97–107–000]

December 3, 1996

Take notice that on November 27, 1996, Koch Gateway Pipeline Company (Koch) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, to become effective January 1, 1997.

Sixth Revised Sheet No. 1
Sixteenth Revised Sheet No. 20
Fifteenth Revised Sheet No. 21
Sixteenth Revised Sheet No. 22
Tenth Revised Sheet No. 23
Sixteenth Revised Sheet No. 24
Fifth Revised Sheet No. 1412
Second Revised Sheet No. 3200
First Revised Sheet No. 3201

Koch states that the purpose of this filing is to remove the Gas Research Institute (GRI) surcharge from Koch's effective tariff sheets and all applicable references to GRI. Koch states that it will continue to collect and remit to GRI, all surcharge revenue for which it receives compensating revenues from shippers through December 31, 1996.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell

Secretary.

[FR Doc. 96–31190 Filed 12–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–108–000]

Koch Gateway Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

December 3, 1996.

Take notice that on November 27, 1996, Koch Gateway Pipeline Company (Koch) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, to become effective January 1, 1997.

Seventh Revised Sheet No. 1
Fourth Revised Sheet No. 2
Second Revised Sheet No. 28
Second Revised Sheet No. 600
Original Sheet No. 601
First Revised Sheet No. 602
Original Sheet No. 603
Original Sheet No. 604
Original Sheet No. 605
Original Sheet No. 606
First Revised Sheet No. 802
Second Revised Sheet No. 803
First Revised Sheet No. 804
Third Revised Sheet No. 805
Third Revised Sheet No. 806
Fourth Revised Sheet No. 807
Fourth Revised Sheet No. 808
Third Revised Sheet No. 1807
Fourth Revised Sheet No. 1808
Fourth Revised Sheet No. 1809

[1] Filing and Reporting Requirements for Interstate Natural Gas Company Rate Schedules and Tariffs, Order No. 582, FERC Stats. and Regs., Reg. Preambles ¶ 31,024 (1995); *order on reh'g.*, Order No. 582–A, FERC Stats, and Regs., Reg. Preambles ¶ 31,034 (1996).

Second Revised Sheet No. 4600
Original Sheet No. 4601
Original Sheet No. 4602

Koch states that the purpose of this filing is to implement a new nominated interruptible gas parking and lending service under Rate Schedule PAL. Koch states that it is offering the optional service as a means for shippers to avoid imbalance penalties and defer deliveries or receipts of gas.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–31191 Filed 12–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–115–000]

Koch Gateway Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

December 3, 1996.

Take notice that on November 27, 1996, Koch Gateway Pipeline Company (Koch) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No 1, the following tariff sheets to be effective December 27,1996:

Sixth Revised Sheet No. 2705
Sixth Revised Sheet No. 2706

Koch states this filing is submitted as an application pursuant to Section 4 of the Natural Gas Act, 15 U.S.C. ¶ 717c (1988), and Part 154 of the Rules and Regulations of the Federal Energy Regulatory Commission.

Koch states that the above tariff sheets are being filed to revise the procedure for displacing nominated interruptible transportation which is paying less than the maximum rate.

Koch states that copies of the filing are being mailed to Koch's jurisdictional customers and interested state regulatory agencies.

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, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's regulations. All such motions or protest must be filed in accordance Section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–31195 Filed 12–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–116–000]

Koch Gateway Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

December 3, 1996.

Take notice that on November 27, 1996, Koch Gateway Pipeline Company (Koch) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets to be effective January 1, 1997:

Second Revised Sheet No. 1408
Fourth Revised Sheet No. 1409
Second Revised Sheet No. 1410
Third Revised Sheet No. 1411
Sixth Revised Sheet No. 1412
First Revised Sheet No. 1413
Original Sheet No. 1414
Original Sheet No. 1415

Koch states this filing is submitted as an application pursuant to Section 4 of the Natural Gas Act, 15 U.S.C. ¶ 717c (1988), and Part 154 of the Rules and Regulations of the Federal Energy Regulatory Commission.

In light of the tariff changes being made to implement GISB Standards on Koch's System, certain other tariff changes have become necessary. The changes reflected in this filing apply to Section 7.4 and Section 7.5 of Koch's tariff. The changes apply only to the bid period associated with the posting of new firm transportation. The remaining tariff changes are editorial in nature and remove from Section 7.4 and Section 7.5 references to the bidding procedures set forth in Section 29 of Koch's tariff.

Koch states that copies of the filing are being mailed to Koch's jurisdictional customers and interested state regulatory agencies.

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, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's regulations. All such motions or protest must be filed in accordance with Section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–31196 Filed 12–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–102–000]

Mississippi River Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

December 3, 1996.

Take notice that on November 26, 1996, Mississippi River Transmission Corporation (MRT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets with a proposed effective date of January 1, 1997:

Twenty-First Revised Sheet No. 5
Twenty-First Revised Sheet No. 6
Eighteenth Revised Sheet No. 7

MRT states that the purpose of this filing is to adjust its rates to reflect additional Gas Supply Realignment Costs (GSRC) attributable to MRT's implementation of Order No. 636 pursuant to Section 16.3 of the General Terms and Conditions of its FERC Gas Tariff, Third Revised Volume No. 1.

MRT states that a copy of this filing is being mailed to each of MRT's customers and to the state commissions of Arkansas, Illinois and Missouri.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.W., Washington D.C. 20426, in accordance with 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in

determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–31189 Filed 12–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–130–000]

National Fuel Gas Supply Corporation; Notice of Proposed Changes in FERC Gas Tariff

December 3, 1996.

Take notice that on November 29, 1996, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Nineteenth Revised Sheet No. 5, with a proposed effective date of January 1, 1997.

National states that the proposed tariff sheets reflect an adjustment to recover through National's EFT rate the costs associated with the Transportation and Storage Cost Adjustment provision set forth in Section 23 of the General Terms and Conditions of National's FERC Gas Tariff.

National further states that copies of this compliance filing were served upon the company's jurisdictional customers and the regulatory commissions of the States of New York, Ohio, Pennsylvania, Delaware, Massachusetts, and New Jersey.

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, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. 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. 96–31168 Filed 12–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–101–000]

NorAm Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

December 3, 1996.

Take notice that on November 26, 1996, NorAm Gas Transmission Company (NGT) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following revised tariff sheet to be effective December 1, 1996:

Seventh Revised Sheet No. 13

The three-month period authorized by FERC in Docket No. RP96–329 for collection of Gas Supply Realignment Costs expires November 30, 1996. Therefore, this tariff sheet is filed herewith to remove the surcharge currently in effect.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protest must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant 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. 96–31188 Filed 12–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP97–128–000]

Northern Natural Gas Company; Notice of Request Under Blanket Authorization

December 3, 1996.

Take notice that on November 27, 1996, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed in Docket No. CP97–128–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to operate and maintain an existing delivery point and appurtenant facilities, initially constructed pursuant to Section 311(a) of the Natural Gas Policy Act, as a jurisdictional delivery point to provide natural gas deliveries to United States Gypsum Company (US Gypsum), under Northern's blanket certificate issued in Docket No. CP82–401–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northern requests authorization to operate and maintain the Fort Dodge #2 TBS and appurtenant facilities, an existing delivery point located in Webster County, Iowa, to provide natural gas deliveries to US Gypsum pursuant to Subpart G of Part 284 of the Commission's Regulations. Northern states that the estimated volumes to be delivered to US Gypsum at the Fort Dodge #2 TBS are 4,000 MMBtu on a peak day and 1,460,000 MMBtu on an annual basis. Northern further states that the proposed volumes to be delivered to US Gypsum will be within the currently authorized level of firm entitlement for US Gypsum pursuant to Northern's currently effective throughout agreements.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–31182 Filed 12–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–111–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

December 3, 1996.

Take notice that on November 27, 1996, Northern Natural Gas Company (Northern), tendered for filing to become part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, with an effective date of January 1, 1997:

29 Revised Sheet No. 50
29 Revised Sheet No. 51

Northern states that the filing revises the current GSR surcharge which is designed to recover Northern's gas supply realignment costs and applicable carrying charges. Therefore, Northern has filed the Twenty Ninth Revised Sheet Nos. 50 and 51 to revise the GSR surcharge, effective January 1, 1997.

Northern states that copies of the filing were served upon Northern's customers and interested State Commissions.

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, 888 First Street, N.E., Washington, D.C., 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken in this proceeding, but will not serve to make protestant a party 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 inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–31192 Filed 12–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–112–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

December 3, 1996.

Take notice that on November 27, 1996, Northern Natural Gas Company (Northern), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, with an effective date of January 1, 1997:

30 Revised Sheet No. 50
30 Revised Sheet No. 51
5 Revised 30 Revised Sheet No. 53

Northern states that the filing revises the current Stranded Account No. 858 and Stranded Account No. 858-Reverse Auction surcharges, which are designed to recover costs incurred by Northern related to its contracts with third-party pipelines. Therefore, Northern has filed Thirtieth Revised Sheet Nos. 50 and 51 and Fifth Revised Thirtieth Revised Sheet No. 53 to be effective January 1, 1997.

Northern states that copies of this filing were served upon the Company's customers and interested state commissions.

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, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken in this proceeding, but will not serve to make protestant a party to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–31193 Filed 12–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–100–000]

Northwest Pipeline Corporation; Notice of Proposed Changes in FERC Gas Tariff

December 3, 1996.

Take notice that on November 26, 1996, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, the following tariff sheets, to become effective December 27, 1996:

Third Revised Volume No. 1

Title Page
Third Revised Sheet No. 1
First Revised Sheet No. 106
1st Rev Third Revised Sheet No. 200
First Revised Sheet No. 211
First Revised Sheet No. 212
Second Revised Sheet No. 238
Third Revised Sheet No. 240
Second Revised Sheet No. 245
Fifth Revised Sheet No. 246
Second Revised Sheet No. 247
Fourth Revised Sheet No. 248
Third Revised Sheet No. 249
1st Rev Sub First Revised Sheet No. 272
1st Rev First Revised Sheet No. 273
Third Revised Sheet No. 282
First Revised Sheet No. 284
First Revised Sheet No. 294
Sixth Revised Sheet No. 375

Original Volume No. 2

Title Page

Northwest states that this filing is submitted to conform Northwest's tariff to the updated regulations promulgated in Order Nos. 581 and 582. Northwest states that it has, among other things, removed the index of customers from its tariff, eliminated its purchased gas adjustment (PGA) tariff provisions and updated 18 CFR part 154 references.

Any person desiring to be heard or protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–31187 Filed 12–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–117–000]

Paiute Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

December 3, 1996.

Take notice that on November 27, 1996, Paiute Pipeline Company (Paiute) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the following tariff sheets, to become effective December 27, 1996:

Title Page
First Revised Sheet No. 1
Second Revised Sheet No. 21A
First Revised Sheet No. 29
First Revised Sheet No. 93
First Revised Sheet No. 97
First Revised Sheet No. 98
First Revised Sheet No. 99
Second Revised Sheet No. 160

Paiute states that the purpose of this filing is to comply with the requirements of Order Nos. 582 and 582–A, issued in Docket No. RM95–3, in which the Commission reorganized, revised, and updated its regulations governing the form, composition, and filing of rates and tariffs for interstate pipeline companies.

Paiute indicates that the tendered tariff sheets revise Paiute's tariff to:

(1) include a mailing address, a courier address, a telephone number, and a fax number on the title page;

(2) expand the table of contents to include the sections of the general terms and conditions;

(3) add a statement describing the order in which Paiute discounts its rates;

(4) delete the index of customers from the tariff;

(5) update references to sections of the Commission's regulations that have been changed; and

(6) clarify that all of the General Terms and Conditions apply to Rate Schedule IT–1.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–31197 Filed 12–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–127–000]

Questar Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

December 3, 1996.

Take notice that on November 29, 1996, Questar Pipeline Company, tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective January 1, 1997:

Second Revised Sheet No. 150
Second Revised Sheet No. 151
First Revised Sheet No. 164
Second Revised Sheet No. 165
Original Sheet No. 165A
Third Revised Sheet No. 169
Original Revised Sheet No. 169A

Questar states that consistent with its continued effort to meet customer needs and expectations, and in response to customer requests for increased flexibility in providing ISS service, it is seeking Commission approval of proposed tariff revisions that will (1) eliminate the requirement that there be uncommitted Clay Basin firm storage capacity in order to offer ISS service, (2) permit ISS service for any period of time and (3) require the withdrawal of ISS working gas within 30 days of notice that capacity is required to meet the firm requirements of Rate Schedule FSS shippers. Questar has requested waiver of 18 CFR 154.207 so that the tendered tariff sheets may become effective as proposed.

Questar states further that a copy of this filing has been served upon its customers, the Public Service Commission of Utah and the Wyoming Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Any person wishing to become a party must file a motion to intervene. 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. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–31175 Filed 12–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–128–000]

South Georgia Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

December 3, 1996.

Take notice that on November 29, 1996, South Georgia Natural Gas Company (South Georgia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the tariff sheets set forth on Appendix A to the filing, to become effective January 1, 1997.

South Georgia states that the purpose of this filing is to comply with Commission Order Nos. 582 and 582–A requiring, inter alia, that rates be stated on a thermal basis. South Georgia proposes to state all its rates on a Dekatherm (Dth) basis effective January 1, 1997, since the Commission has approved Dth to be the standard unit for nominations, allocations and invoicing. Accordingly South Georgia has changed all references in its Tariff from MMBtu to Dth in addition to stating its reservation charge and calculation for firm service on a Dth basis. These changes do not impact firm shippers' contract quantities (in Mcf) and do not substantively alter the charges shippers pay for service. South Georgia has also made other clarifications to its tariff required by the orders.

South Georgia submits that the Commission should grant it all waivers necessary to place these provisions into effect January 1, 1997.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR Sections 385.211 and 385.214). All such motions and protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–31176 Filed 12–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–132–000]

Southern Natural Gas Company; Notice of Settlement Compliance Filing

December 3, 1996.

Take notice that on November 29, 1996, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheets to become effective January 1, 1997:

9th Revised Sheet No. 14A
16th Revised Sheet No. 15A

9th Revised Sheet No. 16A
16th Revised Sheet No. 17A
7th Revised Sheet No. 18A

Southern asserts that the purpose of this filing is to comply with the Commission's Order issued on September 29, 1995, which approved the Stipulation and Agreement (Settlement) filed by Southern on March 15, 1995 in Docket Nos. RP89–224–012, et al. In accordance with Article VII of the Settlement, Southern has made this filing to recover a GSR volumetric surcharge based on an estimate of its unrecovered GSR costs as of December 31, 1996 and its projected 1997 costs.

Paragraph 17 of Article VII of the Settlement provides for Southern to file by December 1 of each year to collect unrecovered gas supply realignment (GSR) costs through its GSR volumetric surcharge, to be effective for the parties supporting the Settlement beginning January 1 of the following year. The proposed GSR volumetric surcharge of $.0074/MMBtu replaces the $.0628/MMBtu surcharge currently in effect.

Southern states that copies of the filing were served upon Southern's customers, intervening parties and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. 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 Southern's filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–31169 Filed 12–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–133–000]

Southern Natural Gas Company; Notice of Revised Tariff Sheets

December 3, 1996.

Take notice that on November 29, 1996, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, for following tariff sheets, to become effective January 1, 1997:

Nineteenth Revised Sheet No. 14
Tenth Revised Sheet No. 14a
Forty-First Revised Sheet No. 15
Seventeenth Revised Sheet No. 15a
Nineteenth Revised Sheet No. 16
Tenth Revised Sheet No. 16a
Forty-First Revised Sheet No. 17
Seventeenth Revised Sheet No. 17a
Twenty-fourth Revised Sheet No. 18
Eighth Revised Sheet No. 18a

Section 14.2 of Southern's Tariff provides for an annual reconciliation of Southern's storage costs to reflect differences between the cost to Southern of its storage gas inventory and the amount Southern receives for such gas arising out of (I) the purchase and sale of such gas in order to resolve shipper imbalances; and (ii) the purchase and sale of gas as necessary to maintain an appropriate level of storage gas inventory for system management purposes. In the instant filing, Southern submits the rate surcharge to the transportation component of its rates under Rate Schedules FT, FT–NN, and IT resulting from the fixed and realized losses it has incurred from the purchase and sale of its storage gas inventory.

Southern states that copies of the filing were serve upon Southern's customers and interested state commissions.

Any person desiring to be heard or to protests said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining 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 Southern's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–31170 Filed 12–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–135–000]

Southern Natural Gas Company; Notice of GSR Cost Recovery Filing

December 3, 1996.

Take notice that on November 29, 1996, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheets, to become effective January 1, 1997.

Tariff Sheets Applicable to Contesting Parties:

Eighteenth Revised Sheet No. 14
Fortieth Revised Sheet No. 15
Eighteenth Revised Sheet No. 16
Fortieth Revised Sheet No. 17
Twenty-Third Revised Sheet No. 18
Twenty-Sixth Revised Sheet No. 29

Tariff Sheets Applicable to Supporting Parties:

Eighth Revised Sheet No. 14a
Fifteenth Revised Sheet No. 15a
Seventh Revised Sheet No. 16a
Fifteenth Revised Sheet No. 17a

Southern set forth in the filing its revised demand surcharges and revised interruptible rates that will be charged in connection with its recovery of GSA costs associated with the payment of price differential costs under unrealigned gas supply contracts or contract buyout costs associated with continuing realignment efforts as well as sales function costs during the period August 1, 1996 through October 31, 1996. These GSR costs have arisen as a direct result of customers' elections during restructuring to terminate their sales entitlements under Order No. 636.

Southern states that copies of the filing were served upon Southern's customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. 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 Southern's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–31171 Filed 12–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–125–000]

Southern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

December 3, 1996.

Take notice that on November 29, 1996, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the tariff sheets set forth on Appendix A to the filing, to become effective January 1, 1997.

Southern states that the purpose of this filing is to comply with Commission Order Nos. 582 and 582–A requiring, inter alia, that all rates be stated on a thermal basis. Southern proposes to state all of its rates on a Dekatherm (Dth) basis effective January 1, 1997, since the Commission has approved Dth to be the standard unit for nominations, allocations and invoicing.

Accordingly, Southern has changed all references in its Tariff from MMBtu to Dth in addition to stating its reservation charges and calculations for firm service on a Dth basis. These changes do not impact firm shippers' contract quantities (in Mcf) and do not substantively alter the charges shippers pay for service. Southern has also made other clarifications to its Tariff required by the orders.

Southern submits that the Commission should grant it all waivers necessary to place these provisions into effect January 1, 1997.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR Sections 385.211 and 385.214). All such motions and protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–31174 Filed 12–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–97–000]

Tennessee Gas Pipeline Company; Notice of Proposed Tariff Changes

December 3, 1996.

Take notice that on November 26, 1996, Tennessee Gas Pipeline Company (Tennessee) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following revised tariff sheets with a proposed effective date of January 1, 1997:

Twelfth Revised Sheet No. 20
Eleventh Revised Sheet No. 23
Sixth Revised Sheet No. 23B
Twelfth Revised Sheet No. 26B

Tennessee states that it is filing the tariff sheets in order to implement its annual Transportation Cost Rate Adjustment (TCRA) pursuant to Article XXIV of Tennessee's FERC Gas Tariff. Tennessee states that the adjustment reflects costs to be paid for transportation on other pipelines, as reflected in Account 858, for the period January 1, 1997 to December 31, 1997. Tennessee states that the filing will reduce its current TCRA surcharge under Rate Schedule FT–A and FT–G by $.02 per dth, resulting in a TCRA surcharge of $.25 per dth. Tennessee also states that the volumetric TCRA surcharge under the filing applicable to service under Rate Schedule FT–GS will be $.0137 per dth.

Any person desiring to be heard or to make any protest with reference to said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street N.E., Washington, D.C. 20426, in accordance with Section 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed in accordance with Section 154.210 of the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to this proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file and available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–31184 Filed 12–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–98–000]

Tennessee Gas Pipeline Company; Notice of Request For Waiver and Filing of Take-or-Pay Reports

December 3, 1996.

Take notice that on November 26, 1996, Tennessee Gas Pipeline Company (Tennessee) tendered for filing a request for waiver of Article XXV of the General Terms and Conditions of its FERC Gas Tariff, Fifth Revised Volume No. 1. Tennessee states that it is requesting this waiver to permit Tennessee to omit the filing of the revised tariff sheets scheduled to be filed by November 30, 1996, to be effective on January 1, 1997, in that Tennessee has incurred no new amount of recoverable take or pay costs since its last recovery filing submitted on May 31, 1996 in Docket No. RP96–249.

Tennessee notes that the deferral of recovery of take-or-pay costs will not affect the accounting for additional costs and carrying charges, in accord with Article XXV, Sections 3.2 and 3.3, and the costs will be recovered through future filings pursuant to Article XXV.

Tennessee further notes that it is filing reports showing the derivation of the balances in its Demand and Volumetric Transition Cost Accounts, including carrying charge calculations, and the status of its recovery filings relative to the cap.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before December 10, 1996. 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 an intervention. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–31185 Filed 12–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP97–105–000]

Trunkline Gas Company; Notice of Application

December 3, 1996.

Take notice that on November 19, 1996, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP97–105–000 an application pursuant to Section 7(c) of the Natural Gas Act (NGA) requesting authority to construct and operate a compressor station in Ship Shoal Block 139, Offshore Louisiana and to operate its Patterson,

Louisiana compression station at an increased level of horsepower, all as more fully set forth in the application on file with the Commission and open to public inspection.

Specifically, Trunkline proposes to construct, install, own, and operate a compressor station to be located adjacent to Trunkline's T–25 platform in Ship Shoal Block 139, Offshore Louisiana, consisting of an offshore platform, 3 compressor units, each nominally sized at 9,650 horsepower and related facilities and to operate its Patterson, Louisiana Compressor Station at an increased level of horsepower from its currently certificated level. Trunkline states that the proposed facilities are necessary to receive and transport through its system up to 500,000 Mcf per of gas which is currently being developed in the overlapping production areas of Ewing Bank, Eugene Island, South Timbalier, Ship Shoal, South Pelto, Grand Isle and Green Canyon, Offshore Louisiana.

Trunkline states that the total cost of the proposed facilities is estimated to be $52,217,940 and will be financed from funds on hand. Additionally, Trunkline states that it is not requesting that the cost of the proposed facilities be subject to a determination of rolled-in pricing and therefore, to the extent necessary, requests waiver of the policy statement in Docket No. PL94–4–000.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 24, 1996, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulation Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Trunkline to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 96–31180 Filed 12–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER91–480–003, et al.]

Jersey Central Power & Light Company, et al.; Electric Rate and Corporate Regulation Filings

December 2, 1996

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

1. Jersey Central Power & Light Company

[Docket No. ER91–480–003]

Take notice that on November 15, 1996, Jersey Central Power & Light Company tendered for filing its compliance filing in the above-referenced docket pursuant to the Commission's order issued October 1, 1996 in this docket.

Comment date: December 16, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Citizens Power & Light Corp. Southeastern Energy Resources, Inc., PowerMark, LLC, Global Petroleum Corporation, CoEnergy Trading Company, Kibler Energy Ltd., KinEr-G Power Marketing, Inc.

[Docket Nos. ER89–401–028, ER95–385–007, ER96–332–003, ER96–359–004, ER96–1040–003, ER96–1119–002, and ER96–1139–002 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On October 17, 1996, Citizens Power & Light Corporation filed certain information as required by the Commission's August 8, 1989, order in Docket No. ER89–401–000.

On November 18, 1996, Southeastern Energy Resources, Inc., filed certain information as required by the Commission's February 24, 1995, order in Docket No. ER95–385–000.

On November 18, 1996, PowerMark, LLC, filed certain information as required by the Commission's January 19, 1996, order in Docket No. ER96–332–000.

On November 14, 1996, Global Petroleum Corporation filed certain information as required by the Commission's December 20, 1995, order in Docket No. ER96–359–000.

On October 17, 1996, CoEnergy Trading Company, filed certain information as required by the Commission's March 14, 1996, order in Docket No. ER96–1040–000.

On November 18, 1996, Kibler Energy Ltd. filed certain information as required by the Commission's April 24, 1996, order in Docket No. ER96–1119–000.

On November 18, 1996, KinEr-G Power Marketing, Inc., filed certain information as required by the Commission's April 30, 1996, order in Docket No. ER96–1139–000.

3. Milford Power Limited Partnership

[Docket No. ER93–493–007]

Take notice that on November 21, 1996, Milford Power Limited Partnership tendered for filing an updated market power analysis demonstrating that Milford and its affiliates, continue to lack market power in the relevant geographic market area.

Comment date: December 16, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. Direct Electric Inc., Alliance Strategies Inc., Boyd Rosene & Associates, Inc., Monterey Consulting Associates, Inc. Atmos Energy Services, Inc., Strategic Energy Management, Inc.

[Docket Nos. ER94–1161–010, ER95–1381–004, ER95–1572–003, ER96–2143–001, and ER96–2251–001, ER96–2591–001 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On November 4, 1996, Direct Electric Inc. filed certain information as required by the Commission's July 18, 1994, order in Docket No. ER94–1161–000.

On November 8, 1996, Alliance Strategies Incorporated filed certain information as required by the Commission's August 25, 1995, order in Docket No. ER95–1381–000.

On October 8, 1996, Boyd Rosene & Associates, Inc., filed certain information as required by the Commission's October 23, 1995, order in Docket No. ER95–1572–000.

On November 21, 1996, Monterey Consulting Associates, Inc., filed certain information as required by the Commission's August 8, 1996, order in Docket No. ER96–2143–000.

On November 25, 1996, Atmos Energy Services, Inc., filed certain information as required by the Commission's August 21, 1996, order in Docket No. ER96–2251–000.

On November 12, 1996, Strategic Energy Management filed certain information as required by the Commission's September 13, 1996, order in Docket No. ER96–2591–000.

5. DuPont Power Marketing Inc., IUC Power Services, Thicksten Grimm Burgum, Inc.

[Docket Nos. ER95–1441–007, ER96–594–003, and ER96–2241–000 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On October 31, 1996, DuPont Power Marketing Inc. filed certain information as required by the Commission's August 30, 1995, order in Docket No. ER95–1441–000.

On November 25, 1996, IUC Power Services filed certain information as required by the Commission's February 9, 1996, order in Docket No. ER96–594–000.

On November 22, 1996, Thicksten Grimm Burgum, Inc., filed certain information as required by the Commission's September 16, 1996, order in Docket No. ER96–2241–000.

6. Carolina Power & Light Company

[Docket No. ER96–2760–001]

Take notice that on November 19, 1996, Carolina Power & Light Company tendered for filing copies of its refund summary report in the above referenced docket.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: December 16, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Northeast Utilities Service Company

[Docket No. ER96–3144–000]

Take notice that Northeast Utilities Service Company (NUSCO) on November 25, 1996, submitted additional information on the First Amendment to the United Exchange Agreement between NUSCO, on behalf of The Connecticut Light and Power Company and Western Massachusetts Electric Company, and Boston Edison Company.

NUSCO states that a copy of this filing has been mailed to Boston Edison.

NUSCO requests that the First Amendment become effective on November 1, 1995.

Comment date: December 16, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 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 the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–31166 Filed 12–6–96; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. EL95–76–001, et al.]

Southwestern Public Service Company, et al.; Electric Rate and Corporate Regulation Filings

December 3, 1996.

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

1. Southwestern Public Service Company

[Docket No. EL95–76–001]

Take notice that on November 12, 1996, Southwestern Public Service Company (Southwestern) tendered for filing a letter stating that Southwestern no longer will be seeking the waiver it had requested in its August 25, 1996, submittal filed in this docket.

Comment date: December 17, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Oglethorpe Power Corporation and Georgia Power Company

[Docket No. EL97–13–000]

Take notice that on November 29, 1996, Oglethorpe Power Corporation and Georgia Power Company tendered for filing an Amendment to its Joint Application for Approval of Proposed Lease of Project Property and For Partial Transfer of License.

Comment date: December 17, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. Western Systems Power Pool

[Docket No. ER91–195–025]

Take notice that on November 4, 1996, the Western Systems Power Pool (WSPP) filed certain information to update its July 30, 1996, quarterly filing. This date is required by Ordering Paragraph (D) of the Commission's June 27, 1991 Order (55 FERC ¶ 61,495) and Ordering Paragraph (C) of the Commission's June 1, 1992, Order On Rehearing Denying Request Not To Submit Information, And Granting In Part and Denying In Part Privileged Treatment. Pursuant to 18 CFR 385.211, WSPP has requested privileged treatment for some of the information filed consistent with the June 1, 1992 order. Copies of WSPP's informational filing are on file with the Commission, and non-privileged portions are available for public inspection.

4. National Power Marketing Company, L.L.C.

[Docket No. ER96–2942–000]

Take notice that on November 19, 1996, National Power Marketing Company, L.L.C. tendered for filing an amendment in the above-referenced docket.

Comment date: December 17, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Continental Energy Services, Inc.

[Docket No. ER97–319–000]

Take notice that on November 19, 1996, Continental Energy Services, Inc. tendered for filing an amendment in the above-referenced docket.

Comment date: December 17, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Wisconsin Public Service Corporation

[Docket No. ER97–538–000]

Take notice that on November 21, 1996, Wisconsin Public Service Corporation (WPSC), tendered for filing an executed Transmission Service Agreement between WPSC and Wisconsin Power & Light Co. The Agreement provides for transmission service under the Open Access Transmission Service Tariff, FERC Original Volume No. 11.

Comment date: December 17, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Maine Public Service Company

[Docket No. ER97–540–000]

Take notice that on November 21, 1996, Maine Public Service Company (Maine Public), filed an executed Service Agreement with Aquila Power Corporation.

Comment date: December 17, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Commonwealth Edison Company

[Docket No. ER97–541–000]

Take notice that on November 21, 1996, Commonwealth Edison Company (ComEd), submitted three Service Agreements, variously dated, establishing The Power Company of America LP (PCA), Commonwealth Edison Company (Commonwealth), and Central Illinois Public Service Company (CIPS), as non-firm customers under the terms of ComEd's Open Access Transmission Tariff (OATT). Also submitted is a Service agreement, establishing Wisconsin Electric Power Company (WEPCO), as a firm transmission customer under the terms of ComEd's OATT.

ComEd requests an effective date of November 6, 1996, for the service agreements with PCA, Commonwealth, and CIPS, and October 31, 1996 for the service agreement with WEPCO, and accordingly seeks waiver of the Commission's requirements. Copies of this filing were served upon PCA, Commonwealth, CIPS, WEPCO and the Illinois Commerce Commission.

Comment date: December 17, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. The Energy Spring, Inc.

[Docket No. ER97–542–000]

Take notice that on November 21, 1996, The Energy Spring, Inc. (Energy Spring), tendered for filing, pursuant to Rule 207 of the Commission's Rules of Practice and Procedure, 18 CFR 385.207, an application requesting acceptance of its proposed FERC Electric Rate Schedule No. 1, authorizing market-based rates, granting waivers of certain Commission Regulations and granting certain blanket approvals. Consistent with these requests, Energy Spring seeks authority to engage in electric power marketing and to sell power at market-based rates.

Comment date: December 17, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Texas Utilities Electric Company

[Docket No. ER97–543–000]

Take notice that on November 21, 1996, Texas Utilities Electric Company (TU Electric), tendered for filing an executed transmission service agreement (TSA) with NGTS Energy Services for certain Economy Energy Transmission Service under TU Electric's Tariff for Transmission Service To, From and Over Certain HVDC Interconnections.

TU Electric requests an effective date for this TSA that will permit it to become effective on or before the service commencement date under the TSA. Accordingly, TU Electric seeks waiver of the Commission's notice requirements. Copies of the filing were served on NGTS Energy Services as well as the Public Utility Commission of Texas.

Comment date: December 17, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Central Illinois Public Service Company

[Docket No. ER97–545–000]

Take notice that on November 22, 1996, Central Illinois Public Service Company (CIPS), submitted a service agreement, dated November 6, 1996, establishing Rainbow Energy Marketing Corporation (Rainbow Energy) as a customer under the terms of CIPS' Open Access Transmission Tariff.

CIPS requests an effective date of November 6, 1996 for the service agreements. Accordingly, CIPS requests waiver of the Commission's notice requirements. Copies of this filing were served upon Rainbow Energy and the Illinois Commerce Commission.

Comment date: December 17, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Louisville Gas and Electric Company

[Docket No. ER97–546–000]

Take notice that on November 22, 1996, Louisville Gas and Electric Company (LG&E), tendered for filing a Non-Firm Point-to-Point Transmission Service Agreement between LG&E and Williams Energy Services Company under LG&E's Open Access Transmission Tariff.

Comment date: December 17, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. Louisville Gas and Electric Company

[Docket No. ER97–547–000]

Take notice that on November 22, 1996, Louisville Gas and Electric Company, tendered for filing copies of a service agreement between Louisville Gas and Electric Company and Coral Power L.L.C. under Rate GSS.

Comment date: December 17, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Wisconsin Public Service Corporation

[Docket No. ER97–548–000]

Take notice that on November 22, 1996, Wisconsin Public Service Corporation (WPSC), tendered for filing Supplement No. 8 to its partial requirements service agreement with Manitowoc Public Utilities (MPU), Manitowoc County, Wisconsin. Supplement No. 8 provides MPU's contract demand nominations for January 1997—December 2001, under WPSC's W–2 partial requirements tariff and MPU's applicable service agreement.

The company states that copies of this filing have been served upon MPU and to the State Commissions where WPSC serves at retail.

Comment date: December 17, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Louisville Gas and Electric Company

[Docket No. ER97–549–000]

Take notice that on November 22, 1996, Louisville Gas and Electric Company (LG&E), tendered for filing a Blanket Service Agreement between LG&E and Coral Power, L.L.C. under LG&E's Rate Schedule GSS.

Comment date: December 17, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. Portland General Electric Company

[Docket No. ER97–550–000]

Take notice that on November 22, 1996, Portland General Electric Company (PGE), tendered for filing under PGE's Final Rule pro forma tariff (FERC Electric Tariff Original Volume No. 8, Docket No. OA96–137–000), executed Service agreements for Non-firm Point-to-Point Transmission Service and Firm Point-to-Point Transmission Service with Pan Energy Trading & Marketing Services, L.L.C.

Pursuant to 18 CFR 35.11, PGE respectfully requests the Commission grant a waiver of the notice requirements of 18 CFR 35.3 to allow the Service Agreements to become effective November 13, 1996.

A copy of this filing was caused to be served upon Pan Energy Trading & Marketing Services, LLC as noted in the filing letter.

Comment date: December 17, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 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 the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–31230 Filed 12–6–96; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP97–25–000]

Northern Natural Gas Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed Peak Day 2000 Expansion Project and Request for Comments on Environmental Issues

December 3, 1996.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the construction and operation of the facilities proposed in the Peak Day 2000 Expansion Project.[1] This EA will be used by the Commission in its decision-making process to determine whether an environmental impact statement is necessary and whether to approve the project.

Summary of the Proposed Project

Northern Natural Gas Company (Northern) wants to expand the capacity of its facilities in Iowa, Minnesota, Nebraska, and Kansas to transport an additional 267,161 million cubic feet per day of natural gas to twenty-six of its customers. Northern seeks authority to construct and operate:

Phase I Facilities (1997)

- 18.05 miles of 30-inch-diameter mainline loops in Hardin County, Iowa and Rice County, Minnesota;
- 12.35 miles of 12-inch-diameter and 9.68 miles of 6-inch-diameter branch line loops in Dakota, Scott, Wright, and Carver Counties, Minnesota and Dickinson County, Iowa;
- 5.08 miles of 8-inch-diameter branch line replacement in Carver County, Minnesota;
- 0.21 mile 6-mile 6-inch-diameter branch line tie-over in Jackson County, Iowa;
- two new compressor stations to provide about 11,634 horsepower (hp) of compression, and modification of six existing compressor stations to provide an additional 16,368 hp of compression in various counties in Minnesota, Iowa, Kansas, and Nebraska; and
- three new town border stations (TBS) and modification of 31 existing TBS in Minnesota, Iowa, Nebraska, and Wisconsin.

Phase II Facilities (1998)

- 4.93 miles of 30-inch-diameter mainline loop in Washington County, Minnesota; and
- one new 13,037 hp compressor station Steele County, Minnesota.

The general location of the project facilities and specific locations for facilities on new sites are shown in appendix 1.[2]

Land Requirements for Construction

Construction of the proposed facilities would require about 677.45 acres of land. Following construction, about 295.89 acres would be maintained as new permanent right-of-way or aboveground facility sites. The remaining 381.56 acres of land would be restored and allowed to revert to its former use.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. We call this ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- geology and soils
- water resources, fisheries, and wetlands
- vegetation and wildlife
- endangered and threatened species
- public safety
- land use
- cultural resources
- air quality and noise
- hazardous waste

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we recommend that the Commission approve or not approve the project.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Northern.

- Seven federally listed endangered or threatened species could be present in the proposed project area;
- Five of the proposed loops cross residential areas; and
- A total of 6.3 acres of agricultural land, currently used for production, would be converted to industrial use.

Public Participation

You can make a difference by sending a letter to the Secretary of the Commission addressing your specific comments or concerns about the project. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including

[1] Northern Natural Gas Company's application was filed with the Commission under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

[2] The appendices referenced in this notice are not being printed in the Federal Register. Copies are available from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, N.E., Washington, D.C. 20426, or call (202) 208–1371. Copies of the appendices were sent to all those receiving this notice in the mail.

alternative routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please follow the instructions below to ensure that your comments are received and properly recorded:

Address your letter to: Lois Cashell, Secretary, Federal Energy Regulatory Commission, 888 First St., N.E., Washington, DC 20426;

Reference Docket No. CP97–25–000;

Also, send a copy of your letter to: Ms. Amy Chang, EA Project Manager, Federal Energy Regulatory Commission, 888 First St., N.E., PR–11.1, Washington, DC 20426; and

Mail your comments so that they will be received in Washington, DC on or before January 9, 1997. If you wish to receive a copy of the EA, you should request one from Ms. Chang at the above address.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding or become an ''intervenor''. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide copies of its filings to all other parties. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 2).

The date for filing timely motions to intervene in this proceeding has passed. Therefore, parties now seeking to file late interventions must show good cause, as required by section 385.214(b)(3), why this time limitation should be waived. Environmental issues have been viewed as good cause for late intervention.

You do not need intervenor status to have your scoping comments considered.

If you are interested in obtaining detailed maps of a specific portion of this project, or procedural information, contact Ms. Amy Chang, EA Project Manager, at (202) 208–1199.

Lois D. Cashell,

Secretary.

[FR Doc. 96–31179 Filed 12–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 11291–001 Indiana]

Star Mill, Inc.; Notice of Availability of Draft Environmental Assessment

December 3, 1996.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR Part 380 (Order No. 486, 52 F.R. 47897), the Office of Hydropower Licensing has reviewed the application for an original license for the Star Milling and Electric Minor Water Power Project (project) and has prepared a Draft Environmental Assessment (DEA) for the project. The project is located on the Fawn River near the town of Howe, in northeastern Indiana.

In the DEA, the Commission's staff has analyzed the existing and potential future environmental impacts of the project and has concluded that licensing the project, with appropriate environmental protection or enhancement measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

Copies of the DEA are available for review in the Public Reference Branch, Room 2A, of the Commission's offices at 888 First Street, N.E., Washington, D.C. 20426.

Any comments should be filed within 45 days from the date of this notice and should be addressed to Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. Please affix Project No. 11291–001 to all comments. For further information, contact Nicholas Jayjack, Environmental Coordinator, at (202) 219–2825.

Lois D. Cashell,

Secretary.

[FR Doc. 96–31183 Filed 12–6–96; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5661–8]

Notice of Public Meeting on Drinking Water Issues

Notice is hereby given that the Environmental Protection Agency (EPA) is holding a two-day public meeting on December 12–13, 1996, for the purpose of information exchange on technical issues related to the expedited development of rules to address microbial contaminants and disinfectants/disinfection byproducts in drinking water. Topics to be discussed may include enhanced coagulation, pre-disinfection, disinfection processes or other technical matters related to the development of a Stage I Disinfectants/Disinfection Byproducts Rule and Interim Enhanced Surface Water Treatment Rule.

EPA is inviting all interested members of the public to attend the meeting, which will be held at a location to be determined. For further information regarding the location, agenda or other aspects of the meeting, members of the public are requested to contact Crystal Rodgers of EPA's Office of Ground Water and Drinking Water at (202) 260–0676.

Dated: December 4, 1996.

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 96–31348 Filed 12–6–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5660–3]

Draft National Pollutant Discharge Elimination System (NPDES) General Permits for the Eastern Portion of Outer Continental Shelf (OCS) of the Gulf of Mexico (GMG280000)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of draft NPDES general permit reissuance, notice to States of Mississippi, Alabama and Florida for consistency review with approved coastal management programs.

SUMMARY: The Regional Administrator (RA) of EPA Region 4 (the ''Region'') is today proposing to reissue in part National Pollutant Discharge Elimination System (NPDES) general permits for the Outer Continental Shelf (OCS) of the Gulf of Mexico (General Permit No. GMG280000) for discharges in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category (40 CFR part 435, subpart A). The existing permit, jointly issued by Regions 4 and 6 and published at 51 FR 24897 on July 9, 1986, authorizes discharges from exploration, development, and production facilities located in and discharging to all Federal waters of the Gulf of Mexico seaward of the outer boundary of the territorial seas. Region 6 issued a final permit (General Permit No. GMG290000) for the Western portion of the OCS of the Gulf of Mexico, published at 57 FR 54642 on November 19, 1992 for facilities in Federal waters seaward of Louisiana and Texas Waters. Today's proposed draft NPDES permits cover existing and new source facilities

(Alternative B of the Environmental Impact Statement (EIS)) with operations on Federal leases occurring in water depths seaward of 200 meters, occurring offshore the coasts of Mississippi, Alabama and Florida. The western boundary of the coverage area is demarcated by Destin Dome leases occurring offshore Alabama or Mississippi in water depths seaward of 200 meters. The eastern boundary of the coverage area is demarcated by the Vernon Basin leases north of the 26° parallel and in water depths seaward of 200 meters.

All permittees holding leases on which a discharge has taken place within 2 years of the effective dates of the new general permits (operating facilities) in these areas must file a written notice of intent to be covered by either the new general permit for existing sources or the new general permit for new sources within 60 days after publication of the final determination on this action. Non-operational leases, i.e., those on which no discharges have taken place in the 2 years prior to the effective date of the new general permits, are not eligible for coverage under either general permit, and their coverage under the old general permit will terminate on the effective date of the new general permits. No NOI's will be accepted on non-operational or newly acquired leases until such time as an exploration plan or development production plan has been prepared for submission to EPA. The notice of intent must contain the information set forth in 40 CFR 122.28(b)(2)(ii) and Section A.4 of the NPDES permit. In accordance with Oil and Gas Extraction Point Source Category; Offshore Subcategory Effluent Guidelines and New Source Performance Standards published at 58 FR 12454 on March 4, 1993, EPA Region 4 is making an Environmental Impact Statement (EIS) available concurrently with the general permits for review during the public comment period that addresses potential impacts from facilities that may be defined as new sources in the context of a comprehensive offshore permitting strategy. As set forth in Section 2.4.2 of the EIS, the Regional Administrator has determined that the area shoreward of the 200 meter depth includes extensive live bottom and other valuable marine habitats and includes areas of biological concern, which should be subject to more stringent review based on the ocean discharge criteria under Section 403 of the Clean Water Act (CWA) and findings of the EIS. Accordingly, individual permits will be issued for operating facilities on lease blocks traversed by and shoreward of the 200 meter water depth. Owners or operators of those leases will be notified in writing that an individual permit is required. A brief statement of the reasons for this decision will be provided, together with an application form and a deadline for filing the application. If a timely application is received, general permit coverage will continue and shall automatically terminate on the date final action is taken on the individual NPDES permit application, in accordance with 40 CFR 122.28(b)(3)(ii). No application will be accepted for non-operational leases until such time as an exploration plan or development production plan has been prepared for submission to EPA. Owners of non-operational leases and operators who neither file a notice of intent nor an individual permit application will lose coverage under the old general permit on the effective date of the new general permits.

As proposed, these NPDES general permits include BPT, BCT, and BAT limitations for existing sources and NSPS limitations for new sources as recently promulgated in the effluent guidelines for the offshore subcategory at 58 FR 12454 (March 4, 1993). The permits also address a decision of the Ninth Circuit Court of Appeals by establishing limits on cadmium and mercury and by removing references to Alternative Toxicity Requests. In addition, the permits delete references to the Diesel Pill Monitoring Program, incorporate a new limitation on garbage discharges consistent with the regulations of the U.S. Coast Guard, clarify the applicability of some of the permit's effluent limitations and reporting requirements, establish aquatic toxicity limitations for produced water, and include a reopener clause.

DATES: Comments on this proposed action must be received by February 7, 1997.

ADDRESSES: Persons wishing to comment upon or object to any aspects of this permit reissuance or wishing to request a public hearing, are invited to submit same in writing within sixty (60) days of this notice to the Office of Environmental Assessment, United States Environmental Protection Agency, Region 4, Atlanta Federal Center, 100 Alabama Street, S.W., Atlanta, GA 30303–3104, Attention: Ms. Lena Scott.

FOR FURTHER INFORMATION CONTACT: Contact Mr. Roosevelt Childress, Chief, Surface Water Permits Section, telephone (404) 562–9279, or Mr. Larry Cole, Environmental Engineer, telephone (404) 562–9307 or the following address: Water Management Division, Surface Water Permits Section, U.S. EPA, Region 4, Atlanta Federal Center, 100 Alabama Street, S.W., Atlanta, GA 30303–3104.

SUPPLEMENTARY INFORMATION:

Procedures for Reaching a Final Permit Decision

Pursuant to 40 CFR 124.13, any person who believes any condition of the permit is inappropriate must raise all reasonably ascertainable issues and submit all reasonably available arguments in full, supporting their position, by the close of the comment period. All comments on the proposed NPDES general permits and the EIS received within the 60-day period will be considered in the formulation of final determinations regarding the permit reissuance. In addition, public hearings will be held. See Public Hearing Notice section below for locations of public hearings in each city.

After consideration of all written comments and the requirements and policies in the Act and appropriate regulations, the EPA Regional Administrator will make determinations regarding the permit reissuance. If the determinations are substantially unchanged from those announced by this notice, the Administrator will so notify all persons submitting written comments. If the determinations are substantially changed, the Administrator will issue a public notice indicating the revised determinations.

A formal hearing is available to challenge any NPDES permit issued according to the regulations at 40 CFR 124.15 except for a general permit as cited at 40 CFR 124.71. Persons affected by a general permit may not challenge the conditions of a general permit as a right in further Agency proceedings. They may instead either challenge the general permit in court, or apply for an individual permit as specified at 40 CFR 122.21 as authorized at 40 CFR 122.28, and then request a formal hearing on the issuance or denial of an individual permit. Additional information regarding these procedures is available by contacting Ms. Kathleen L. Wilde, Office of Regional Counsel at (404) 562–9547.

Procedures for Obtaining General Permit Coverage

Notice of Intent (NOI) requirements for obtaining coverage for operating facilities under both permits are stated in Part I Section A.4 of the general permit. Coverage under the new general permit is effective upon receipt of

notification of inclusion from the Director of the Water Management Division. EPA will act on the NOI within a reasonable period of time.

Exclusion of Non-Operational Leases

These permits do not apply to non-operational leases, i.e., those on which no discharge has taken place in the 2 years prior to the effective dates of the new general permit. EPA will not accept NOI's for such leases, and these general permits will not cover such leases. Non-operational leases will lose coverage under the old general permit on the effective date of the new general permits. No subsequent exploration, development or production activities may take place on these leases until and unless the lessee has obtained coverage under one of the new general permits or an individual permits. EPA will not accept NOI's or individual permit applications for non-operational or new acquired leases until such time as an exploration plan or development production plan has been prepared for submission to EPA.

The new permitting requirements for leases covered under the old general permits are summarized in Table 1.

TABLE 1.—NEW PERMITTING REQUIREMENTS FOR LEASES COVERED UNDER THE OLD GENERAL PERMIT

Lease location	Discharge status	Coverage requirements	Date old general permit expires	Type of permit coverage
Outside 200 meter Isobath	(1) Operational	File an NOI within 60 days of effective date of new general permit.	Date EPA Notifies Lessee of New Coverage Decision.	New Genral Permit, except near an Area of Biological Concern.
	(2) Leases With Imminent Projects.	File NOI At Time Exploration Plan or Development Production Plan Exists.	Effective Date of New General Permit.	New General Permit, except near an Area of Biological Concern.
	(3) Non-Operational	No NOI will be accepted; Ineligible for General Permit Coverage.	Effective Date of New General Permit.	None
Inside 200 meter Isobath	(1) Operational	File an individual permit application within 120 days of effective date of new general permit.	Date EPA notifies lessee of Individual permit decision.	Individual Permit.
	(2) Leases with Imminent Projects.	File an Individual Permit Application when Lessee has Exploration Plan or Development Production Plan.	Effective date of New General Permit.	Individual Permit.
	(3) Non-Operational	Ineligible For General Permit Coverage.	Effective Date of New General Permit.	None

State Water Quality Certification

Because state waters are not included in the area covered by the OCS general permit, its effluent limitations and monitoring requirements are not subject to state water quality certification under CWA Section 401.

State Consistency Determination

This Notice will also serve as Region 4's requirement under the Coastal Zone Management Act (CZMA) to provide all necessary information for the States of Mississippi, Alabama and Florida to review this action for consistency with their approved Coastal Management Programs. A copy of the consistency determination on the proposed activities is being sent to each affected State, along with draft copies of the draft NPDES general permit, Fact Sheet, preliminary Ocean Discharge Criteria Evaluation, and draft Environmental Impact Statement. Other relevant information is available upon request from each State for their review. Comments regarding State Consistency are invited in writing within sixty (60) days of this notice to the Office of Public Affairs, United States Environmental Protection Agency, Region 4, Atlanta Federal Center, 100 Alabama Street, S.W., Atlanta, GA 30303–3104, Attention: Ms. Lena Scott.

Public Hearing

A total of four (4) public hearings are being planned on this proposed action. The 1st hearing is scheduled on Tuesday, January 28th at 6:00 p.m in Biloxi, Mississippi at the Marine Education Center and Aquarium. The 2nd hearing is scheduled on Wedneday, January 29th at 6:00 p.m. in Gulf Shores, Alabama at the Adult Education Center. The 3rd hearing is scheduled on Thursday, January 30th at 6:00 p.m. in Pensacola, Florida at the Booker T. Washington High School. The 4th hearing is scheduled on Tuesday, February 4th at 6:00 p.m. in St. Petersburg, Florida at the Florida Marine Research Institute. Persons interested in obtaining directions to these hearing should contact Ms. Lena Scott at (404) 562–9607.

Administrative Record

The proposed NPDES general permits, fact sheet, preliminary 403(c) determination, EIS and other relevant documents are on file and may be inspected any time between 8:15 a.m. and 4:30 p.m., Monday through Friday at the address shown below. Copies of the draft NPDES general permits, fact sheet, preliminary 403(c) determination, EIS and other relevant documents may be obtained by writing the U.S. EPA, Region 4, Atlanta Federal Center, 100 Alabama Street, S.W., Atlanta, Georgia 30303–3104, Attention: Ms. Lena Scott, or calling (404) 562–9607.

Beverly H. Banister,

Deputy Director, Water Management Division.

Table of Contents

Fact Sheet

I. Background Information Concerning General Permits and Proposed Individual Permits

Section 301(a) of the Clean Water Act (the ''Act) provides that the discharge of pollutants is unlawful except in accordance with the terms of an NPDES permit. The Regional Administrator has determined, on the basis of the EIS, that oil and gas facilities seaward of the 200 meter water depth in certain parts of the Eastern Portion of the Gulf of Mexico as described in the proposed NPDES general permits are more appropriately controlled by general permits rather than individual permits, 40 CFR § 122.28(c). This determination covers both existing sources and new sources. Accordingly, two (2) NPDES general permits are being proposed: one covering existing sources and the second covering new sources. This decision is based on 40 CFR 122.28, 40 CFR 125 (Subpart M—Ocean Discharge Criteria), Environmental Impact Statement and the Agency's previous decisions in other areas of the Gulf of Mexico's Outer Continental Shelf (OCS). As in the case of individual permits, violation of any condition of a general permit constitutes a violation of the Act that is enforceable under section 309 of the Act.

In accordance with 40 CFR 122.28(a)(4)(iii), any owner or operator authorized by a general permit may request to be excluded from the coverage of the general permit by applying for an individual permit. The owner or operator shall submit an application under 40 CFR 122.21, with reasons supporting the request, to the Director, Water Management Division, Surface Water Permits Section, U.S. EPA, Atlanta Federal Center, 100 Alabama Street, S.W., Atlanta, GA 30303–3104.

A. Previous OCS NPDES General Permit

The Regional Administrator for EPA Region 4 is today proposing to reissue in part the National Pollutant Discharge Elimination System (NPDES) general permit for the Outer Continental Shelf of the Gulf of Mexico (General Permit No. GMG280000) under Region 4 jurisdiction. This previous permit, published at 51 FR 24897 (July 9, 1986), issued jointly for the Eastern and Western Gulf of Mexico by Regions 4 and 6, expired on July 1, 1991. Region 6 reissued a final existing permit for the Western Portion of the Outer Continental Shelf (General Permit No. GMG290000), published at 57 FR 54642 (November 19, 1992) with a modification published at 58 FR 63964 (December 3, 1993). Region 4, continued coverage under the previous OCS general permit to permittees that requested to be covered before the previous general permit expired on July 1, 1991. Today's proposed Eastern Gulf of Mexico OCS general permits regulate existing source and new source OCS discharges throughout the Gulf of Mexico for offshore areas under the jurisdiction of Region 4.

B. Discussion of three (3) Alternatives Examined by the Environmental Impact Statement (EIS)

Since the promulgation of effluent guidelines and standards of performance for new sources at 58 FR 12454 (March 4, 1993), EPA regulations in 40 CFR 122.29(c) require that the issuance of an NPDES permit to a new source be subject to environmental review provisions of the National Environmental Policy Act (NEPA) as defined in 40 CFR Part 6, Subpart F. A Draft Environmental Impact Statement (EIS) has been prepared by EPA. The EIS examined three (3) alternatives for permitting exploration development and production phases of oil and gas activities. Alternative A: Issuing two general permits, one for existing sources and the other for new sources, that would cover the entire EPA Region 4 jurisdictional area except areas under moratorium. Alternative B (EPA's preferred alternative): Issuing two general permits, one for existing sources and the other for new sources, that would only apply to locations seaward of the 200 meter isobath, and would exclude areas under moratorium. Alternative C: EPA would not issue NPDES general permits covering either existing sources or new sources and would handle all future oil and gas activities occurring in EPA Region 4 jurisdictional area by individual permits. Chapter 2 of the EIS should be reviewed for a discussion of these three (3) alternatives. Chapter 3 of the EIS discusses the affected environment and potential environmental consequences of the three (3) alternatives. EPA, Region 4, expects comments on all alternatives examined in the EIS during the public comment period.

C. Conclusions from EIS on Biological Communities in the Coastal Shelf and Shelf-Break Zone

The EIS reviews available data and studies on discharges from oil and gas facilities and the potential for these discharges resulting in impacts to benthic communities of short and long term duration. The EIS concludes that because of the abundance and sensitivity of the biological resources present from 200 meters of depth and shallower and potential secondary impacts, individual permits for these areas which incorporate permit stipulations on a case-by-case review would be more protective of the numerous biological communities present in the 200 meter water depths or shallower, and help ensure compliance with Section 403(c) of the CWA. Because areas of biological concern are more abundant in water depths of 200 meters or shallower and potential for environmental impacts is greater, Region 4 chose alternative B as its preferred alternative as the permitting strategy for the Eastern Gulf of Mexico. This alternative allows for case-by-case review of more biologically sensitive areas. This strategy requires current or proposed oil and gas operations shoreward of the 200 meter water depth to seek individual existing source or new source permits, as appropriate.

D. Proposed Eastern Gulf of Mexico NPDES General Permits

These proposed draft Eastern Gulf of Mexico NPDES general permits authorize discharges from exploration, development, and production facilities (existing sources or new sources) discharging to Federal waters of the United States of the Gulf of Mexico. Region 4's coverage area for these general permits includes all discharges occurring in leases located seaward of the 200 meter water depth for offshore Mississippi, Alabama and Florida, as explained in Part I Section A(2) of the general permit. This proposed coverage area excludes all Federal leases located offshore Mississippi, since all Region 4's Federal leases occur in water depths of less than 200 meters; however, since activities occurring under this proposed action potentially affect Mississippi's coastal waters, the State of Mississippi will be included in this Federal action for Coastal Zone Management (CZM) Consistency determinations and all other necessary State requirements. These permits do not cover areas included under Congressional or Presidential moratorium for oil and gas activities in Federal waters.

40 C.F.R. § 122.29 requires that separate permits be issued for new sources. Accordingly, two general permits will be issued for the area seaward of the 200 meter depth: one for new sources, and the other for existing sources. These permits apply only to operating facilities; they do not apply to non-operational leases.

(1) New Source General Permit

The RA has determined, in accordance with 40 CFR § 122.28(c), that the new source general permit will apply to all new sources, as that term is defined at 40 CFR § 122.2 as ''any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which is commenced:

(a) After promulgation of standards of performance under section 306 of CWA which are applicable to such source, or

(b) After proposal of standards of performance in accordance with section 306 of CWA which are applicable to such sources, but only if the standards are promulgated in accordance with section 306 within 120 days of their proposal.''

If construction was commenced after March 4, 1993, the facility is a new source. Because drilling rigs are moved from site to site for several years and production platforms can be built on shore and transported to an offshore site, the actual construction of the equipment or facility can occur years before there is a discharge of pollutants from that equipment or facility at a particular site. Therefore, the definition of the ''construction'' of a new source must be addressed. The regulations at 40 CFR 122.29(b)(4) state:

''(4) Construction of a new source as defined under § 122.2 has commenced if the owner or operator has:

(i) Begun, or caused to begin as part of a continuous on-site construction program:

(A) Any placement, assembly, or installation of facilities or equipment; or

(B) Significant site preparation work including clearing, excavation or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new sources facilities or equipment; or

(ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility engineering, and design studies do not constitute a contractual obligation under the paragraph.''

EPA defines ''significant site preparation work'' as ''the process of clearing and preparing an area of the ocean floor for purposes of constructing or placing a development or production facility on or over the site'' (50 FR 34619). Therefore, development and production wells are new sources unless the site was cleared and prepared for the purposes of constructing or placing a development or production facility over that site before the promulgation of the effluent guideline for the offshore subcategory on March 4, 1993. Exploration activities are not considered significant site preparation work; therefore sites where exploration has occurred are not considered existing sources.

EPA regulations also define the term ''site'' at 40 CFR 122.2 as ''the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.'' EPA interprets the term ''water area'' to mean the ''specific geographical location where the exploration, development, or production activity is conducted, including the water column and ocean floor beneath activities.'' Thus, if a new platform is built at or moved from a different location, it will be considered a new source when placed at the new site where its oil and gas activities take place. Even if the platform is placed adjacent to an existing platform, the new platform will still be considered a ''new source'' occupying a ''new water'' area, and therefore, a ''new site'' (50 CFR 34618).

(2) Existing Source General Permit

All other facilities must obtain coverage under the existing source general permit. Existing sources are those facilities where significant site preparation work has occurred, or development and production activity has taken place, on or before March 4, 1993. These same facilities, however, would become new sources if they moved to a new water area to commence production or development activities. Exploratory activities require existing source general permit coverage.

(3) Application Procedures

Permittees holding leases with operating facilities seaward of the 200 water meter depth will be required to file a Notice of Intent, pursuant to 40 CFR § 122.28(b)(2)(ii), to be covered by either the new source general permit or the existing source general permit, as applicable, within 60 days after publication of the final determination on this action. Such notice fulfills the permit application requirements under federal regulations. The permittee will be covered under the appropriate new general permit (existing or new source) upon receipt of notification of inclusion from the Director. A discharger having coverage under the old general permit who fails to timely submit such a notice is not authorized to discharge pursuant to 40 C.F.R. § 122.28(b)(2), and is no longer covered under the old general permit.

E. Proposed Individual Permits

All lease blocks with operating facilities traversed by or shoreward of the 200 meter isobath will be required to apply for and obtain individual permits in order to discharge into U.S. waters. No individual permits will be issued for non-operational leases until an exploration plan or development production plan has been prepared for submission to EPA. As with the general permits, there are two kinds of individual permits that will be issued.

The first is an individual new source permit. The application requirements for new sources are set forth at 40 C.F.R. § 122.21(k) and (l). Prior to issuance of such permits, the law requires that an Environmental Impact Statement (EIS) or Environmental Assessment (EA) be prepared. In order to allow EPA to conduct that review, the applicant must submit information as set forth in 40 C.F.R. § 6.604(b). The RA will then make and publish a determination as to whether the facility seeking a permit is a new source.

The second type of individual permit is for an existing source. Applicants

shall submit the information required by 40 C.F.R. § 122.21(f), together with any additional information required to determine the appropriate permit limits based on ocean discharge criteria under § 403 of the CWA.

Permittees holding leases shoreward of the 200 meter depth will be given individual notice of the requirement to apply for an individual permit, a brief statement of the reasons therefore, a copy of the application form, and a deadline for filing the application. No applications will be accepted for non-operational or newly acquired leases until such time as an exploration plan or development production plan has been prepared for submission to EPA. All permittees with operational facilities, i.e., leases on which a discharge has taken place within 2 years of the effective date of the new general permits, who file a timely application will continue to be covered under the old general permit until a final action has been taken on the individual permit application.

F. Oil and Gas Activities in the Eastern Gulf of Mexico

Historically, activity in the Eastern Gulf of Mexico has been less than that in areas west of Region's 4 jurisdiction. This was partly due to the demand for natural gas and economics associated with drilling costs necessary to reach the deep Norphlet and other producible commercial formations. As the price and demand for natural gas increases, along with the development of deep water drilling and producing technology, exploration activities in this area will continue. In 1991, an EPA Region 4 survey of the major oil companies revealed that fifty (50) wells had been drilled in the eastern Gulf and 17 wells were producing. The producing wells were located either offshore Alabama and Mississippi, with no producing wells located in Federal waters offshore Florida. Additionally, the 1991 survey revealed that there are only three facilities discharging produced water. These facilities were located in the Mobile leasing area: one in Block 908 discharging approximately 2 barrels of produced water per day (BPD); one in Block 990 discharging approximately 160 BPD; and one in Block 821 discharging approximately 240 BPD. A map of the area revealed that these facilities are located in 15–20 meters of water. The survey revealed that there were no current producing wells seaward of water depths greater than 40 meters.

II. Description of Activity and Facilities Which Are Subject of Draft Permits

The Oil and Gas Extraction Point Source Category (40 CFR 435—Subpart A) includes facilities engaged in field exploration, development and well production and well treatment. Exploration facilities are fixed or mobile structures engaged in the drilling of wells to determine the nature of potential hydrocarbon reservoirs. A development facility is any fixed or mobile structure engaged in the drilling and completion of productive wells, which may occur prior to, or simultaneously with production operations. Production Facilities are fixed or mobile structures engaged in well completion or used for active recovery of hydrocarbons from producing formations.

III. Nature of Discharges from Oil and Gas Operations and Effluent Limits

The proposed general permits will authorize the following discharges to occur in water depths seaward of the 200 meter water depth: drilling mud; drill cutting; produced water; well treatment fluids; workover fluids; completion fluids; deck drainage, sanitary wastes; domestic wastes, desalinization unit discharges, blowout preventer fluid; fire control system test water; non-contact cooling water; uncontaminated ballast water; uncontaminated bilge water; excess cement slurry; and mud, cuttings and cement at the seafloor. The proposed permits will authorize discharges from facilities engaged in field exploration, development and well production and well treatment, for offshore operations for both existing and new sources occurring seaward of the 200 meter water depth.

The effluent guidelines include Best Available Technology Economically Achievable (BAT) limitations for existing sources and New Source Performance Standards (NSPS) that are based on the best available demonstrated technology for new sources. New facilities have the opportunity to install the best and most efficient production processes and waste water treatment technologies. Therefore, Congress directed EPA to consider the best demonstrated process changes, in-plant controls, and end-of-process control and treatment technologies that reduce pollution to the maximum extent feasible for implementation by new sources.

Upon its issuance in 1986, the existing general permit was judicially challenged by various parties in *Natural Resources Defense Council* v. *EPA*, 863 F.2d 1420 (9th Cir. 1988). Although the Court affirmed EPA's permit decisions on most of the issues litigated, the Court (1) invalidated the provisions that allowed for case-by-case variances from toxicity limitations under the permit's alternate toxicity request provisions, and (2) held that EPA should have provided additional consideration to requiring the use of ''clean'' barite in drilling fluids. Today's proposal responds to that decision.

In the reissuance of these NPDES general permits, EPA Region 4 is responding to four legal or regulatory developments. The first legal development is the decision of the Ninth Circuit Court on challenges to the 1986 permit. All references to alternative toxicity limits are eliminated from this permit and the use of clean barite is required for drilling operations. The second regulatory development is the promulgation of final BAT and NSPS guidelines for the offshore subcategory (58 FR 12454). These NPDES general permits provide an explanation of how the determination of new sources will be made and incorporate the limitations and conditions set forth by the guidelines for offshore exploration, development, and production waste streams. The third and fourth regulatory developments are EPA's national policy on water quality-based permit limitations (49 FR 9016) and the issuance of pollution prevention regulations by the U.S. Coast Guard (33 CFR 151). The national policy is a strategy to control pollutants beyond BAT in order to meet water quality standards by use of biological and chemical methods to address toxic and nonconventional pollutants. The U.S. Coast Guard regulations are incorporated into the permit to be consistent with international regulations for the disposal of food and incinerator wastes.

Comments on these draft NPDES general permits need not be limited to those changes listed above. EPA is specifically soliciting information to further characterize present and anticipated activities on the eastern Gulf of Mexico OCS. EPA Region 4 may revise any provisions of the permit in response to public comments when it issues the final permit.

IV. Statutory Basis for Permit Conditions

Sections 301(b), 304, 306, 307, 308, 401, 402, 403 and 501 of the Clean Water Act (The Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977 and the Water Quality Act of 1987), 33 U.S.C. 1311, 1314(b), (c) and

(e), 1316, 1317, 1318 and 1361; 86 Stat. 816, Pub. L. 92–500; 91 Stat. 1567, Pub. L. 95–217; 101 Stat. 7 Pub. L. 100–4 (''the Act'' or CWA''), and the U.S. Coast Guard Regulations (33 CFR Part 151), provide the basis for the permit conditions contained in both the existing and new source general permits. The general requirements of these sections fall into three categories, which are described in sections A–C below.

A. Technology Bases

1. BPT Effluent Limitations

The Act requires particular classes of industrial discharges to meet effluent limitations established by EPA. EPA promulgated effluent guidelines requiring Best Practicable Control Technology Currently Available (BPT) for the Offshore and Coastal Subcategories of the Oil and Gas Extraction Point Source Category (40 CFR Part 435, Subparts A and D) on April 13, 1979 (44 FR 22069).

BPT effluent limitations guidelines require ''no discharge of free oil'' for discharges of deck drainage, drilling muds, drill cuttings, and well treatment fluids. This limitation requires that a discharge shall not cause a film or sheen upon, or discoloration on, 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 (40 CFR 435.11(d)). The BPT effluent limitation guideline for sanitary waste required that the concentration of chlorine be maintained as close to 1 mg/l as possible in discharges from facilities housing ten or more persons. No floating solids are allowed as a result of sanitary waste discharges from facilities continuously staffed by nine or fewer persons or intermittently staffed by any number. A ''no floating solids'' guideline also applies to domestic waste. BPT limitations on oil and grease in produced water allowed a daily maximum of 72 mg/l and a monthly average of 48 mg/l.

2. BAT and BCT Effluent Limitations and New Source Performance Standards

As of March 31, 1989, all permits are required by section 301(b)(2) of the Act to contain effluent limitations for all categories and classes of point sources which: (1) Control toxic pollutants (40 CFR 401.15) and nonconventional pollutants through the use of Best Available Technology Economically Achievable (BAT), and (2) represent Best Conventional Pollutant Control Technology (BCT). BCT effluent limitations apply to conventional pollutants (pH, BOD, oil and grease, suspended solids, and fecal coliform). In no case may BCT or BAT be less stringent than BPT.

BAT and BCT effluent limitations guidelines and New Source Performance Standards (NSPS) for the Offshore Subcategory were proposed on August 26, 1985 (50 FR 34592) and signed on January 15, 1993 (58 FR 12454, March 4, 1993). The new guidelines were established under the authority of sections 301(b), 304, 306, 307, 308, and 501 of the Act. The new guidelines were also established in response to a Consent Decree entered on April 5, 1990 (subsequently modified on May 28, 1993) in NRDC v. Reilly, D. D.C. No. 79–3442 (JHP) and are consistent with EPA's Effluent Guidelines Plan under section 304(m) of the CWA (57 FR 41000, September 8, 1992). The proposed existing source general permit, incorporates BAT and BCT effluent limitations based upon the more stringent standards of the recently promulgated effluent guidelines or previous general permit existing requirements, and incorporate additional discharge restrictions based on environmental data. The proposed new source general permit is based on the recently promulgated NSPS based on the best available demonstrated technology, and incorporate additional discharge restrictions based on environmental data. Since the March 4, 1993 Offshore Effluent Guidelines and New Source Performance Standards basically set BAT limitations equal to NSPS, the proposed limitations, conditions, and monitoring requirements for today's proposed existing source general permit and new source general permit are identical.

3. Previous NPDES General Permit Limitations

Per Section 402(o)(1) of the Clean Water Act and 40 CFR 122.44(l), when a permit is reissued the effluent limitations must be as stringent as the final effluent limitations of the previous permit unless the circumstances on which the previous permit was based have materially and substantially changed since the time the permit was issued. Part IV of the fact sheet discusses the new or changed permit limitations and conditions. All the limitations of the proposed NPDES general permit are as stringent or more stringent as the previous permit effluent limitations and conditions. The Alternative Toxicity Requests (ATRs) language of the previous permit, which allowed more toxic muds to be discharged after a case-by-case review, were invalidated by the Ninth Circuit Court; therefore, all references to the ATR process are deleted from this proposed NPDES general permit.

B. Ocean Discharge Criteria

Section 403 of the Act requires that an NPDES permit for a discharge into marine waters located seaward of the inner boundary of the territorial seas (i.e., state and federal offshore waters) be issued in accordance with guidelines for determining the potential degradation of the marine environment. These guidelines, referred to as the Ocean Discharge Criteria (40 CFR Part 125, Subpart M), and section 403 of the Act are intended to ''prevent unreasonable degradation of the marine environment and to authorize imposition of effluent limitations, including a prohibition of discharge, if necessary, to ensure this goal'' (49 FR 65942, October 3, 1980).

If EPA determines that the discharge will cause unreasonable degradation, an NPDES permit will not be issued. If a definitive determination of no unreasonable degradation cannot be made because of insufficient information, EPA must then determine whether a discharge will cause irreparable harm to the marine environment and whether there are reasonable alternatives to on-site disposal. To assess the probability of irreparable harm, EPA is required to make a determination that the discharger, operating under appropriate permit conditions, will not cause permanent and significant harm to the environment during a monitoring period in which additional information is gathered. If data gathered through monitoring indicate that continued discharge may cause unreasonable degradation, the discharge shall be halted or additional permit limitations established.

A preliminary Ocean Discharge Criteria Evaluation has been drafted. Region 4 has determined that discharges occurring under the proposed NPDES general permits, incorporating appropriate effluent limits and monitoring requirements, will not cause unreasonable degradation for existing and new source dischargers occurring in areas seaward of the 200-meter water depth.

C. Section 308 of the Clean Water Act

Under section 308 of the Act and 40 CFR 122.44(i), the Director must require a discharger to conduct monitoring to determine compliance with effluent limitations and to assist in the development of effluent limitations. EPA has included several monitoring requirements in the permit, as listed in

the table in section VI.A of this fact sheet.

V. Summary of New or Changed Permit Limitations and Conditions

The following discussion is intended to provide a summary of the parts of the proposed permit which are substantively different from the 1986 permit. For a detailed discussion of requirements and their bases, please refer to Section VI of this fact sheet. Many of the new and changed requirements result from promulgation of the final Effluent Limitations Guidelines and New Source Performance Standards for the Offshore Subcategory in March, 1993 (see 40 CFR Part 435, Subpart A).

A. Alternative Toxicity Requests

The existing OCS general permit contains a general toxicity limitation on drilling fluids, prohibiting the discharge of fluids having an aquatic toxicity LC50 value of less than 30,000 ppm of the suspended particulate phase (SPP). Because the Regions believed that some specific drilling operations might require the limited use of more toxic drilling fluids, the permit also contained a procedure under which an operator could submit an alternative toxicity request (ATR) for approval by the Region. Region 4 did not approve any ATRs under the existing general permit. Upon review, the Ninth Circuit Court invalidated the ATR provisions of the current permit. Therefore, all references to the ATR process are deleted from both proposed NPDES general permits, making it consistent with the Court's decision.

B. Cadmium and Mercury in Barite

EPA Region 4 is implementing the selected option of the BAT/NSPS effluent guidelines by limiting the amount of cadmium (Cd) and mercury (Hg) discharged in drilling fluids to 3 mg of Cd/kg and 1 mg of Hg/kg (dry weight) in the source barite used in drilling fluids. This limitation also is consistent with the Ninth Circuit Court's decision that operators should be required to use the cleanest source of barite available. The limitations and monitoring requirements for cadmium and mercury are the same for both the existing source and new source general permits.

The toxic pollutants cadmium and mercury are found in barite which is added to drilling fluids as a weighting agent. Different types of barite deposits contain varying concentrations of toxic pollutants, with bedded deposits (referred to as ''clean'') containing the lowest metal levels, while vein deposits have much higher concentrations of trace metals. The Agency, when the OCS Gulf of Mexico general permit was first issued, decided not to impose limits on cadmium and mercury because of incomplete information on the availability of clean barite for all Gulf operations. However, the Ninth Circuit Court held invalid the Agency's decision not to impose any limitations on cadmium and mercury in discharged drilling fluids and stated that ''EPA should provide in the Gulf of Mexico permit, as it did in the Alaska permit, that clean barite should be used as long as it is available.'' The BAT/NSPS limitations of this in both the existing source and new source general permit are consistent with that decision.

A representative sample of the stock barite shall be monitored and reported once for each well or once for each additional supply of barite received while drilling a well. If subsequent wells are drilled at a site, new analyses are not required for each well if no new supplies of barite are received since the previous analysis.

The results for total mercury and cadmium shall be reported on the monthly Discharge Monitoring Report (DMR) for each well drilled. If a previous analysis is used in subsequent months or for subsequent wells, the results of that analysis should be reported on the DMRs for the later months and wells. If the supplier of the barite provides the analysis to the operator, the concentration shall be reported on the DMR with an indication that the information was provided by the supplier. All reported analyses, whether performed by the permittee or the supplier of the barite, shall be conducted by absorption spectrophotometry (see 40 CFR Part 136, flame and flameless AAS) and results expressed as mg/kg (dry weight) of barite.

C. New Sources Performance Standards (NSPS)

NSPS have been added to operations previously defined as new sources in the fact sheet. In accordance with 58 FR 12456 of March 4, 1993, NSPS are based on the best available demonstrated technology. New plants have the opportunity to install the best and most efficient production processes and wastewater treatment technologies. Therefore, Congress directed EPA to consider the best demonstrated process changes, in-plant controls and treatment technologies that reduce pollution to the maximum extent feasible. In addition, in establishing NSPS, EPA is required to take into consideration the cost of achieving the effluent reduction and any non-water impacts and energy requirements.

D. Free Oil

The existing NPDES general permit requires operators to use the visual sheen test to monitor for free oil on the surface of the receiving water when discharging muds and cuttings. This method can be used only during daylight when weather and sea conditions are such that observation of a sheen is possible. At all other times, discharge is permitted provided that the operator used an alternate test, the static (laboratory) sheen test, for monitoring for free oil. However, BAT and NSPS effluent guidelines require the use of the static sheen test for monitoring free oil at all times for discharges of muds and cuttings to offshore waters. In these proposed NPDES general permits, Region 4 is implementing the final effluent guidelines by requiring the static sheen test as the monitoring requirement for detecting free oil in drilling fluid and cuttings. The Region is requiring that this same method be used for well treatment, completion, and workover fluid discharges as well. In accordance with the final effluent guidelines, free oil from deck drainage will continue to be monitored as in the existing general permit by use of the visual sheen test. The Region feels that the static sheen test is the appropriate test method for the eastern Gulf of Mexico. Because the test is conducted prior to discharge, it allows the operator to avoid potential costly violations and affords more protection to the environment by requiring compliance monitoring before the discharge has occurred. The test is to be conducted in accordance with the methodology in the final effluent guidelines (58 FR 12506; see permit Part IV.A.3). The number of times that a sheen is observed shall be reported on the monthly DMR.

E. Produced Sand

The existing NPDES general permit requires operators to use the visual sheen test to monitor for free oil on the surface of the receiving water when discharging produced sand. This method can be used only during daylight when weather and sea conditions are such that observation of a sheen in the vicinity of the discharge is possible. The final BAT and NSPS effluent guidelines for the offshore subcategory prohibit the discharge of produced sand. EPA did not determine that the prohibition is the ''best available'' or ''best demonstrated'' technology. However, onshore disposal is widely practiced throughout the industry to meet the no free oil

limitations either due to economics (cost of onsite washing is comparable to cost of onshore disposal), logistic considerations (scheduling or space requirements), or because of the inability to reliably meet the no free oil limitation even after washing. Region 4 is implementing the final guidelines by prohibiting the discharge of produced sand under both general permits.

F. Produced Water

The existing NPDES general permit established an effluent oil and grease limit for produced water of 48 mg/l monthly average and 72 mg/l daily maximum. The final effluent guidelines have established BAT and NSPS oil and grease limitations for produced water discharges of 29 mg/l monthly average and 42 mg/l daily maximum. These limitations are based on the use of gas flotation treatment technology which is determined to be the best available technology economically achievable for the offshore subcategory. Region 4 is implementing these limitations in both NPDES general permits for the eastern Gulf of Mexico OCS. Monitoring methods for this limitation are the same as under the existing permit. Both the highest daily maximum concentration and the monthly average concentration are reported on the monthly DMR.

G. Diesel Oil Prohibition

The existing OCS general permit contains provisions that established the Diesel Pill Monitoring Program (DPMP), a 15-month study to determine whether a diesel pill added to the mud system to free stuck pipe could effectively be removed from a mud system after use. Under the terms of the permit, the program was to last for one year with a possible extension of up to one additional year. At the end of the first year, EPA concluded that the DPMP had essentially reached its limit for gathering data necessary for evaluating that issue, but found some merit in extending the program for an additional 3-month period, ending September 30, 1987.

After the DPMP had expired, the existing general permit prohibited the discharge of drilling fluids containing diesel oil unless: (1) the diesel oil was added as a pill in an effort to free stuck pipe, (2) the pill and 50-barrel buffers on either side of the pill were removed from the drilling fluid system, (3) the remaining fluid to be discharged met the 30,000 ppm LC50 toxicity limitation, and (4) the discharge of the remaining fluid caused no visible sheen on the surface of the receiving water. Data collected under the DPMP showed that diesel could not effectively be removed from a drilling fluids system after use of a pill. A substantial amount of diesel oil remains in the drilling fluids system even after the pill and 100 barrels of drilling fluids system are removed. Therefore, the proposed permit no longer allows the discharge of drilling fluids to which a diesel pill has been added, even when the pill and a 50-barrel buffer on either side are removed from the system. Under the proposed reissuance, all references to the DPMP are deleted from the permit and discharge of muds to which diesel oil has been added is prohibited. However, both the proposed NPDES existing source general permit and NSPS general permit would allow the discharge of drilling fluids where non-diesel oils and mineral oils have been introduced to the mud system while drilling, provided that the mud system meets the toxicity and free oil limitations before discharge.

H. Water Quality-based Effluent Limitations and Conditions

The CWA states ''* * * it is the national policy that the discharge of toxic pollutants in toxic amounts be prohibited * * *.'' To ensure that the CWA's prohibitions on toxic discharges are met, EPA has issued a ''Policy for the Development of Water Quality-Based Permit Limitations for Toxic Pollutants'' (49 FR 9016; March 9, 1984). This national policy states that an ''integrated strategy consisting of both biological and chemical methods to address toxic and nonconventional pollutants'' will be used to control pollutants beyond BAT. For NPDES permits, these strategies include numerical limits for toxic pollutants to assure compliance with state standards and use of biological techniques and available data on chemical effects to assess toxicity impacts and human health hazards based on the general standard of ''no toxic materials in toxic amounts.''

Based on available data, EPA has determined that there are pollutants present in produced water discharges that have the potential to cause toxic conditions in the receiving water or sediment in violation of Section 101(a)(3) of the CWA. Whole effluent biomonitoring is the most direct measure of potential toxic effects that incorporates the effects of synergism of effluent components. It is the national policy of EPA to use toxicity tests to evaluate the toxic effects of a discharge upon a receiving water (49 FR 9016, March 9, 1984). This proposed permit establishes effluent limitations on the whole effluent toxicity of produced water. Both the daily average and the monthly minimum toxicity (96-hour LC50) value shall not be less than the limiting permissible concentration at the edge of the mixing zone as defined in the Ocean Discharge Criteria (40 CFR 125). The Ocean Discharge Criteria incorporates the limiting permissible concentration definition of the Ocean Dumping Criteria, which is ''0.01 of a concentration shown to be acutely toxic to appropriate sensitive marine organisms in a bioassay'' (40 CFR 227.27). The mixing zone is defined under the Ocean Discharge Criteria (40 CFR 125.121(c)) as the zone extending from the sea's surface to the seabed and extending 100 meters in all directions from the discharge point. Therefore, the toxicity limitation of these permits require that the discharged effluent meet a toxicity limitation of an LC50 greater than the effluent concentration at the edge of the mixing zone times 0.01. The method for determining this toxicity limitation on a case-by-case basis is described below.

I. Aquatic Toxicity Limits and Testing Requirements for Produced Water

For produced water discharges, the Region is using a discharge model to predict the effluent concentration that will occur at the edge of a 100-meter mixing zone in order to calculate site-specific toxicity limitations. The model will use parameters provided by the operator (maximum discharge rate, water depth, discharge pipe diameter, and discharge pipe orientation) as input. All other input parameters are based on available data for the eastern Gulf of Mexico. Given these parameters, the Region will calculate a toxicity limitation for each facility before discharges may occur. The methodology for determining the toxicity limitation for produced water, including derivation of the input parameters, is detailed below.

Because all future site-specific limitations cannot be anticipated and commented on at this time, the Region is proposing the method by which the toxicity limitations will be calculated. As part of this method, the Region is establishing certain parameters of the variables in the derivation as constant. These variables, or model input parameters are discussed below. The Region solicits comments at this time on the methodology for determining the effluent limitation and on the selected input parameters. The Region will not be publicly noticing all future produced water toxicity limitation determinations for the duration of this permit.

To establish a facility's produced water toxicity limit, an operator must submit the information requested at Appendix A of the permit. The

necessary information for input in the CORMIX model consists of: maximum discharge rate, minimum receiving water depth, discharge pipe location (depth and orientation with respect to the seafloor), and discharge pipe opening diameter. Parameters that are proposed to remain constant for CORMIX input include effluent density, ambient current speed, and the water column density profile. The information will be used by the Region as input for the CORMIX expert system (v. 1.4; Doneker and Jirka, 1990) to determine the projected effluent concentration at the edge of the mixing zone in order to calculate the toxicity limitation. Each month, the operator is required to demonstrate compliance with this toxicity limitation by conducting toxicity tests using *Mysidopsis bahia* and sheepshead minnows to determine the 96-hour LC50s.

The derivation/selection of the proposed constant parameters is discussed below. The effluent density was determined from temperature and salinity data submitted to the Louisiana Department of Environmental Quality (DEQ) for produced water discharges to state waters (Avanti Corporation, 1992). A density of 1,070.2 kg/m^3 represents a produced water with a salinity of 100 ppt (approximately the lower 33rd percentile of all DEQ data) and a temperature of 105 °F (approximately the upper 90th percentile of the DEQ data).

The current speed of 4 cm/sec represents the median of data collected offshore Alabama using a current meter placed at a 10 meter water depth in 30 meters of water (Texas A&M, 1991).

The water column density profile is based on data reported for offshore Alabama in Temple et al. (1977). Temperature and salinity data for the 7- and 14-meter contours were used to determine the average surface density and the average density gradient. The average surface density reported for the monitoring year was 1,023 kg/m^3 and the average density gradient was 0.163 kg/m^3/m. For each discharge modeled, the average surface density is used with a bottom density calculated as: [1,023 + (water depth × 0.163)].

Due to limitations of the model with respect to allowable discharge pipe orientation, CORMIX is used with an inverted density profile and run as a mirror image of actual discharge scenarios. This inversion method, described in the Ocean Discharge Criteria Evaluation (Avanti Corp., 1993a), reverses the actual scenario of a dense discharge from the surface to a scenario of a buoyant discharge from the bottom. All density differentials are held constant.

Also, although CORMIX was determined to be the best model available to predict discharges for OCS waters (LimnoTech and Wright, 1993), it does underestimate far-field dilutions (Wright, 1993). In applying the model to this permit, the Region is using an alternate method to calculate the far-field dilution (the dilution that occurs after initial mixing). For discharges that do not impact the bottom, Brook's 4/3 power law is used to determine the effluent dilution at the edge of the mixing zone using input from CORMIX initial mixing projections.

The resulting projected effluent concentration at 100 meters is used by EPA to calculate the toxicity limitation (0.01 × effluent concentration = minimum LC50 limitation) for the outfall modeled. This ensures that the discharge will not be acutely toxic beyond the prescribed mixing zone. For example, using this methodology, for the three outfalls currently discharging in the Mobile area, CORMIX (using the 4/3 power law) projects dilutions of 83,721 for Block 908, 4,943 for Block 990, and 3,631 for Block 821. These dilutions result in respective toxicity limitations of 1,200 ppm effluent; 20,000 ppm effluent; and 27,500 ppm effluent. These limitations are minimum LC50 values for 96-hour tests. Other potential produced water discharges occurring in the Gulf of Mexico would be subject to this produced water toxicity limitation and will be determined upon initiation of a produced water discharge and receipt of data requested by EPA in Appendix A of the permit.

The testing protocols for determining the 96-hour LC50s are provided in ''Methods for Measuring the Acute Toxicity of Effluents to Freshwater and Marine Organisms'' (EPA/600/4–85/013 or the most recent update). The test must be conducted using *Mysidopsis bahia* and sheepshead minnows (*Cyprinodon variegatus*). The permittee (or contract laboratory) shall prepare and submit a full report of the results according to the Report Preparation Section of the EPA methods manual. The original reports shall be retained for three (3) years pursuant to the provisions of part II.C.5 of the permit. The LC50s must be reported monthly, accompanied by a copy of the full laboratory report.

Although the produced water itself may not greatly vary in quality on the short term, many toxic chemicals such as biocides, corrosion inhibitors, pipe descalers, and paraffin inhibitors are discharged in produced waters and may affect the toxicity. The proposed permits require operators to collect samples that are representative of the discharge when these chemicals are being used. Logistically it may be difficult for operators covered under these permits to collect and ship additional effluent samples to be used for replacement water during the biomonitoring test, so the proposed permits allow the permittees to collect only one effluent sample to be used for all replicates in the biomonitoring test. The proposed permits also allow operators to use synthetic dilution water to minimize logistical and transportation problems associated with sample collection.

J. Discharge Prohibition In Vicinity of Areas of Biological Concern

The NPDES General permit prohibits the discharges of drilling fluids, drill cuttings and produced waters within 1000 meters from the edge of an area of biological concern. The 1000 meter minimum distance for discharge near areas of biological concern and no activity areas is based on environmental study data that demonstrate the potential for acute and chronic biological and ecological impacts due to exposure to drilling fluids and produced water discharges at distances in the 1000–2000 meter range. Environmental studies consistently and conclusively demonstrate significant chemical and biological changes from drilling fluids and cuttings discharges at distances within 500 meters and 2000–3000 meters for frequent chemical occasional biological changes. Chemical and biological impacts as a result of produced water discharges are greatest in the 100–300 meter range and elevations of chemical contaminants have been detected in the 1000–2000 meter range.

K. Rubbish, Trash, and Other Refuse (MARPOL)

Under Annex V to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL 73/78), the U.S. Coast Guard (USCG) issued regulations on the disposal of domestic waste from all fixed or floating offshore platforms and vessels engaged in exploration or exploitation of seabed mineral resources (33 CFR 151). As specified by 33 U.S.C. 1901, those regulations apply to all navigable waters of the U.S. (including the entire Gulf of Mexico), and are included in both the existing source general permit and the new source general permit.

As proposed, these permits prohibit the discharge of ''garbage,'' including food wastes, from facilities located within 12 nautical miles from nearest

land. Comminuted food waste that is able to pass through a screen with a mesh size no larger than 25 mm (approximately 1 inch) may be discharged 12 or more nautical miles from the nearest land. Incineration ash and non-plastic clinkers that can pass through a 25 mm mesh screen may be discharged beyond 3 nautical miles from nearest land. Otherwise ash and non-plastic clinkers may be discharged only beyond 12 nautical miles from nearest land.

Under these general permits, these limitations, which are already effective under the USCG regulations, will be incorporated for consistency purposes. Because graywater discharges from dishwater, showers, baths, laundries, and washbasins are not subject to these USCG regulations, they will remain subject to the same requirements for domestic waste as under the expired OCS general permit.

L. 24-Hour Reporting Requirement

The Region is proposing to clarify several specific situations where discharges occur that require oral reporting under the 24-hour reporting requirement. They include: the discharge of 1 barrel or more of oil from any permitted waste stream (this does not include spills reported to the National Response Center as regulated under Section 311 of the Clean Water Act), the discharge of muds or cuttings which do not meet the 30,000 ppm toxicity limitation, and any discharge of oil-based muds or cuttings. Under the proposed permits, a permittee must verbally notify the Regional office within 24 hours of the time at which the permittee becomes aware of the discharge. A written submission must also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission must contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times; and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. The Regional Administrator may waive the written report on a case-by-case basis if the oral report has been received within 24 hours. The 24-hour reporting number for Region 4 is located in Part II.D.7 of the permit.

M. Reopener Clause

These permits shall be modified, or alternately, revoked and reissued to comply with any effluent standard or limitation, or sludge disposal requirement issued or approved under Sections 301(b)(2) (C) and (D), 307(a)(2), and 405(d)(2)(D) of the Clean Water Act, as amended, if the effluent standard or limitation, or sludge disposal requirement so issued or approved:

a. Contains different conditions or is otherwise more stringent than any condition in the permit; or

b. Controls any pollutant or disposal method not addressed in the permit.

The permits as modified or reissued under this paragraph shall also contain any other requirements of the Act then applicable.

Further, the RA may at anytime require a general permit holder to apply for an individual permit, as set forth in 40 CFR Section 122.28(b)(3).

N. Clarifications

The Region is taking this opportunity to clarify definitions, end of well sampling requirements, and the visual and static sheen tests. These clarifications are not new definitions; they are further clarifications of the Agency's original intent of their application.

Boiler blowdown

Existing: Discharges from boilers necessary to minimize solids build-up in the boilers.

Clarification: Discharges from boilers necessary to minimize solids build-up in the boilers, including vents from boilers and other heating systems.

Completion fluids

Existing: Any fluids used in a newly drilled well to allow safe preparation of the well for production.

Clarification: Salt solutions, weighted brines, polymers and various additives used to prevent damage to the wellbore during operations which prepare the drilled well for hydrocarbon production. These fluids prevent solid loss, prepare a well for production, provide hydrostatic control and prevent formation damage.

Deck drainage

Existing: All waste resulting from platform washings, deck washings, and runoff from curbs, gutters, and drains, including drip pans and wash areas.

Clarification: All waste resulting from platform washings, deck washings, work area spills, rainwater, and runoff from curbs, gutters, and drains, including drip pans and work areas.

Domestic waste

Existing: Discharges from galleys, sinks, showers, and laundries only.

Clarification: Discharges from galleys, sinks, showers, safety showers, eye wash stations, and laundries.

Muds, cuttings, and cement at the seafloor

Existing: Discharges that occur at the seafloor prior to installation of the marine riser.

Clarification: Discharges that occur at the seafloor prior to installation of the marine riser and during marine riser disconnect, well abandonment and plugging operations.

Produced sand

Existing: Sand and other solids removed from the produced waters.

Clarification: Slurried particles used in hydraulic fracturing, the accumulated formation sands and scales particles generated during production. Produced sand also includes desander discharge from the produced water waste stream and blowdown of the water phase from produced water treating systems.

Produced water

Existing: Water and particulate matter associated with oil and gas producing formations.

Clarification: Water (brine) brought up from the hydrocarbon-bearing strata during the extraction of oil and gas, and can include formation water, injection water, and any chemicals added downhole or during the oil/water separation process.

Well treatment fluids

Existing: Any fluid used to enhance production by physically altering oil-bearing strata after a well has been drilled.

Clarification: Any fluid used to restore or improve productivity by chemically or physically altering hydrocarbon-bearing strata after a well has been drilled. These fluids move into the formation and return to the surface as a slug with the produced water. Stimulation fluids include substances such as acids, solvents, and propping agents.

Workover fluids

Existing: Any fluid used in a producing well to allow safe repair and maintenance or abandonment procedures.

Clarification: Salt solutions, weighted brines, polymers and other specialty additives used in a producing well to allow safe repair and maintenance or abandonment procedures. These fluids prevent solid loss, prepare a well for production, provide hydrostatic control and prevent formation damage. Packer fluids, low solids fluids between the packer, production string and well casing, are considered to be workover fluids and must meet only the effluent requirements imposed on workover

fluids. High-solids drilling fluids used during workover operations are not considered workover fluids by definition, and therefore must meet drilling fluid effluent limitations before discharge may occur.

End of Well Sample

Existing: The end of well definition in the existing Gulf of Mexico OCS general permit requires that a sample be taken at the point when total well depth is reached. The original intent of the end of well sample was to characterize the mud system just prior to being discharged. It is now known that several weeks may pass after the well has reached maximum drilled depth before the actual discharge of the mud system. Formation evaluation (running logs, drill stem tests, etc.) and completion operations such as setting pipe may all occur after reaching total drilled depth while still using the same drilling fluid used to drill the well. For this reason, the end of well sample definition is being changed to read as below:

Changed: The sample taken no more than 48 hours prior to bulk discharge and after any additives are introduced in order to best characterize the mud systems being discharged.

The type of sample required is a grab sample, taken from beneath the shale shaker, or if there are no returns across the shaker, then the sample must be from a location that is characteristic of the overall mud system to be discharged. An end of well sample, as a daily minimum, must be taken no more than 48 hours prior to bulk discharge. If any additional additives are introduced to the mud system during this 48-hour period, then a new sample must be collected, analyzed, and will be recorded as the end of well sample. The purpose of this sample is to accurately characterize the mud system that is being discharged.

Static sheen test

The static sheen test may be used as an alternative method to detect free oil in place of the visual sheen test at night or when atmospheric or surface conditions prohibit the observer from detecting a sheen (e.g., rough seas, rainy weather, etc.). The test shall be conducted in accordance with the methodology presented in the permit at Part IV.A.3.

Visual sheen test

The visual sheen test procedure is being added to the text in order to clarify the test methodology: The visual sheen test is used to detect free oil by observing the surface of the receiving water for the presence of a sheen while discharging. A sheen is defined as a ''silvery'' or ''metallic'' sheen, gloss, or increased reflectivity; visual color; iridescence; or oil slick on the surface. The operator must conduct a visual sheen test only at times when a sheen could be observed. This restriction eliminates observations at night or when atmospheric or surface conditions prohibit the observer from detecting a sheen (e.g., during rain or rough seas, etc.). Certain discharges can only occur if a visual sheen test can be conducted.

The observer must be positioned on the rig or platform, relative to both the discharge point and current flow at the time of discharge, such that the observer can detect a sheen should it surface down current from the discharge. For discharges that have been occurring for at least 15 minutes previously, observations may be made any time thereafter. For discharges of less than 15 minutes duration, observations must be made both during discharge and 5 minutes after discharge has ceased.

VI. Permit Conditions

A. Determination of Discharge Conditions

The determination of appropriate conditions for each discharge was accomplished through:

(1) Consideration of technology-based effluent limitations to control conventional pollutants under BCT,

(2) Consideration of technology-based effluent limitations to control toxic and nonconventional pollutants under BAT,

(3) Consideration of technology-based effluent limitations to control toxic and nonconventional pollutants under NSPS,

(4) Consideration of more stringent permit conditions of existing general permit in accordance with Section 402(o)(1) of the Clean Water Act.

(5) Evaluation of the Ocean Discharge Criteria for discharges in the Offshore Subcategory (given conditions 1 thru 4 are in place).

EPA first determines which technology-based limits are required and then evaluates the effluent quality expected to result from these controls. If water quality violations could occur as a result of discharge, EPA must include water quality-based limits in the permit. The permit limits will thus reflect whichever limits (technology-based or water quality-based) are most stringent. Finally, an Ocean Discharge Criteria Evaluation (ODCE) has been prepared to identify any additional impacts created by these proposed discharges.

General area and depth related requirements and 403(c) flow rate requirements for are discussed in section VI.B. and VI.C of this fact sheet. For convenience, these conditions and the regulatory basis for each are cross-referenced by discharge in Table 2 below:

TABLE 2

Discharge and permit conditions	Statutory basis/existing sources	Statutory basis/new sources
Drilling Muds & Cuttings:		
Flow Rate Limitations	§ 403	§ 403
Volume (bbl/day)	§ 308	§ 308
Toxicity of Drilling Muds	BPJ/BAT	NSPS
No Free Oil Discharge	BPT, BPJ/BCT, BPJ/BAT	NSPS
No Oil Based Fluids Discharge	BPT, BPJ/BCT, BPJ/BAT	NSPS
Mercury & Cadmium in Barite	BAT	NSPS
> 200 meters—No Unreasonable Degradation	§ 403	§ 403, EIS
> 1000 meters from Area of Biological Concern—No Unreasonable Degradation.	§ 403	§ 403
Produced Water:		
Monitor Flow (MGD)	§ 308	§ 308
Oil & Grease	BCT, BAT	NSPS
Whole Effluent Toxicity (WET)	Water Quality Standards	Water Quality Standards
> 200 meters—No Unreasonable Degradation	§ 403	§ 403, EIS
> 1000 meters from Area of Biological Concern—No Unreasonable degradation.	§ 403	§ 403

TABLE 2—Continued

Discharge and permit conditions	Statutory basis/existing sources	Statutory basis/new sources
Well Treatment, Completion, & Workover Fluids:		
Monitor Frequency/Flow Rate	§ 308	§ 308
No Free Oil	BPT, BCT	NSPS
Oil & Grease	BAT	NSPS
> 200 meters—No Unreasonable Degradation	§ 403	§ 403, EIS
Deck Drainage:		
Monitor Frequency/Flow Rate	§ 308	§ 308
No Free Oil	BPT, BCT, BAT	NSPS
> 200 meters—No Unreasonable Degradation	§ 403	§ 403 , EIS
Produced Sand:		
No Discharge Allowed	BCT, BAT	NSPS
Sanitary Waste (manned by 10 or more):		
Residual Chlorine	BPT, BAT	NSPS
> 200 meters—No Unreasonable Degradation	§ 403	§ 403 ,EIS
Sanitary Waste (manned by 9 or less):		
No Floating Solids	BPT, BCT	NSPS
> 200 meters—No Unreasonable Degradation	§ 403	§ 403, EIS
Domestic Waste:		
No Foam	BAT	NSPS
No Floating Solids	BCT/BAT	NSPS
> 200 meters—No Unreasonable Degradation	§ 403	§ 403, EIS
Well Test Fluids:		
Monitor Frequency/Flow Rate	§ 308	§ 308
No Free Oil	BCT, BAT	BCT, BAT
> 200 meters—No unreasonable Degradation	§ 403	§ 403, EIS
Minor Wastes:		
Desalination Unit Discharge, Blow Out Preventer Fluids, Uncontaminated Ballast Water, Muds Cuttings & Cement at Seafloor, Uncontaminated Sea Water, Fire Test Water, Boiler Blowdown, Excess Cement Slurry, Diatomaceous Earth Filter Media, Uncontaminated Fresh Water, Noncontaminated Fresh Water		
No Free Oil	BCT, BAT	BCT, BAT
> 200 meters—No unreasonable degradation	§ 403	§ 403

B. Area and Depth-Related Requirements

The discharge restrictions and requirements listed below are necessary to ensure that unreasonable degradation of these areas will not occur as discussed above in part III.B. of this fact sheet (Ocean Discharge Criteria) and are largely unchanged from the 1986 permit to the proposed permit. Discharge within the area described below the 26° parallel is prohibited due to a order which establishes a moratorium on drilling activity on leases in that area.

Pertaining to all discharges, these NPDES general permits only provide coverage for discharges occurring:

—In water depths greater than 200 meters (as measured from mean low water).

—For leases not under moratorium; which is currently areas above the 26° parallel.

C. Section 403(c) Requirements for Muds and Cuttings

Flow rates: In addition to restrictions on all discharges imposed under section 403(c) of the Act and discussed in section III.B. of this fact sheet, muds and cuttings discharges are limited to the following maximum rates. These limitations are identical to those contained in the 1986 general permit. 1,000 bbl/hr on total muds and cuttings.

This limit was established in the previous 1986 permit because reliable dispersion data are available only up to this discharge rate and because this rate did not represent any serious operational problem based on comments received from the industry and discharge monitoring reports.

VII. Other Legal Requirements

National Environmental Policy Act

Under the direction of the National Environmental Policy Act (NEPA), EPA and MMS entered into a Memorandum of Understanding to coordinate efforts on environmental impact statements (EIS) for areas covered by new source performance standards before EPA issues final permits covering discharges. EPA has completed a draft EIS for this general permit and is accepting public comment on that document. A final EIS will be prepared before issuance of the final permit. EPA also will coordinate with MMS for complying with NEPA for specific new source (production) projects.

Oil Spill Requirements

Section 311 of the Clean Water Act prohibits the discharge of oil and hazardous materials in harmful quantities. Routine discharges that are in compliance with NPDES permits are excluded from the provisions of section 311. However, the permits do not preclude the institution of legal action or relieve permittees from any responsibilities, liabilities, or penalties for other, unauthorized discharges of oil

and hazardous materials that are covered by section 311 of the Act.

Endangered Species Act

The Endangered Species Act (ESA) allocates authority to, and administers requirements upon, federal agencies regarding endangered species of fish, wildlife, or plants that have been designated as critical. Its implementing regulations (50 CFR Part 402) require the RA to ensure, in consultation with the Secretaries of Interior and Commerce, that any action authorized, funded or carried out by EPA is not likely to jeopardize the continued existence of any endangered or threatened species or adversely affect its critical habitat (40 CFR 122.49(c)). Implementing regulations for the ESA establish a process by which agencies consult with one another to ensure that issues and concerns of both the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (USFWS) collectively are addressed. The NMFS and USFWS have responded to EPA's initiation of the coordination process under the regulations set forth by section 7 of the Endangered Species Act. The 36 species identified by NMFS and USFWS as threatened or endangered species within the permit coverage area have been assessed for potential effects from the activities covered by the proposed permit in a biological assessment incorporated in the Draft EIS. This biological assessment has been submitted to the NMFS and USFWS along with the proposed permit for consistency review and concurrence on the Region's finding of no adverse effect. The Region's finding is appended to the EIS.

Ocean Discharge Criteria Evaluation

For discharges into waters located seaward of the inner boundary of the territorial seas, the Clean Water Act at section 403, requires that NPDES permits consider guidelines for determining the potential degradation of the marine environment. The guidelines, or Ocean Discharge Criteria (40 CFR part 125, subpart M), are intended to ''prevent unreasonable degradation of the marine environment and to authorize imposition of effluent limitations, including a prohibition of discharge, if necessary, to ensure this goal'' (45 FR 65942, October 3, 1980). After all available comments and information are reviewed, the final 403 determination will be made.

A preliminary Ocean Discharge Criteria Evaluation (ODCE) determination of no unreasonable degradation has been made by Region 4 based on an analysis by Avanti Corporation (1993a). The potential effects of discharges under the proposed permit limitations and conditions are assessed in this draft document available from Region 4. The ODCE states that, based on the available information, the permit limitations are sufficient to determine that no unreasonable degradation should result from the permitted discharges.

Coastal Zone Management Act

The coverage area of the proposed general permit includes only Federal waters of the eastern Gulf of Mexico. However, the State waters of Florida, Alabama, and Mississippi are potentially affected by activities covered under the permit. Therefore, the coastal zone management plans of Florida, Alabama, and Mississippi have been reviewed for consistency and consultation with the states for consistency concurrence has been initiated. A consistency determination for each state and the proposed permit have been submitted for state review. The consistency determinations are appended to the EIS.

Marine Protection, Research, and Sanctuaries Act

No marine sanctuaries as designated by the Marine Protection, Research, and Sanctuaries Act exist in the area to which the OCS permit applies.

Executive Order 12291

The Office of Management and Budget has exempted this action from the review requirements of Executive Order 12291 pursuant to section 8(b) of that order.

Paperwork Reduction Act

The information collection required by these permits has been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., in submission made for the NPDES permit program and assigned OMB control numbers 2040–0086 (NPDES permit application) and 2040–0004 (discharge monitoring reports).

All facilities affected by these permits must submit a notice of intent to be covered under the eastern Gulf of Mexico OCS general permit GMG280000. EPA estimates that it will take an affected facility three hours to prepare the request for coverage.

All affected facilities will be required to submit discharge monitoring reports (DMRs). EPA estimated DMR burden for the existing permit to be 36 hours per facility per year. The DMR burden for these proposed permits is expected to increase slightly due to the additional reporting required for calculating the critical dilution for produced water discharges. While this permit requires some increased monitoring and reporting of that data, the DMR burden for the proposed permits is estimated to increase slightly and facilities affected by this permit reissuance were subject to similar information collection burdens under the existing Gulf of Mexico OCS general permit that this proposed reissuance will replace.

Regulatory Flexibility Act

After review of the facts presented above, I hereby certify, pursuant to the provisions of 5 U.S.C. 605(b), that these proposed general permits will not have a significant impact on a substantial number of small entities. This certification is based on the fact that the vast majority of the parties regulated by this permit have greater than 500 employees and are not classified as small businesses under the Small Business Administration regulations established at 49 FR 5024 et seq. (February 9, 1984). For those operators having fewer than 500 employees, this permit issuance will not have significant economic impact. These facilities are classified as Major Group 13—Oil and Gas Extraction SIC Crude Petroleum and Natural Gas.

Proposed Schedule for Permit Issuance

Draft Permit to Federal Register for Public Notice—December 6, 1996

Public Hearings dates and location

—January 28, 1997—Biloxi, MS

—January 29, 1997—Gulf Shores, Alabama

—January 30, 1997—Pensacola, Florida

—February 4, 1997—Tampa/St. Petersburg, Florida

Close Comment Period

—February 14, 1997

Dated: [Signature date]

Regional Administrator

Regional Administrator, Region 4.

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General Permit Table of Contents

Authorization To Discharge Under the National Pollutant Discharge Elimination System

In compliance with the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.), operators of lease blocks located in OCS Federal waters seaward of 200 meters with existing source or new source discharges originating from exploration or development and production operations are authorized to discharge to receiving waters in accordance with effluent limitations, monitoring requirements, and other conditions set forth in parts I, II, III, and IV hereof.

Operators of operating facilities within the proposed NPDES general permit area must submit written notification to the Regional Administrator, prior to discharge, that they intend to be covered by either the existing source general permit or the new source general permit (See part I.A.3). Upon receipt of notification of inclusion by the Regional Administrator, owners or operators requesting coverage are authorized to discharge under either the existing source or new source general permit. Operators of lease blocks within the general permit area who fail to notify the Regional Administrator of intent to be covered by this general permit are not authorized under the general permit to discharge pollutants from their potential new or existing source facilities. This permit does not apply to non-operational leases, i.e., those on which no discharge has taken place in 2 years prior to the effective date of the new general permits. EPA will not accept Notice of Intents (NOI's) from such leases, and these general permits will not cover such leases. Non-operational leases will lose general

permit coverage on the effective date of these new general permits.

This permit shall become effective at [*time*], Eastern Standard Time, on [*Month, Day, 19 *]. Coverage under the old general permit shall terminate on the effective date of this permit, unless the owner/operator submits a notice of intent (NOI) to be covered within 60 days thereafter, or an application for an individual permit within 120 days thereafter. If an NOI is filed, coverage under the old general permit terminates upon receipt of notification of inclusion by letter from the Director of the Water Management Division, Region 4. If a permit application is filed, the old general permit terminates when a final action is taken on the application for an individual permit.

This permit and the authorization to discharge shall expire [*time*], Eastern Standard Time, on *5 years from date of issuance.*

Signed this [*day*] day of [*month*], Year.

Director, Water Management Division, EPA, Region 4.

Part I. Requirements for NPDES Permits

Section A. Permit Applicability and Coverage Conditions

1. Operations Covered

These permits establish effluent limitations, prohibitions, reporting requirements, and other conditions for discharges from oil and gas facilities engaged in production, field exploration, drilling, well completion, and well treatment operations from potential new sources and existing sources.

The permit coverage area includes Federal waters in the Gulf of Mexico seaward of the 200 meter water depth for offshore Mississippi, Alabama, and Florida. This permit only covers facilities located in and discharging to the Federal waters listed above and does not authorize discharges from facilities in or discharging to the territorial sea (within 3 miles of shore) of the Gulf coastal states or from facilities defined as ''coastal'' or ''onshore'' (see 40 CFR, part 435, subparts C and D).

2. Operations Excluded

Any operator who seeks to discharge drill fluids, drill cuttings or produced water within 1000 meters of an area of biological concern is ineligible for coverage under these general permits and must apply for an individual permit.

Any operator with leases occurring below the 26° parallel which are currently under moratorium are excluded from inclusion under these general permits.

No coverage will be extended under either of the new general permits to non-operational leases.

3. General Permit Applicability

In accordance with 40 CFR 122.28(b)(3) and 122.28(c), the Regional Administrator may require any person authorized by this permit to apply for and obtain an individual NPDES permit when:

(a) The discharge(s) is a significant contributor of pollution;

(b) The discharger is not in compliance with the conditions of this permit;

(c) A change has occurred in the availability of the demonstrated technology or practices for the control or abatement of pollutants applicable to the point sources;

(d) Effluent limitation guidelines are promulgated for point sources covered by this permit;

(e) A Water Quality Management Plan containing requirements applicable to such point source is approved;

(f) It is determined that the facility is located in an area of biological concern.

The Regional Administrator may require any operator authorized by this permit to apply for an individual NPDES permit only if the operator has been notified in writing that a permit application is required.

Any operator authorized by this permit may request to be excluded from the coverage of this general permit by applying for an individual permit. The operator shall submit an application together with the reasons supporting the request to the Regional Administrator no later than 180 days before an activity is scheduled to commence on the lease block. When an individual NPDES permit is issued to an operator otherwise subject to this permit, the applicability of this permit to the owner or operator is automatically terminated on the effective date of the individual permit.

A source excluded from coverage under this general permit solely because it already has an individual permit may request that its individual permit be revoked, and that it be covered by this general permit. Upon revocation of the individual permit, this general permit shall apply to the source after the notification of intent to be covered is filed (see I.A.4, below).

4. Notification Requirements (Existing Sources and New Sources)

Written notification of intent (NOI) to be covered in accordance with the general permit requirements shall state whether the permittee is requesting coverage under the existing source general permit or new source general permit, and shall contain the following information:

(1) the legal name and address of the owner or operator;

(2) the facility name and location, including the lease block assigned by the Department of Interior, or if none, the name commonly assigned to the lease area;

(3) the number and type of facilities and activity proposed within the lease block;

(4) the waters into which the facility will be discharging;

(5) the date on which the owner/operator commenced on-site construction, including:

(a) any placement assembly or installation of facilities or equipment; or

(b) the clearing, excavation or removal of existing structures or facilities;

(6) the date on which the facility commenced exploration activities at the site;

(7) the date on which the owner/operator entered into a binding contract for the purchase of facilities or equipment intended to be used in its operation within a reasonable time (if applicable);

(8) the date on which the owner/operator commenced development; and

(9) the date on which the owner/operator commenced production.

(10) technical information on the characteristics of the sea bottom within 1000 meters of the discharge point.

All notices of intent shall be signed in accordance with 40 CFR § 122.22.

EPA will act on the NOI in a reasonable period of time.

For operating leases, the NOI shall be submitted within sixty (60) days after publication of the final determination on this action. Non-operational facilities are not eligible for coverage under these new general permits. No NOI will be accepted from either a non-operational or newly acquired lease until such time as an exploration plan or development production plan has been prepared for submission to EPA. Operators obtaining coverage under the existing source general permit for exploration activities must send a new NOI for coverage of development and production activities under the new source general permit sixty (60) days prior to commencing such operations. All NOI's requesting coverage should be sent by certified mail to: Director, Water Management Division, U.S. EPA, Region 4, Atlanta Federal Center, 100 Alabama Street, S.W., Atlanta, GA 30303–3104.

For drilling activity, the operator shall submit a Notice to Drill (NTD) sixty (60) days prior to the actual move-on date. This NTD shall contain: (1) the assigned NPDES general permit number assigned to the lease block, (2) the latitude and longitude of the proposed discharge point, (3) the water depth, and (4) the estimated length of time the drilling operation will last. This NTD shall be submitted to Region 4 at the address above, by certified mail to: Director, Water Management Division, U.S. EPA, Region 4, Atlanta Federal Center, 100

Alabama Street, S.W., Atlanta, GA 30303–3104.

In addition, a notice of commencement of operations (NCO) is required to be submitted for each of the following activities: placing a production platform seaward of 200 meters (within 30 days prior to placement); and discharging waste water within the coverage area (within 30 days prior to initiation of produced water discharges). The NCO required for discharging waste water shall be accompanied by the information requested in Appendix A for calculation of the toxicity limitation for produced water discharges. Within sixty (60) days after produced water discharge begins, the permittee shall perform adequate tests to establish a bbl/day estimate to be used in the Cormix model. This information must then be provided to EPA.

All NOIs, NTDs, NCOs, and any subsequent reports required under this permit shall be sent by certified mail to the following address: Director, Water Management Division, U.S. EPA, Region 4, Atlanta Federal Center, 100 Alabama Street, S.W., Atlanta, GA 30303–3104.

5. Termination of Operations

Lease block operators shall notify the Director (at the address above) within 60 (sixty) days after the permanent termination of discharges from their facility.

6. Intent To Be Covered by a Subsequent Permit

This permit shall expire *five (5) years from the effective date of issuance.* However, an expired general permit continues in force and effect until a new general permit is issued. Lease block operators authorized to discharge by this permit shall by certified mail notify the Director, Water Management Division, U.S. EPA, Region 4, Atlanta Federal Center, 100 Alabama Street, S.W., Atlanta, GA 30303–3104, on or before [*6 months prior to the expiration date of the permit*], that they intend to be covered by a permit that will authorize discharge from these facilities after the termination date of this permit on [*month, day of year*].

Permittees must submit a new NOI in accordance with the requirements of this permit to remain covered under the continued general permit after the expiration of this permit. Therefore, facilities that have not submitted an NOI under the permit by the expiration date cannot become authorized to discharge under any continuation of this NPDES general permit. All NOI's from permittees requesting coverage under a continued permit should be sent by certified mail to: Director, Water Management Division, U.S. EPA, Region 4, Atlanta Federal Center, 100 Alabama Street, S.W., Atlanta, GA 30303–3104.

Section B. Effluent Limitations and Monitoring Requirements

1. Drilling Fluids

The discharge of drilling fluids shall be limited and monitored by the permittee as specified in both tables and below.

Note: The permit prohibitions and limitations that apply to drilling fluids, also apply to fluids that adhere to drill cuttings. Any permit condition that applies to the drilling fluid system, therefore, also applies to cuttings discharges.

(a) Prohibitions

Oil-Based Drilling Fluids. The discharge of oil-based drilling fluids and inverse emulsion drilling fluids is prohibited.

Oil-Contaminated Drilling Fluids. The discharge of drilling fluids to which waste engine oil, cooling oil, gear oil or any lubricants which have been previously used for purposes other than borehole lubrication have been added, is prohibited.

Diesel Oil. Drilling fluids to which any diesel oil has been added as a lubricant or pill may not be discharged.

No Discharge Near Areas of Biological Concern. For those facilities within 1000 meters of an area of biological concern the discharge of drilling fluids is not allowed.

(b) Limitations

Mineral Oil. Mineral oil may be used only as a lubricity additive or pill. If mineral oil is added to a water-based drilling fluid, the drilling fluid may not be discharged unless the 96-hr LC50 of the drilling fluid is greater than 30,000 ppm SPP and it passes the static sheen test for free oil.

Cadmium and Mercury in Barite. There shall be no discharge of drilling fluids to which barite has been added if such barite contains mercury in excess of 1.0 mg/kg (dry weight) or cadmium in excess of 3.0 mg/kg (dry weight).

The permittee shall analyze a representative sample of each supply of stock barite prior to drilling each well and submit the results for total mercury and cadmium in the Discharge Monitoring Report (DMR). If more than one well is being drilled at a site, new analyses are not required for subsequent wells, provided that no new supplies of barite have been received since the previous analysis. In this case, the results of the previous analysis should be used for completion of the DMR.

Alternatively, the permittee may provide certification, as documented by the supplier(s), that the barite being used on the well will meet the above limits. The concentration of the mercury and cadmium in the barite shall be reported on the DMR as documented by the supplier.

Analyses shall be conducted by absorption spectrophotometry (see 40 CFR Part 136, flame and flameless AAS) and the results expressed in mg/kg (dry weight).

Toxicity. Discharged drilling fluids shall meet both a daily minimum and a monthly average minimum effluent toxicity limitation of at least 30,000 ppm, (v/v) of a 9:1 seawater:mud suspended particulate phase (SPP) based on a 96-hour test using *Mysidopsis bahia.* The method is published in the final effluent guidelines at 58 FR 12507. Monitoring shall be performed at least once per month for both the daily minimum and the monthly average minimum. In addition, an end-of-well sample is required (see definitions). The type of sample required is a grab sample, taken from beneath the shale shaker. Results of toxicity tests must be reported on the monthly DMRs. Copies of the laboratory reports also must be submitted with the DMRs.

Free Oil. No free oil shall be discharged. Monitoring shall be performed prior to discharges and on each day of discharge using the static (laboratory) sheen test method in accordance with the method provided in Part IV.A.3, as published in the final effluent guidelines (58 FR 12506). The discharge of drilling fluids that fail the static sheen test is prohibited. The results of each sheen test must be recorded and the number of observations of a sheen must be reported on each monthly DMR.

Maximum Discharge Rate. All facilities are subject to a maximum discharge rate of 1,000 barrels per hour. Average daily discharge rates must be recorded and the monthly average discharge rate reported on the monthly DMR in barrels/day (BPD).

(c) Monitoring Requirements

In addition to the above limitations, the following monitoring and reporting requirements also apply to drilling fluids discharges.

Drilling Fluids Inventory. The permittee shall maintain a precise chemical inventory of all constituents and their total volume or mass added downhole for each well. Information shall be recorded but not reported unless specifically requested by EPA.

Volume. Once per month, the total monthly volume (bbl/month) of discharged drilling fluids must be estimated and recorded. The volume shall be reported on the monthly DMR.

Oil Content. There is no numeric limitation on the oil content of discharged drilling muds (except that muds containing any waste oil, or diesel oil as a lubricity agent shall not be discharged). However, note that the oil added shall not cause a violation of either the toxicity or free oil limitations discussed above. The oil content of discharged drilling fluids shall be determined once per day when discharging, on a grab sample taken from the same mud system being observed for the static sheen (free oil) test.

2. Drill Cuttings

The discharge of drill cuttings shall be limited and monitored by the permittee as specified in both tables and below.

Note: The permit prohibitions and limitations that apply to drilling fluids also apply to fluids that adhere to drill cuttings. Any permit condition that applies to the drilling fluid system, therefore, also applies to cuttings discharges. Monitoring requirements, however, may not be the same.

(a) Prohibitions

Cuttings from Oil-Based Drilling Fluids. Prohibitions that apply to drilling fluids, set forth above in B.1(a), also apply to drill cuttings. Therefore, the discharge of cuttings is prohibited when they are generated while using an oil-based or invert emulsion mud.

Cuttings from Oil Contaminated Drilling Fluids. The discharge of cuttings that are generated using drilling fluids that contain waste engine oil, cooling oil, gear oil or any lubricants which have been previously used for purposes other than borehole lubrication is prohibited.

Cuttings generated using drilling fluids which contain diesel oil. Drill cuttings generated using drilling fluids to which any diesel oil has been added as a lubricant may not be discharged.

Cuttings generated using mineral oil. The discharge of cuttings generated using drilling fluids which contain mineral oil is prohibited except when the mineral oil is used as a carrier fluid (transporter fluid), lubricity additive, or pill.

No Discharge Near Areas of Biological Concern. For those facilities within 1000 meters of an area of biological concern discharge of drilling cuttings is not allowed.

(b) Limitations

Mineral Oil. Limitations that apply to drilling fluids also apply to drill cuttings. Therefore, if mineral oil pills or mineral oil lubricity additives have been introduced to a water-based mud system, cuttings may be discharged if they meet the limitations for toxicity and free oil.

Free Oil. No free oil shall be discharged. Monitoring shall be performed prior to bulk discharges and on each day of discharge using the static (laboratory) sheen test method in accordance with the method provided in Part IV.A.3. The discharge of cuttings that fail the static sheen test is prohibited. The results of each sheen test must be recorded and the number of observations of a sheen must be reported on each monthly DMR.

Toxicity. Discharged cuttings generated using drilling fluids with a daily minimum or a monthly average minimum 96-hour LC50 of less than 30,000 ppm, (v/v) of a 9:1 seawater to drilling fluid suspended particulate phase (SPP) volumetric ratio using *Mysidopsis bahia* shall not be discharged.

(c) Monitoring Requirements

Volume. Once per month, the monthly total discharge must be estimated and recorded. The estimated volume of cuttings discharged (bbl/month) shall be reported on the DMR.

3. Produced Water

The discharge of produced water shall be limited and monitored by the permittee as specified in both tables and below.

(a) Prohibitions

No Discharge Near Areas of Biological Concern. For those facilities within 1000 meters of an area of biological concern discharge of produced water is not allowed.

(b) Limitations

Oil and Grease. Produced water discharges must meet both a daily maximum limitation of 42 mg/l and a monthly average limitation of 29 mg/l for oil and grease. A grab sample must be taken at least once per month. The daily maximum samples may be based on the average concentration of four grab samples taken within the 24-hour period. If only one sample is taken for any one month, it must meet both the daily and monthly limits. If more samples are taken, they may exceed the monthly average for any one day, provided that the average of all samples taken meets the monthly limitation. The gravimetric method is specified at 40 CFR part 136. The highest daily oil and grease concentration and the monthly average concentration shall be reported on the monthly DMR.

Toxicity. Produced water discharges must meet a toxicity limitation projected to be the limiting permissible concentration (0.01 x LC50) at the edge of a 100-meter mixing zone. The toxicity limitation will be calculated by EPA based on each facility's site-specific water column conditions and discharge configuration. The methods for this determination are presented in Appendix A of this permit using the Cornell Mixing Zone Expert System (CORMIX). The CORMIX1 (Version 1.4), which is explained in Chapter 4, Section 4.4 of the Ocean Discharge Criteria Evaluation will be used to evaluate the toxicity of the produced water outfalls.

Compliance with the toxicity limitation shall be demonstrated by conducting 96-hour toxicity tests each month using *Mysidopsis bahia* and sheepshead minnows. The method is published in ''Methods for Measuring the Acute Toxicity of Effluents to Freshwater and Marine Organisms'' (EPA/600/4–85/013). The results for both species shall be reported on the monthly DMR. The operator shall also submit a copy of all laboratory reports with the DMR.

(b) Monitoring Requirements

Flow. Once per month, an estimate of the total flow (bbl/month) must be reported on the DMR.

4. Deck Drainage

The discharge of deck drainage shall be limited and monitored by the permittee as specified in both tables and below.

(a) Limitations

Free Oil. No free oil shall be discharged. Monitoring shall be performed on each day of discharge using the visual sheen test method in accordance with the method provided at Part IV.A.4. The discharge of deck drainage that fails the visual sheen test is prohibited. The results of each sheen test must be recorded and the number of observations of a sheen must be reported on each monthly DMR.

(b) Monitoring Requirements

Volume. Once per month, the monthly total discharge (bbls/month) must be estimated and reported on the DMR.

5. Produced Sand

The discharge of produced sand is prohibited under this general permit.

Wastes must be hauled to shore for treatment and disposal.

6. Well Treatment Fluids, Completion Fluids, and Workover Fluids

The discharge of well treatment fluids, completion fluids, and workover fluids shall be limited and monitored by the permittee as specified in both tables and below.

(a) Limitations

Free Oil. No free oil shall be discharged. Monitoring shall be performed prior to discharge and on each day of discharge using the static (laboratory) sheen test method in accordance with the method provided at Part IV.A.3. The discharge of well treatment, completion, or workover fluids that fail the static sheen test is prohibited. The results of each sheen test must be recorded and the number of observations of a sheen must be reported on each monthly DMR.

Oil and Grease. Well treatment fluids, completion fluids, and workover fluids discharges must meet both a daily maximum of 42 mg/l and a monthly average of 29 mg/l limitation for oil and grease. A grab sample must be taken at least once per month when discharging. The daily maximum concentration may be based on the average of four grab samples taken within the 24-hour period. If only one sample is taken for any one month, it must meet both the daily and monthly limits. If more samples are taken, they may exceed the monthly average for any one day, provided that the average of all samples taken meets the monthly limitation. The analytical method is the gravimetric method, as specified at 40 CFR part 136.

Priority Pollutants. For well treatment fluids, completion fluids, and workover fluids, the discharge of priority pollutants is prohibited except in trace amounts. Information on the specific chemical composition of any additives containing priority pollutants shall be recorded.

Note: If materials added downhole as well treatment, completion, or workover fluids contain no priority pollutants, the discharge is assumed not to contain priority pollutants except possibly in trace amounts.

(b) Monitoring Requirements

Volume. Once per month, an estimate of the total volume discharged (bbls/month) shall be reported on the DMR.

7. Sanitary Waste (Facilities Continuously Manned by 10 or More Persons)

The discharge of sanitary waste shall be limited and monitored by the permittee as specified in both tables and below.

(a) Prohibitions

Solids. No floating solids may be discharged. Observations must be made once per day, during daylight in the vicinity of sanitary waste outfalls, following either the morning or midday meals and at the time during maximum estimated discharge. The number of days solids are observed shall be recorded.

(b) Limitations

Residual Chlorine. Total residual chlorine is a surrogate parameter for fecal coliform. Discharges of sanitary waste must contain a minimum of 1 mg residual chlorine/l and shall be maintained as close to this concentration as possible. The approved analytical method is Hach CN–66–DPD. A grab sample must be taken once per month and the concentration reported.

(Exception) Any facility which properly maintains a marine sanitation device (MSD) that complies with pollution control standards and regulations under Section 312 of the Act shall be deemed in compliance with permit limitations for sanitary waste. The MSD shall be tested annually for proper operation and the test results maintained at the facility. The operator shall indicate use of an MSD on the monthly DMR.

(c) Monitoring Requirements

Flow. Once per month, the average flow (MGD) must be estimated and recorded for the flow of sanitary wastes.

8. Sanitary Waste (Facilities Continuously Manned by 9 or Fewer Persons or Intermittently by Any Number)

The discharge of sanitary waste shall be limited and monitored by the permittee as specified in both tables and below.

(a) Prohibitions

Solids. No floating solids may be discharged to the receiving waters. An observation must be made once per day when the facility is manned, during daylight in the vicinity of sanitary waste outfalls, following either the morning or midday meal and at a time during maximum estimated discharge. The number of days solids are observed shall be recorded.

(Exception) Any facility which properly maintains a marine sanitation device (MSD) that complies with pollution control standards and regulations under Section 312 of the Act shall be deemed in compliance with permit limitations for sanitary waste. The MSD shall be tested annually for proper operation and the test results maintained at the facility. The operator shall indicate use of an MSD on the monthly DMR.

9. Domestic Waste

The discharge of domestic waste shall be limited and monitored by the permittee as specified in both tables and below.

(a) Prohibitions

Solids. No floating solids shall be discharged. In addition, food waste, comminuted or not, may not be discharged within 12 nautical miles from nearest land.

(b) Limitations

Solids. Comminuted food waste which can pass through a 25-mm mesh screen (approximately 1 inch) may be discharged 12 or more nautical miles from nearest land.

(c) Monitoring Requirements

Solids. An observation must be made during daylight in the vicinity of domestic waste outfalls following either the morning or midday meal and at a time during maximum estimated discharge. The number of days solids are observed must be recorded.

10. Miscellaneous Discharges

Desalination Unit Discharge; Blowout Preventer Fluid; Uncontaminated Ballast Water; Uncontaminated Bilge Water; Mud, Cuttings, and Cement at the Seafloor; Uncontaminated Seawater; Boiler Blowdown; Source Water and Sand; Diatomaceous Earth Filter Media

The discharge of miscellaneous discharges shall be limited and monitored by the permittee as specified in both tables and below.

(a) Limitations

Free Oil. No free oil shall be discharged. Monitoring shall be performed using the visual sheen test method once per day when discharging on the surface of the receiving water or by use of the static sheen method at the operator's option. Both tests shall be conducted in accordance with the methods presented at IV.A.3 and IV.A.4. Discharge is limited to those times that a visual sheen observation is possible. The number of days a sheen is observed must be recorded.

(Exception) Discharge is not restricted to periods when observation is possible; however, the static (laboratory) sheen test method must be used during periods when observation of a sheen is not possible, such as at night or during inclement conditions.

Section C. Other Discharge Limitations

1. Floating Solids or Visible Foam

There shall be no discharge of floating solids or visible foam from any source other than in trace amounts.

2. Halogenated Phenol Compounds

There shall be no discharge of halogenated phenol compounds as a part of any waste streams authorized in this permit.

3. Dispersants, Surfactants, and Detergents

The facility operator shall minimize the discharge of dispersants, surfactants, and detergents except as necessary to comply with the safety requirements of the Occupational Safety and Health Administration and MMS. This restriction applies to tank cleaning and other operations which do not directly involve the safety of workers. The restriction is imposed because detergents disperse and emulsify oil, potentially increasing toxic impacts and making the detection of a discharge of free oil more difficult.

4. Rubbish, Trash, and Other Refuse

The discharge of any solid material not authorized in the permit (as described above) is prohibited.

This permit includes limitations set forth by the U.S. Coast Guard in regulations implementing Annex V of MARPOL 73/78 for domestic waste disposal from all fixed or floating offshore platforms and associated vessels engaged in exploration or exploitation of seabed mineral resources (33 CFR 151). These limitations, as specified by Congress (33 U.S.C. 1901, the Act to Prevent Pollution from Ships), apply to all navigable waters of the United States.

This permit prohibits the discharge of ''garbage'' including food wastes, within 12 nautical miles from nearest land. Comminuted food waste (able to pass through a screen with a mesh size no larger than 25 mm, approx. 1 inch) may be discharge when 12 nautical miles or more from land. Graywater, drainage from dishwater, shower, laundry, bath, and washbasins are not considered garbage within the meaning of Annex V. Incineration ash and non-plastic clinkers that can pass through a 25-mm mesh screen may be discharged beyond 3 miles from nearest land. Otherwise, ash and non-plastic clinkers may be discharged beyond 12 nautical miles from nearest land.

5. Areas of Biological Concern

There shall be no discharge of drilling muds, drill cuttings and produced water within 1000 meters of Areas of Biological Concern. If at any time it is determined that a facility is located within 1000 meters of an area of biological concern, the operator shall immediately cease discharge from these outfalls in the area and shall file an application for an individual permit as provided in 40 CFR 122.28(b)(3). The operator may not resume discharging from these outfalls until an individual permit has been issued.

Part II. Standard Conditions for NPDES Permits

Section A. Introduction and General Conditions

In accordance with the provisions of 40 CFR Part 122.41, *et. seq.*, this permit incorporates by reference ALL conditions and requirements applicable to NPDES permits set forth in the Clean Water Act, as amended, as well as ALL applicable regulations.

1. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action or for requiring a permittee to apply and obtain an individual NPDES permit.

2. Penalties for Violations of Permit Conditions—33 U.S.C. § 1319(c)

(a) Criminal Penalties

(1) Negligent Violations. The Act provides that any person who negligently violates permit conditions implementing Section 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to criminal penalties of not less $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

(2) Knowing Violations. The Act provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to criminal penalties of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than 3 years, or both.

(3) Knowing Endangerment. The Act provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 303, 306, 307, 308, 318, or 405 of the Act and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than $250,000 per day of violation for individuals or up to $1 million for organizations, or by imprisonment for not more than 15 years, or both.

(4) False Statements. The Act provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act, shall upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or by both. (See Section 309(c) of the Clean Water Act).

(b) Civil Penalties—33 U.S.C. § 1319(d)

The Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed $25,000 per day for such violation. A single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

(c) Administrative Penalties

The Act at Section 309 allows that the Regional Administrator may assess a Class I or Class II civil penalty for violations of Sections 301, 302, 306, 307, 318, or 405 of the Act. A Class I penalty may not to exceed $10,000 per violation nor shall the maximum amount exceed $25,000. A Class II penalty may not to exceed $10,000 per day for each day during which the violation continues except that the maximum amount shall not exceed $125,000. An upset that leads to violations of more than one pollutant parameter will be treated as a single violation.

3. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

4. Permit Flexibility

These permits may be modified, revoked and reissued for the causes set forth at 40 CFR § 122.62. The permits may be terminated for the following reasons (see 40 CFR 122.62):

(a) Violation of any terms or conditions of this permit;

(b) Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts;

(c) A change in any condition that requires either a temporary or a permanent reduction or elimination of the authorized discharge; or

(d) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination.

The filing of a request for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

5. Toxic Pollutants

Notwithstanding Part II.A.4, if any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under Section 307(a) of the Act for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition and the permittee so notified.

The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Act for toxic pollutants within the time provided in the regulations that established those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

6. Civil and Criminal Liability

Except as provided in permit conditions on ''Bypassing'' and ''Upsets'' (see II.B.3 and II.B.4), nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance with permit conditions. Any false or misleading representation or concealment of information required to be reported by the provisions of the permit, the Act, or applicable CFR regulations, which avoids or effectively defeats the regulatory purpose of the permit may subject the permittee to criminal enforcement pursuant to 18 U.S.C. Section 1001.

7. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Clean Water Act.

8. State Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by Section 510 of the Clean Water Act.

9. Property Rights

The issuance of this permit does not convey any property rights of any sort, any exclusive privileges, authorize any injury to private property, any invasion of personal rights, nor any infringement of Federal, state, or local laws or regulations.

10. Onshore or Offshore Construction

This permit does not authorize or approve the construction of any onshore or offshore physical structure of facilities or the undertaking of any work in any waters of the United States.

11. Severability

The provisions of this permit are severable. If any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

12. Duty to Provide Information

The permittee shall furnish to the Regional Administrator, within a reasonable time, any information which the Regional Administrator may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Regional Administrator upon request, copies of records required to be kept by this permit.

Section B. Proper Operation and Maintenance of Pollution Controls

1. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

2. Need to Halt or Reduce not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

3. Bypass of Treatment Facilities

(a) Definitions.

(1) Bypass means the intentional diversion of waste streams from any portion of a treatment facility.

(2) Severe property damage means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) Bypass not exceeding limitations. The permittee may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Section B.3(c) and 3(d) below.

(c) Notice.

(1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

(2) Unanticipated bypass. The permittee shall, submit notice of an unanticipated bypass as required in Section D.7 (24-hour reporting).

(d) Prohibition of bypass.

(1) Bypass is prohibited and the Regional Administrator may take enforcement action against a permittee for bypass, unless:

(a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and,

(c) The permittee submitted notices as required under Section B.3(c).

(2) The Regional Administrator may approve an anticipated bypass after considering its adverse effects, if the Regional Administrator determines that it will meet the three conditions listed above in Section B.3(d)(1).

4. Upset Conditions

(a) Definition. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) Effect of an Upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of Section B.4(c) are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

(c) Conditions Necessary for a Demonstration of Upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and that the permittee can identify the cause(s) of the upset;

(2) The permitted facility was at the time being properly operated;

(3) The permittee submitted notice of the upset as required by Section D.7 below; and,

(4) The permittee complied with any remedial measures required by Section A.3, above.

(d) Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

5. Removed Substances

Solids, sewage sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters. Any substance specifically listed within this permit may be discharged in accordance with specified conditions, terms, or limitations.

Section C. Monitoring and Records

1. Representative Sampling

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge.

2. Discharge Rate/Flow Measurements

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected, maintained, and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated, and maintained to insure that the accuracy of the measurements is consistent with the accepted capability of that type of device. Devices selected shall be capable of measuring flows with a maximum deviation of less than ±10% from true discharge rates throughout the range of expected discharge volumes.

3. Monitoring Procedures

Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit in Part IV, below.

4. Penalties for Tampering

The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate, and monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or imprisonment for not more than 2 years, or both.

5. Retention of Records

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, and copies of all reports required by this permit for a period of at least 3 years from the date of the sample, measurement, or report. This period may be extended by request of the Regional Administrator at any time. The operator shall maintain records at development and production facilities for 3 years, wherever practicable and at a specific shore-based site whenever not practicable.

6. Record Contents

Records of monitoring information shall include:

(a) The date, exact place, and time of sampling or measurements;

(b) The individual(s) who performed the sampling or measurements;

(c) The date(s) analyses were performed;

(d) The individual(s) who performed the analyses;

(e) The analytical techniques or methods used; and

(f) The results of such analyses.

7. Inspection and Entry

The permittee shall allow the Regional Administrator or an authorized representative, upon the presentation of credentials and other documents as may be required by the law, to:

(a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

(b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

(c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

(d) Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

Section D. Reporting Requirements

1. Planned Changes

The permittee shall give notice to Regional Administrator as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

(a) The alteration or addition to a facility permitted under the existing source general permit may meet one of the criteria for determining whether a facility is a new source in 40 CFR Part 122.29(b) (58 FR 12454; final effluent guidelines for the offshore subcategory); or

(b) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under 40 CFR 122.42(a)(1) (48 FR 14153, April 1, 1963, as amended at 49 FR 38049, September 26, 1984).

2. Anticipated Noncompliance

The permittee shall give advance notice to the Regional Administrator of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

3. Transfers

This permit is not transferable to any person. Any new owner or operator shall submit a notice of intent to be covered under this general permit according to procedures presented at Part I.A.3.

4. Monitoring Reports

See Part III.A of this permit.

5. Additional Monitoring by the Permittee

If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR Part 136 or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR. Such increased monitoring frequency also shall be indicated on the DMR.

6. Averaging of Measurements

Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Regional Administrator in the permit.

7. Twenty-Four Hour Reporting

The permittee shall report any noncompliance which may endanger health or the environment (this includes any spill that requires reporting to the state regulatory authority). Information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and, steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance. The director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

The following shall be included as information which must be reported within 24 hours:

(a) Any unanticipated bypass which exceeds any effluent limitation in the permit;

(b) Any upset which exceeds any effluent limitation in the permit;

(c) Violations of a maximum daily discharge limitation for any of the pollutants listed by the Director in Part II of the permit to be reported within 24 hours.

The reports should be made to Region 4 by telephone at (404) 562–9746. The Regional Administrator may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

8. Other Noncompliance

The permittee shall report all instances of noncompliance not reported under Part II.D.7 at the time monitoring reports are submitted. The reports shall contain the information listed at II.D.7.

9. Other Information

When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Regional Administrator, it shall promptly submit such facts or information.

10. Changes in Discharges of Toxic Substances

For any toxic pollutant that is not limited in this permit, either as an additive itself or as a component in an additive formulation, the permittee shall notify the Regional Administrator as soon as he knows or has reason to believe that:

(a) Any activity has occurred or will occur which would result in the discharge of such toxic pollutants on a routine or frequent basis, if that discharge will exceed the highest of the ''notification levels'' described at 40 CFR 122.42(a)(1) (i) and (ii);

(b) Any activity has occurred or will occur which would result in any discharge of such toxic pollutants on a non-routine or infrequent basis, if that discharge will exceed the highest of the ''notification levels'' described at 40 CFR 122.42(a)(2) (i) and (ii).

11. Duty To Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must submit an NOI to be covered or must apply for a new permit. Continuation of expiring permits shall be governed by regulations at 40 CFR Part 122.6 and any subsequent amendments.

12. Signatory Requirements

All NOIs, applications, reports, or information submitted to the Director shall be signed and certified as required at 40 CFR 122.22.

(a) All permit applications shall be signed as follows:

(1) For a corporation: By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:

(i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or,

(ii) The manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) For a partnership or sole proprietorship—by a general partner or the proprietor, respectively.

(b) Authorized Representative. All reports required by the permit and other information requested by the Regional Administrator shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(1) The authorization is made in writing by a person described above;

(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or an individual occupying a named position; and,

(3) The written authorization is submitted to the Regional Administrator.

(c) Changes to Authorization. If an authorization under paragraph (b) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph (b) of this section must be submitted to the Director prior to or together with any reports, information, or application to be signed by an authorized representative.

(d) Certification. Any person signing a document under this section shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on

my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

13. Availability of Reports

Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the Regional Office. As required by the Act, the name and address of any permit applicant or permittee, permit applications, permits, and effluent data shall not be considered confidential.

Part III. Monitoring Reports and Permit Modification

Section A. Monitoring Reports

The operator of each lease block shall be responsible for submitting monitoring results for each facility within each lease block. If there is more than one facility in each lease block (platform, drilling ship, semi-submersible), the discharge shall be designated in the following manner: 101 for the first facility; 201 for the second facility; 301 for the third facility, etc.

Monitoring results obtained for each month shall be summarized for that month and reported on a Discharge Monitoring Report (DMR) form (EPA No. 3320–1), postmarked no later than the 28th day of the month following the completed calendar month. (For example, data for January shall be submitted by February 28.) Signed copies of these and all other reports required by Part II.D shall be submitted to the following address: Director, Water Management Division, U.S. EPA, Region 4, Atlanta Federal Center, 100 Alabama Street, S.W., Atlanta, GA 30303–3104.

All laboratory reports submitted with DMRs should clearly indicate the permit number, outfall number, and any other identification information necessary to associate the report with the correct facility, waste stream, and outfall.

If no discharge occurs during the reporting period, sampling requirements of this permit do not apply. The statement ''No Discharge'' shall be written on the DMR form. If, during the term of this permit, the facility ceases discharge to surface waters, the Regional Director shall be notified immediately upon cessation of discharge. This notification shall be in writing.

Section B. Permit Modification

This permit shall be modified, or alternatively, revoked and reissued, to comply with any applicable effluent standard or limitation, or sludge disposal requirement issued or approved under sections 301(b)(2) (C) and (D), 307(a)(2), and 405(d)(2)(D) of the Act, as amended, if the effluent standard or limitation, or sludge disposal requirement so issued or approved:

(a) Contains different conditions or is otherwise more stringent than any conditions in the permit; or

(b) Controls any pollutant or disposal method not addressed in the permit.

The permit as modified or reissued under this paragraph shall also contain any other requirements of the Act then applicable.

Part IV. Test Procedures and Definitions

Section A. Test Procedures

1. Samples of Wastes

If requested, the permittee shall provide EPA with a sample of any waste in a manner specified by the Agency.

2. Drilling Fluids Toxicity Test

The approved sampling and test methods for permit compliance are provided in the final effluent guidelines published at 58 FR 12507 on March 4, 1993 as Appendix 2 to Subpart A of Part 435.

3. Static (Laboratory) Sheen Test

The approved sampling and test methods for permit compliance are provided in the final effluent guidelines published at 58 FR 12506 on March 4, 1993 as Appendix 1 to Subpart A.

4. Visual Sheen Test

The visual sheen test is used to detect free oil by observing the surface of the receiving water for the presence of a sheen while discharging. A sheen is defined as a ''silvery'' or ''metallic'' sheen, gloss, or increased reflectivity; visual color; iridescence; or oil slick on the surface (see 58 FR 12507). The operator must conduct a visual sheen test only at times when a sheen could be observed. This restriction eliminates observations at night or when atmospheric or surface conditions prohibit the observer from detecting a sheen (e.g., during rain or rough seas, etc.). Certain discharges can only occur if a visual sheen test can be conducted.

The observer must be positioned on the rig or platform, relative to both the discharge point and current flow at the time of discharge, such that the observer can detect a sheen should it surface down current from the discharge. For discharges that have been occurring for at least 15 minutes previously, observations may be made any time thereafter. For discharges of less than 15 minutes duration, observations must be made both during discharge and 5 minutes after discharge has ceased.

5. Produced Water Acute Toxicity Test

The method for determining the 96-hour LC50 for effluents is published in ''Methods for Measuring the Acute Toxicity of Effluents to Freshwater and Marine Organisms'' (EPA/600/4–85/013). The species to be used for compliance testing for this permit are *Mysidopsis bahia* and sheepshead minnows (*Cyprinodon variegatus*).

Section B. Definitions

1. *Act* means the Clean Water Act (CWA), as amended (33 U.S.C. 1251 et. seq.).

2. *Administrator* means the Administrator of EPA, Region 4, or an authorized representative.

3. *Areas of Biological Concern* for waters within the territorial seas (shoreline to 3-miles offshore) are those defined as ''no activity zones'' for biological reasons by the states of Alabama, Florida or Mississippi. For offshore waters seaward of three miles, areas of biological concern include ''no activity zones'' defined by the Department of the Interior (DOI) for biological reasons, or identified by EPA in consultation with the DOI, the states, or other interested federal agencies, as containing biological communities, features or functions that are potentially sensitive to discharges associated with the oil and gas industry.

4. *Applicable Effluent Standards and Limitations* means all state and Federal effluent standards and limitations to which a discharge is subject under the Act, including, but not limited to, effluent limitations, standards of performance, toxic effluent standards and prohibitions, and pretreatment standards.

5. *Average Daily Discharge Limitation* means the highest allowable average of discharges over a 24-hour period, calculated as the sum of all discharges or concentrations measured divided by the number of discharges or concentrations measured that day.

6. *Average Monthly Discharge Limitation* means the highest allowable average of ''daily discharges'' over a calendar month, calculated as the sum of all ''daily discharges'' measured during a calendar month divided by the number of discharges measured that month. The limitation may be the average of discharge rates or concentrations.

7. *Batch or Bulk Discharge* is any discharge of a discrete volume or mass

of effluent from a pit, tank, or similar container that occurs on a one-time, infrequent, or irregular basis.

8. *Blowout-Out Preventer Control Fluid* means fluid used to actuate the hydraulic equipment on the blow-out preventer or subsea production wellhead assembly.

9. *Boiler Blowdown* means discharges from boilers necessary to minimize solids build-up in the boilers, including vents from boilers and other heating systems.

10. *Bulk Discharge* means any discharge of a discrete volume or mass of effluent from a pit tank or similar container that occurs on a one-time, infrequent, or irregular basis.

11. *Bypass* means the intentional diversion of waste streams from any portion of a treatment facility.

12. *Clinkers* are small lumps of residual material left after incineration.

13. *Completion Fluids* are salt solutions, weighted brines, polymers and various additives used to prevent damage to the well bore during operations which prepare the drilled well for hydrocarbon production. These fluids move into the formation and return to the surface as a slug with the produced water. Drilling muds remaining in the wellbore during logging, casing, and cementing operations or during temporary abandonment of the well are not considered completion fluids and are regulated by drilling fluids requirements.

14. *Daily Average Discharge* (also known as monthly average) limitations means the highest allowable average daily discharge(s) over a calendar month, calculated as the sum of all daily discharge(s) measured during a calendar month divided by the number of daily discharge(s) measured during that month.

15. Daily Discharge means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in terms of mass, the daily discharge is calculated as the total mass of the pollutant or waste stream discharged over the sampling day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the sampling day. Daily discharge determination of concentration made using a composite sample shall be the concentration of the composite sample. When grab samples are used, the daily discharge determination of concentration shall be the average (weighted by flow value) of all samples collected during that sampling day.

16. Daily Maximum discharge limitations are the highest allowable discharge rate or concentration measured during a calendar day.

17. Deck Drainage is all waste resulting from platform washings, deck washings, deck area spills, equipment washings, rainwater, and runoff from curbs, gutters, and drains, including drip pans and wash areas.

18. Desalination Unit Discharge means waste water associated with the process of creating freshwater from seawater.

19. Development Drilling means the drilling of wells required to efficiently produce a hydrocarbon formation or formations.

20. Diatomaceous Earth Filter Media is the filter media used to filter seawater or other authorized completion fluids and subsequently washed from the filter.

21. Diesel Oil is the distillate fuel oil typically used in conventional oil-based drilling fluids, which contains a number of toxic pollutants. For the purpose of any particular operation under this permit, diesel oil shall refer to the fuel oil present on the facility.

22. Domestic Waste is the discharge from galleys, sinks, showers, safety showers, eye wash stations, hand washing stations, fish cleaning stations, and laundries.

23. Drill Cuttings are particles generated by drilling into the subsurface geological formations including cured cement carried to the surface with the drilling fluid.

24. Drilling Fluids are any fluids sent down the hole, including drilling muds and any specialty products, from the time a well is begun until final cessation of drilling in that hole.

25. End of well Sample means the sample taken after the final log run is completed and prior to bulk discharge.

26. Excess Cement Slurry means the excess mixed cement, including additives and wastes from equipment washdown after a cementing operation.

27. Existing Sources are facilities conducting exploration activities and those that have commenced development or production activities that were permitted as of the effective date of the Offshore Guidelines (March 4, 1993).

28. Free Oil is oil that causes a sheen, streak, or slick on the surface of the test container or receiving water.

29. Garbage means all kinds of victual, domestic, and operational waste ''generated during the normal operation of the ship and liable to be disposed of continuously or periodically'' (see MARPOL 73/78 regulations).

30. Grab Sample means an individual sample collected in less than 15 minutes.

31. Graywater is drainage from dishwater, shower, laundry, bath, and washbasin drains and does not include drainage from toilets, urinals, hospitals, and drainage from cargo areas (see MARPOL 73/78 regulations).

32. Inverse Emulsion Drilling Fluids are oil-based drilling fluids which also contain large amounts of water.

33. Live Bottom Areas are those areas that contain biological assemblages consisting of such sessile invertebrates as sea fans, sea whips, hydroids, anemones, ascideians sponges, bryozoans, seagrasses, or corals living upon and attached to naturally occurring hard or rocky formations with fishes and other fauna.

34. Maximum Hourly Rate is the greatest number of barrels of drilling fluids discharged within one hour, expressed as barrels per hour.

35. Muds, Cuttings, and Cement at the Seafloor means discharges that occur at the seafloor prior to installation of the marine riser and during marine riser disconnect, well abandonment, and plugging operations.

36. National Pollutant Discharge Elimination System (NPDES) means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment requirements under sections 307, 318, 402, 403, and 405 of the Act.

37. New Source means any facility or activity of this subcategory that meets the definition of ''new source'' under 40 CFR 122.2 and meets the criteria for determination of new sources under 40 CFR 122.29(b) applied consistently with all of the following defintions: (i) The term water area as used in the term ''site'' in 40 CFR 122.29 and 122.2 shall mean the water area and ocean floor beneath any exploratory, development, or production facility where such facility is conducting its exploratory, development or production activities, (ii) the term significant site preparation work as used in 40 CFR 122.29 shall mean the process of surveying, clearing, or preparing an area of the ocean floor for the purpose of constructing or placing a development or production facility on or over the site.

38. No Activity Zones include those areas identified by MMS where no structures, drilling rigs, or pipelines will be allowed. These zones are identified as lease stipulations in U.S. Department of the Interior, MMS, August 1990, Environmental Impact Statement for

Sales 131, 135, and 137 Western, Central, and Eastern Gulf of Mexico. Additional no activity zones may be identified by MMS during the life of this permit, and by the States of Alabama, Mississippi and Florida within their territorial waters (up to 3 miles offshore) where no structures, drilling rigs, or pipelines will be allowed.

39. No Discharge Areas are areas specified by EPA where discharge of pollutants may not occur.

40. Non-Operational Leases are those leases on which no discharge has taken place within 2 years prior to the effective date of the new general permits.

41. Operating Facilities are leases on which a discharge has taken place within 2 years of the effective date of the new general permits.

42. Packer Fluids are low solids fluids between the packer, production string, and well casing. They are considered to be workover fluids.

43. Priority Pollutants are the 126 chemicals or elements identified by EPA, pursuant to section 307 of the Clean Water Act and 40 CFR 401.15.

44. Produced Sand is sand and other solids removed from the produced waters. Produced sand also includes desander discharge from produced water waste stream and blowdown of water phase from produced water treating systems.

45. Produced Water is water and particulate matter associated with oil and gas producing formations. Produced water includes small volumes of treating chemicals that return to the surface with the produced fluids and pass through the produced water treating system.

46. Sanitary Waste means human body waste discharged from toilets and urinals.

47. Severe Property Damage means substantial physical damage to property, damage to the treatment facilities which cause them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

48. Sheen means a silvery or metallic sheen, gloss, or increased reflectivity; visual color; iridescence; or oil slick on the water surface.

49. Source Water and Sand are the water and entrained solids brought to the surface from non-hydrocarbon bearing formations for the purpose of pressure maintenance or secondary recovery.

50. Spotting means the process of adding a lubricant (spot) downhole to free stuck pipe.

51. Territorial Seas means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles.

52. Trace Amounts means that if materials added downhole as well treatment, completion, or workover fluids do not contain priority pollutants then the discharge is assumed not to contain priority pollutants except possibly in trace amounts.

53. Uncontaminated Ballast/Bilge water means seawater added or removed to maintain proper draft that does not come in contact with surfaces that may cause contamination.

54. Uncontaminated Seawater means seawater that is returned to the sea without the addition of chemicals. Included are (1) discharges of excess seawater that permit the continuous operation of fire control and utility lift pumps, (2) excess seawater from pressure maintenance and secondary recovery projects, (3) water released during the training and testing of personnel in fire protection, (4) seawater used to pressure test piping, and (5) once through non-contact cooling water.

55. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

56. Well treatment fluids are any fluid used to restore or improve productivity by chemically or physically altering hydrocarbon-bearing strata after a well has been drilled. These fluids move into the formation and return to the surface as a slug with the produced water. Stimulation fluids include substances such as acids, solvents, and propping agents.

57. Workover fluids are salt solutions, weighted brines, polymers, and other specialty additives used in a producing well to allow safe repair and maintenance or abandonment procedures. High solids drilling fluids used during workover operations are not considered workover fluids by definition and therefore must meet drilling fluid effluent limitations before discharge may occur. Packer fluids, low solids fluids between the packer, production string, and well casing are considered to be workover fluids and must meet only the effluent requirements imposed on workover fluids.

58. The term MGD means million gallons per day.

59. The term mg/l means milligrams per liter or parts per million (ppm).

60. The term ug/l means micrograms per liter or part per billion (ppb).

Existing Sources

TABLE 2.—EFFLUENT LIMITATIONS, PROHIBITIONS, AND MONITORING REQUIREMENTS FOR THE EASTERN GULF OF MEXICO NPDES GENERAL PERMIT

Discharge	Regulated and monitored discharge parameter	Discharge limitation/ prohibition	Monitoring requirement		Recorded/reported value
			Measurement frequency	Sample type/method	
Drilling Fluids	Oil-based Drilling Fluids.	No discharge.			
	Oil-contaminated Drilling Fluids.	No discharge.			
	Drilling Fluids to Which Diesel Oil has been Added.	No discharge.			

TABLE 2.—EFFLUENT LIMITATIONS, PROHIBITIONS, AND MONITORING REQUIREMENTS FOR THE EASTERN GULF OF MEXICO NPDES GENERAL PERMIT—Continued

Discharge	Regulated and monitored discharge parameter	Discharge limitation/ prohibition	Monitoring requirement		Recorded/reported value
			Measurement frequency	Sample type/method	
	Mercury and Cadmium in Barite.	No discharge of drilling fluids if added barite contains Hg in excess of 1.0 mg/kg or Cd in excess of 3.0 mg/kg (dry wt).	Once per new source of barite used.	Flame and flameless AAS.	mg Hg and mg Cd/kg in stock barite.
	Toxicity [a]	30,000 ppm daily minimum.	Once/month	Grab/96-hr LC50 using Mysidopsis bahia; Method at 58 FR 12507.	Minimum LC50 of tests performed and monthly average LC50.
			Once/end of well [b]		
		30,000 ppm monthly average minimum.	Once/month		
	Free Oil	No free oil	Once/day prior to discharge.	Static sheen; Method at 58 FR 12506.	Number of days sheen observed.
	Maximum Discharge Rate.	1,000 barrels/hr	Once/day	Estimate	Max. hourly rate in bbl/hr.
	Mineral Oil	Mineral oil may be used only as a carrier fluid, lubricity additive, or pill.			
	Drilling Fluids Inventory.	Record	Once/well	Inventory	Chemical constituents.
	Volume	Report	Once/month	Estimate	Monthly total in bbl/month.
Drill Fluids (Continued)	Within 1000 Meters of an Areas of Biological Concern (ABC).	No discharge.			
Drill Cuttings	Note: Drill cuttings are subject to the same limitations/prohibitions as drilling fluids except *Maximum Discharge Rate.*				
	Free Oil	No free oil	Once/day prior to discharge.	Static sheen; Method at 58 FR 12506.	Number of days sheen observed.
	Volume	Report	Once/month	Estimate	Monthly total in bbl/month.
Produced Water	Oil and Grease	42 mg/l daily maximum and 29 mg/l monthly average.	Once/month [c]	Grab/Gravimetric	Daily max. and monthly avg.
	Toxicity	Acute toxicity (LC50); critical dilution as specified by the requirements at Part I.B.3(a) and Appendix A of this permit.	Once/month	Grab/96-hour LC50 using Mysidopsis bahia and sheepshead minnows (Method in EPA/600/4–85/013).	Minimum LC50 for both species and full laboratory report.
	Flow (bbl/month)		Once/month	Estimate	Monthly rate.
	Within 1000 meters of an Area of Biological Concern (ABC).	No discharge.			
Deck Drainage	Free Oil	No free oil	Once/day when discharging [d].	Visual sheen	Number of days sheen observed
	Volume (bbl/month)		Once/month	Estimate	Monthly total.
Produced Sand	No Discharge.				
Well Treatment, Completion, and Workover Fluids (includes packer fluids) [e].	Free Oil	No free oil	Once/day when discharging.	Static sheen	Number of days sheen observed.
	Oil and Grease	42 mg/l daily maximum and 29 mg/l monthly average.	Once/month	Grab/Gravimetric	Daily max. and monthly avg.
	Priority Pollutants	No priority pollutants		Monitor added materials.	
	Volume (bbl/month)		Once/month	Estimate	Monthly total.
Sanitary Waste (Continuously manned by 10 or more persons) [f].	Solids	No floating solids	Once/day, in daylight	Observation	Number of days solids observed.
	Residual Chlorine	At least (but as close to) 1 mg/l.	Once/month	Grab/Hach CN–66–DPD.	Concentration.
	Flow (MGD)		Once/month	Estimate.	

TABLE 2.—EFFLUENT LIMITATIONS, PROHIBITIONS, AND MONITORING REQUIREMENTS FOR THE EASTERN GULF OF MEXICO NPDES GENERAL PERMIT—Continued

Discharge	Regulated and monitored discharge parameter	Discharge limitation/ prohibition	Monitoring requirement		Recorded/reported value
			Measurement frequency	Sample type/method	
Sanitary Waste (Continuously manned by 9 or fewer persons or intermittently by any) [f].	Solids	No floating solids	Once/day, in daylight	Observation	Number of days solids observed.
Domestic Waste	Solids	No floating solids; no food waste within 12 miles of land; comminuted food waste smaller than 25-mm beyond 12 miles.	Once/day following morning or midday meal at time of maximum expected discharge.	Observation	Number of days solids observed.
Miscellaneous Discharges— Desalination Unit Blowout Preventer Fluid Uncontaminated Ballast/Bilge Water Mud, Cuttings, and Cement at the Seafloor Uncontaminated Seawater Boiler Blowdown Source Water and Sand Diatomaceous Earth Filter Media	Free Oil	No free oil	Once/day when discharging.	Visual Sheen	Number of days sheen observed.

[a] Toxicity test to be conducted using suspended particulate phase (SPP) of a 9:1 seawater:mud dilution. The sample shall be taken beneath the shale shaker, or if there are no returns across the shaker, the sample must be taken from a location that is characteristic of the overall mud system to be discharged.

[b] Sample shall be taken after the final log run is completed and prior to bulk discharge.

[c] The daily maximum concentration may be based on the average of up to four grab sample results in the 24 hour period.

[d] When discharging and facility is manned. Monitoring shall be accomplished during times when observation of a visual sheen on the surface of the receiving water is possible in the vicinity of the discharge.

[e] No discharge of priority pollutants except in trace amounts. Information on the specific chemical composition shall be recorded but not reported unless requested by EPA.

[f] Any facility that properly operates and maintains a marine sanitation device (MSD) that complies with pollution control standards and regulations under Section 312 of the Act shall be deemed to be in compliance with permit limitations for sanitary waste. The MSD shall be tested yearly for proper operation and test results maintained at the facility.

New Sources

TABLE 3.—EFFLUENT LIMITATIONS, PROHIBITIONS, AND MONITORING REQUIREMENTS FOR THE EASTERN GULF OF MEXICO NPDES GENERAL PERMIT

Discharge	Regulated and monitored discharge parameter	Discharge limitation/ prohibition	Monitoring requirement		
			Measurement frequency	Sample type/method	Recorded/reported value
Drilling Fluids	Oil-based Drilling Fluids.	No discharge.			
	Oil-contaminated Drilling Fluids.	No discharge.			
	Drilling Fluids to Which Diesel Oil has been Added.	No discharge.			
	Mercury and Cadmium in Barite.	No discharge of drilling fluids if added barite contains Hg in excess of 1.0 mg/kg or Cd in excess of 3.0 mg/kg (dry wt).	Once per new source of barite used.	Flame and flameless AAS.	mg Hg and mg Cd/kg in stock barite.

TABLE 3.—EFFLUENT LIMITATIONS, PROHIBITIONS, AND MONITORING REQUIREMENTS FOR THE EASTERN GULF OF MEXICO NPDES GENERAL PERMIT—Continued

Discharge	Regulated and monitored discharge parameter	Discharge limitation/ prohibition	Monitoring requirement		
			Measurement frequency	Sample type/method	Recorded/reported value
	Toxicity [a]	30,000 ppm daily minimum.	Once/month	Grab/96-hr LC50 using *Mysidopsis bahia*; Method at 58 FR 12507.	Minimum LC50 of tests performed and monthly average LC50.
			Once/end of well [b]		
		30,000 ppm monthly average minimum.	Once/month		
	Free Oil	No free oil	Once/day prior to discharge.	Static sheen; Method at 58 FR 12506.	Number of days sheen observed.
	Maximum Discharge Rate.	1,000 barrels/hr	Once/day	Estimate	Max. hourly rate in bbl/hr.
	Mineral Oil	Mineral oil may be used only as a carrier fluid, lubricity additive, or pill.			
	Drilling Fluids Inventory.	Record	Once/well	Inventory	Chemical constituents.
	Volume	Report	Once/month	Estimate	Monthly total in bbl/month.
	Within 1000 Meters of an Area of Biological Concern (ABC).	No discharge.			
Drill Cuttings	Note: Drill cuttings are subject to the same limitations/prohibitions as drilling fluids except Maximum Discharge Rate.				
	Free Oil	No free oil	Once/day prior to discharge.	Static sheen; Method at 58 FR 12506.	Number of days sheen observed.
	Volume	Report	Once/month	Estimate	Monthly total in bbl/month.
Produced Water	Oil and Grease	42 mg/l daily maximum and 29 mg/l monthly average.	Once/month [c]	Grab/Gravimetric	Daily max. and monthly avg.
	Toxicity	Acute toxicity (LC50); critical dilution as specified by the requirements at Part I.B.3(a) and Appendix A of this permit.	Once/month	Grab/96-hour LC50 using *Mysidopsis bahia* and sheepshead minnows (Method in EPA/600/4–85/013).	Minimum LC50 for both species and full laboratory report.
	Flow (bbl/month)		Once/month	Estimate	Monthly rate.
	Within 1000 meters of an Area of Biological Concern (ABC).	No discharge.			
Deck Drainage	Free Oil	No free oil	Once/day when discharging [d].	Visual sheen	Number of days sheen observed.
	Volume (bbl/month)		Once/month	Estimate	Monthly total.
Produced Sand	No Discharge.				
Well Treatment, Completion, and Workover Fluids (includes packer fluids) [e].	Free Oil	No free oil	Once/day when discharging.	Static sheen	Number of days sheen observed.
	Oil and Grease	42 mg/l daily maximum and 29 mg/l monthly average.	Once/month [c]	Grab/Gravimetric	Daily max. and monthly avg.
	Priority Pollutants	No priority pollutants		Monitor added materials.	
	Volume (bbl/month)		Once/month	Estimate	Monthly total.
Sanitary Waste (Continuously manned by 10 or more persons) [f].	Solids	No floating solids	Once/day, in daylight	Observation	Number of days solids observed.
	Residual Chlorine	At least (but as close to) 1 mg/l.	Once/month	Grab/Hach CN–66–DPD.	Concentration.
	Flow (MGD)		Once/month	Estimate.	
Sanitary Waste (Continuously manned by 9 or fewer persons or intermittently by any) [g].	Solids	No floating solids	Once/day, in daylight	Observation	Number of days solids observed.

TABLE 3.—EFFLUENT LIMITATIONS, PROHIBITIONS, AND MONITORING REQUIREMENTS FOR THE EASTERN GULF OF MEXICO NPDES GENERAL PERMIT—Continued

Discharge	Regulated and monitored discharge parameter	Discharge limitation/ prohibition	Monitoring requirement		
			Measurement frequency	Sample type/method	Recorded/reported value
Domestic Waste	Solids	No floating solids; no food waste within 12 miles of land; comminuted food waste smaller than 25-mm beyond 12 miles.	Once/day following morning or midday meal at time of maximum expected discharge.	Observation	Number of days solids observed.
Miscellaneous Discharges— Desalination Unit Blowout Preventer Fluid. Uncontaminated Ballast/Bilge Water Mud, Cuttings, and Cement at the Seafloor. Uncontaminated Seawater. Boiler Blowdown Source Water and Sand. Diatomaceous Earth Filter Media.	Free Oil	No free oil	Once/day when discharging.	Visual sheen	Number of days sheen observed.

[a] Toxicity test to be conducted using suspended particulate phase (SPP) of a 9:1 seawater:mud dilution. The sample shall be taken beneath the shale shaker, or if there are no returns across the shaker, the sample must be taken from a location that is characteristic of the overall mud system to be discharged.

[b] Sample shall be taken after the final log run is completed and prior to bulk discharge.

[c] The daily maximum concentration may be based on the average of up to four grab sample results in the 24 hour period.

[d] When discharging and facility is manned. Monitoring shall be accomplished during times when observation of a visual sheen on the surface of the receiving water is possible in the vicinity of the discharge.

[e] No discharge of priority pollutants except in trace amounts. Information on the specific chemical composition shall be recorded but not reported unless requested by EPA.

[f] Any facility that properly operates and maintains a marine sanitation device (MSD) that complies with pollution control standards and regulations under Section 312 of the Act shall be deemed to be in compliance with permit limitations for sanitary waste. The MSD shall be tested yearly for proper operation and test results maintained at the facility.

Appendix A

Effluent concentrations at the edge of a 100-m mixing zone will be modeled by EPA for each produced water outfall listed in an operator's notice of commencement of production operations. This projected effluent concentration will be used to calculate the permit limitation for produced water toxicity (0.01 x projected effluent concentration). The discharge will be modeled using each facility's measured water column conditions and discharge configurations as input for the CORMIX expert system for hydrodynamic mixing zone analysis.

The notice of commencement of production operations will be accompanied by a completed CORMIX input parameter table presented as Table A–1. The input parameters required are the following.

Anticipated average discharge rate (bbl/day)
Water depth (meters)
Discharge pipe location in the water column (meters from surface or bottom)
Discharge pipe orientation with respect to the prevailing current (degrees; 0° is coflowing)
Discharge pipe opening diameter (meters)

These parameters are site-specific parameters that the operator must determine through monitoring or measurement and certify as true to the best of their knowledge. All other input parameters for the CORMIX model are established as the following.

Discharge density: 1070.2 kg/m^3
Discharge concentration: 100%
Legal mixing zone: 100 meters
Darcy-Wiesbach constant: 0.2
Current speed: 5 cm/sec
Discharge pipe orientation: Coflowing with current
Linear water column density profile;
Surface density: 1,023.0 kg/m^3
Density gradient: 0.163 kg/m^3/m

The Region will conduct the model using the operator's input parameters and report the toxicity limitation to the operator. If the parameters supplied by the operator change during the life of the permit (e.g., average discharge rate increases or decreases, a change in discharge pipe orientation, etc.), the operator should submit the new input parameters to the Region so that a new toxicity limitation can be calculated.

Compliance with the toxicity limitation will be demonstrated by conducting 96-hour toxicity tests using mysids (Mysidopsis bahia) and sheepshead minnows (Cyprinodon variegatus) each month. The LC50 for each species will be reported on the DMR and a copy of the complete laboratory report shall be submitted.

Table A–1.—CORMIX1 Input Parameters for Toxicity Limitation Calculation

Permit number: GMG28 _____
Company:

_____

Contact name/Phone number:

_____

Lease block/number:

_____

Facility name:

_____

Parameter	Units
Discharge Rate	_____ Average bbl/day
Water depth	_____ meters

Discharge pipe location in the water column

_____

meters from _____ water surface, or
_____ seafloor

Discharge pipe orientation with respect to the seafloor:

_____

degrees (90° is directed toward the surface); (−90° is directed toward the seafloor)

Discharge pipe opening diameter:

_____

meters

[FR Doc. 96–31056 Filed 12–6–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Wednesday, December 11, 1996, to consider the following matters:

SUMMARY AGENDA: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Reports of actions taken pursuant to authority delegated by the Board of Directors.

Memorandum and resolution re: Amendment to the Supplemental Standards of Ethical Conduct for Employees of the Corporation.

Memorandum and resolution re: Final Rule Establishing Part 367—Suspension and Exclusion of Contractors and Termination of Contracts.

DISCUSSION AGENDA:

Memorandum re: The Corporation's 1997 Budget.

Memorandum re: Final Rule on SAIF Assessment Rates Following Capitalization.

Memorandum and resolution re: Notice of Proposed Rulemaking re: Qualification Requirements for Transactions in Certain Securities.

Memorandum and resolution re: Notice of Proposed Rulemaking re: Recordkeeping and Confirmation Requirements for Securities Transactions.

Memorandum re: Alternative Dispute Resolution Report.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (202) 416–2449 (Voice); (202) 416–2004 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Jerry L. Langley, Executive Secretary of the Corporation, at (202) 898–6757.

Dated: December 4, 1996.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

Executive Secretary.

[FR Doc. 96–31311 Filed 12–5–96; 10:14 am]

BILLING CODE 6714–01–M

Sunshine Act Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 10:00 a.m. on Tuesday, December 3, 1996, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider (1) matters relating to the Corporation's corporate and supervisory activities, and (2) a personnel matter.

In calling the meeting, the Board determined, on motion of Vice Chairman Andrew C. Hove, Jr., seconded by Director Joseph H. Neely (Appointive), concurred in by Director Nicolas P. Retsinas (Director, Office of Thrift Supervision), Ms. Judith A. Walter, acting in the place and stead of Director Eugene A. Ludwig (Comptroller of the Currency), and Chairman Ricki Helfer, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

The meeting was held in the Board Room of the FDIC Building located at 550–17th Street, N.W., Washington, D.C.

Dated: December 4, 1996.

Federal Deposit Insurance Corporation

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 96–31312 Filed 12–5–96; 10:14 am]

BILLING CODE 6714–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the Federal Register.

Agreement No.: 217–011558.

Title: The NYK/HMM Space Charter Agreement.

Parties: Nippon Yusen Kaisha (''NYK''); Hyundai Merchant Marine Co., Ltd. (''HMM'').

Synopsis: The proposed agreement permits HMM to charter space to NYK in the trade between ports in the Far East and South East Asia, and U.S. Pacific Coast ports, including Alaska, and all inland and coastal points served by those ports. The parties may also interchange containers, chassis and related equipment; jointly enter into arrangements with marine terminal and stevedore operators; and share expenses, including attorneys' fees and the advertising of sailings.

By order of the Federal Maritime Commission.

Dated: December 3, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 96–31140 Filed 12–6–96; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

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 December 23, 1996.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Barbara Fowler Ferry, Nevada, Missouri; to acquire an additional 3.57 percent, for a total of 27.54 percent, of the voting shares of Central States Bancshares, Inc., Nevada, Missouri, and thereby indirectly acquire Webb City Bank, Webb City, Missouri.

Board of Governors of the Federal Reserve System, December 3, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–31137 Filed 12-06-96; 8:45 am]

BILLING CODE 6210-01-F

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq*.) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are 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 standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company 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'' (12 U.S.C. 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 3, 1997.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. River Cities Bancshares, Inc., Wisconsin Rapids, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of River Cities Bank, Wisconsin Rapids, Wisconsin (in organization).

Board of Governors of the Federal Reserve System, December 3, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–31138 Filed 12-06-96; 8:45 am]

BILLING CODE 6210-01-F

GENERAL SERVICES ADMINISTRATION

Final Environmental Impact Statement (FEIS), Development of a Clifton Road Campus Annex, Centers for Disease Control and Prevention; Atlanta, GA

Pursuant to the requirements of the National Environmental Policy Act (NEPA) of 1969, and the President's Council on Environmental Quality Regulations (40 CFR 1500–1508), as implemented by General Services Administration (GSA) Order PBS P 1095.4B, GSA announces the availability of the Final Environmental Impact Statement (FEIS) for a 30 day comment period, for the long-term development, over a twenty year horizon, of a campus annex (West Campus) to house the Centers for Disease Control and Prevention (CDC) in Atlanta, Georgia. Comments should be addressed directly to GSA. The 30-day comment period will begin with the publication of this Notice in the Federal Register.

The FEIS examined the short and long term impacts on the natural and built environments of developing and operating a mix of laboratory, office, and support space at the proposed West Campus. The DEIS also examined measures to mitigate unavoidable adverse impacts of the proposed action. The Main CDC Campus occupies 27.6 acres, and is bounded by Clifton Road to the north, Michael Street to the south and east, and Clifton Way to the west. CDC currently occupies approximately 884,000 gross square feet in 17 buildings, housing some 1,900 personnel. Approximately 60 percent of gross square footage consists of laboratory space, the remainder being office, administrative, and facility support space. There are approximately 1,800 parking spaces on site.

To meet CDC's known facility replacement needs, and to provide future expansion space, GSA proposes to acquire and develop approximately 17.6 acres bounded by Clifton Road to the north, Clifton Way to the east, and Michael Street to the south and west (West Campus). The maximum anticipated development over a twenty year planning horizon is approximately 633,000 additional gross square feet of laboratory, office, and support space, and 1,521 additional parking spaces.

GSA has identified the following alternatives in the EIS:

- ''No Action,'' that is, undertake no site acquisition and development at all.
- Full Acquisition of 17.6 acres and full development of the proposed West Campus Site, previously described. This is the GSA/CDC preferred alternative and the proposed action.
- Limited Expansion by acquisition of less than the full 17.6 acres and development and expansion on a portion of the 17.6 acres and on the existing campus.
- On site consolidation and no additional site acquisition, with development occurring on the existing government-owned CDC Campus site.

GSA solicits comments on the FEIS in writing: Mr. George Chandler or Mr. Phil Youngberg, GSA/PBS Portfolio Management—4PT, 401 West Peachtree Street NW., Suite 3010, Atlanta, GA 30365 or, FAX your comments to GSA at 404–331–4540. Comments should be

received no later than Monday, January 6, 1997.

Phil Youngberg,

Regional Environmental Officer, GSA Region 4 (4PT).

[FR Doc. 96–31204 Filed 12–6–96; 8:45 am]

BILLING CODE 6820–23–M

Interagency Committee for Medical Records (ICMR) Videotaped Documentation of Surgical Procedures and Other Episodes of Care

AGENCY: General Services Administration.

ACTION: Guideline on videotaped documentation of surgical procedures and other episodes of care.

SUMMARY: Based on the assumptions listed below, members of the Interagency Committee on Medical Records (ICMR) voted to approve the following guidelines which we recommend for adoption throughout the federal health care system:

The Interagency Committee on Medical Records (ICMR) recommends a uniform approach for the videotaping of surgical procedures and other episodes of care: the patient must provide written consent before an episode of care is videotaped (except for abuse or neglect cases); there must be usual written documentation of the episode of care; and any permanent video images should be destroyed after written documentation is complete. The provider should indicate in his or her final documentation whether or not the image was destroyed. Exceptions to the prohibition against retaining videotapes may be permitted when videotapes are required for a specific interval for a specific reason (such as documentation of procedures for board certification or documentation of abuse or neglect). Any agency which chooses to keep images on file for educational purposes should have a standard operating procedure or policy on how the images will be maintained. This policy or procedure should be reviewed periodically.

Assumptions

Storage—Preservation of bulky videotapes imposes significant space requirements. Duration of storage of videotaped images is not yet defined by most federal activities, but the Department of Veterans Affairs must store all medical records for 75 years.

Technology—As technology changes, recovery of video images may require equipment which is no longer available.

Medicolegal—Whether a videotape of a procedure or consultation becomes part of the patient's medical record is not well defined. However, according to anecdotal reports, if videotapes are available for some patients but not for all, absence of a videotape may create the perception of purposeful destruction of evidence.

Education—If a case is unusual or otherwide holds some special educational value, videotaping may be justifiable on educational grounds. If a case does not hold educational value and there is no legitimate medical reason to videotape (i.e., there is no benefit to the patient), then videotaping is probably not justifiable.

ADDRESSES: Interested persons are invited to submit comments regarding this guideline. Comments should refer to the guideline by name and should be sent to: CDR Patricia Buss, MC, USN: Code 32—Health Policy; Bureau of Medicine and Surgery; 2300 E Street, NW; Washington, DC 20372–5300.

Dated: November 19, 1996.

CDR Patricia Buss, MC, USN,

Chairperson, Interagency Committee on Medical Records.

[FR Doc. 96–31205 Filed 12–6–96; 8:45 am]

BILLING CODE 6820–34–M

Interagency Committee for Medical Records (ICMR); Documentation of Telemedicine

AGENCY: General Services Administration.

ACTION: Guideline on documentation of telemedicine.

SUMMARY: Based on the assumptions listed below, members of the Interagency Committee on Medical Records (ICMR) voted to approve the following guidelines which we recommend for adoption throughout the federal health care system:

The Interagency Committee on Medical Records recommends a uniform approach to the documentation of telemedicine: the patient must provide written consent before an encounter is videotaped, there must be written documentation of the consultation by providers on both ends of the telemedicine encounter, and any permanent video images should be destroyed after written documentation is complete. The provider should indicate in his or her final documentation whether or not the image was destroyed. Exceptions to the prohibition against retaining videotapes may be permitted for cases with exceptional educational value. Any agency which chooses to keep images on file for educational purposes should have a standard operating procedure or policy on how the images will be maintained. This guideline should be reviewed periodically.

Assumptions

Storage—Preservation of bulky videotapes imposes significant space requirements. Duration of storage of videotaped images is not yet defined by most federal activities, but the Department of Veterans Affairs must store all medical records for 75 years.

Technology—As technology changes, recovery of video images may require equipment which is no longer available.

Medicolegal—Whether a videotape of a procedure or consultation becomes part of the patient's medical record is not well defined. However, according to anecdotal reports, if videotapes are available for some patients but not for all, absence of a videotape may create the perception of purposeful destruction of evidence.

Education—If a case is unusual or otherwise holds some special educational value, videotaping may be justifiable on educational grounds. If a case does not hold educational value and there is no legitimate medical reason to videotape (i.e., there is no benefit to the patient), then videotaping is probably not justifiable.

ADDRESSES: Interested persons are invited to submit comments regarding this guideline. Comments should refer to the guideline by name and should be sent to: CDR Patricia Buss, MC, USN; Code 32—Health Policy; Bureau of Medicine and Surgery; 2300 E Street, NW; Washington, DC 20372–5300.

Dated: November 19, 1996.

CDR Patricia Buss, MC, USN,

Chairperson, Interagency Committee on Medical Records.

[FR Doc. 96–31206 Filed 12–6–96; 8:45 am]

BILLING CODE 6820–34–M

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

Closing Date for Nominations From Eligible Institutions of Higher Education; Notice

SUMMARY: Notice is hereby given that, pursuant to the authority contained in the Harry S. Truman Memorial Scholarship Act, Pub. L. 93–642 (20 U.S.C. 2001), nominations are being accepted from eligible institutions of higher education for Truman Scholarship. Procedures are prescribed at 45 CFR 1801.

In order to be assured consideration, all documentation in support of nominations must be received by the Truman Scholarship Review Committee,

2255 North Dubuque Road, P.O. Box 168, Iowa City, IA 52243 no later than January 23, 1997.

Dated: December 1, 1996.

Louis H. Blair,

Executive Secretary.

[FR Doc. 96–31234 Filed 12–6–96; 8:45 am]

BILLING CODE 6820–AD–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Low Income Home Energy Assistance Program (LIHEAP) Leveraging Report.

OMB No.: 0970–0121.

Description: The report is an annual activity which LIHEAP grantees must submit if they wish to receive a share of leveraging incentive funds that are set aside for this purpose out of annual appropriations. The report provides us with data that allows us to determine whether grantees are carrying out leveraging activities that meet statutory and regulatory requirements for countability. The leveraging incentive funds are awarded based on the amount to countable activities carried out by each grantee, under a formula prescribed by regulation.

Respondents: State governments.

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
LIHEAP Leveraging Report	70	1	38	2,660

Estimated Total Annual Burden Hours: 2,660.

Additional Information: Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the Federal Register. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, N.W., Washington, D.C. 20503, Attn: Ms. Wendy Taylor.

Dated: December 3, 1996.

Douglas J. Godesky,

Reports Clearance Officer.

[FR Doc. 96–31141 Filed 12–6–96; 8:45 am]

BILLING CODE 4184–01–M

Food and Drug Administration

[Docket No. 88N–0244]

Ear, Nose, and Throat Devices; Denial of Request for Change in Classification of Endolymphatic Shunt Tube With Valve

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is denying the petition submitted by E. Benson Hood Laboratories, Inc. (Hood Laboratories), to reclassify the endolymphatic shunt tube with valve from class III into class II. The agency is denying the petition because Hood Laboratories failed to provide sufficient new information to establish special controls that would provide reasonable assurance of the safety and effectiveness of the device. This notice also summarizes the basis for the agency's decision. FDA will issue a final rule requiring the filing of premarket approval applications (PMA's) for the device in a future issue of the Federal Register. This action is being taken under the Federal Food, Drug, and Cosmetic Act (the act), as amended by the Medical Device Amendments of 1976 (the 1976 amendments), and the Safe Medical Devices Act of 1990 (the SMDA).

EFFECTIVE DATE: March 10, 1997.

FOR FURTHER INFORMATION CONTACT: Harry R. Sauberman, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2080.

SUPPLEMENTARY INFORMATION:

I. Classification and Reclassification of Devices under the Medical Device Amendments of 1976

Under section 513 of the act (21 U.S.C. 360c), as amended by the 1976 amendments (Pub. L. 94–295), FDA must classify devices into one of three regulatory classes: Class I, class II, or class III. FDA's classification of a device is determined by the amount of regulation necessary to provide reasonable assurance of its safety and effectiveness. Except as provided in section 520(c) of the act (21 U.S.C. 360j(c)), FDA may not use confidential information concerning a device's safety and effectiveness as a basis for reclassification of the device from class III into class II or class I.

Under the 1976 amendments, devices were classified in class I (general controls) if there was information showing that the general controls of the act were sufficient to assure safety and effectiveness; into class II (performance standards) if there was insufficient information showing that general controls would ensure safety and effectiveness, but there was sufficient information to establish a performance standard that would provide such assurance; and into class III (premarket approval) if there was insufficient information to support placing a device into class I or class II and the device was a life-sustaining or life-supporting device or was for a use that is of substantial importance in preventing impairment of human health.

FDA has classified into one of these three regulatory classes most generic types of devices that were on the market before the date of the 1976 amendments (May 28, 1976) (generally referred to as preamendments devices) under the procedures set forth in section 513(c) and (d) of the act. Under section 513(c) and (d) of the act, FDA secures expert panel recommendations on the appropriate device classifications for generic types of devices. FDA then considers the panel's recommendations and, through notice and comment

rulemaking, promulgates classification regulations.

Devices introduced into interstate commerce for the first time after May 28, 1976, are classified through the premarket notification process under section 510(k) of the act (21 U.S.C. 360(k)). Those devices that FDA finds to be substantially equivalent to a classified preamendments generic type of device are thereby classified in the same class as the predicate preamendments device.

Reclassification of classified preamendments devices is governed by section 513(e) of the act. This section provides that FDA may, by rulemaking, reclassify a device (in a proceeding that parallels the initial classification proceeding) based on ''new information.'' The reclassification can be initiated by FDA or by the petition of an interested person, and must be based on ''valid scientific evidence,'' as defined in section 513(a)(3) of the act and in 21 CFR 860.7(c)(2). FDA relies upon ''valid scientific evidence'' in the classification process to determine the level of regulation for devices. For the purpose of reclassification, the valid scientific evidence upon which the agency relies must be publicly available in accordance with section 520(c) of the act. Publicly available information excludes trade secret and/or confidential commercial information, e.g., the confidential contents of PMA's.

II. Reclassification under the Safe Medical Devices Act of 1990

The SMDA (Pub. L. 101–629) further amended the act to change the definition of a class II device. Under the SMDA, class II devices are those devices for which there is insufficient information to show that general controls themselves will assure safety and effectiveness, but there is sufficient information to establish special controls to provide such assurance, including the promulgation of a performance standard or other special controls, such as postmarket surveillance, patient registries, guidelines, and other appropriate actions necessary to provide reasonable assurance of the safety and effectiveness of the device. Thus, the definition of a class II device was changed from ''performance standards'' to ''special controls.'' In order for a device that is intended to be implanted in the human body (such as an endolymphatic shunt with valve) to be reclassified from class III into class II, the agency must determine that premarket approval is not necessary to provide reasonable assurance of its safety and effectiveness.

III. Background

In the Federal Register of November 6, 1986 (51 FR 40378), FDA issued a final rule classifying the endolymphatic shunt tube with valve into class III (21 CFR 874.3850). The preamble to the proposal to classify the device included the recommendation of the Ear, Nose, and Throat Devices Panel (the Panel). The Panel's recommendation, among other things, identified certain risks to health (inoperative and clogged valves) presented by the device. In the Federal Register of January 6, 1989 (54 FR 550), FDA published a notice of intent to initiate proceedings to require premarket approval for 31 preamendments class III devices assigned a high priority for the application of premarket approval requirements, including the endolymphatic shunt tube with valve.

In the Federal Register of May 4, 1990 (55 FR 18830), FDA issued a proposed rule under section 515(b) of the act (21 U.S.C. 360e(b)(2)(A)), to require the filing of a PMA or a notice of completion of a product development protocol (PDP) for the endolymphatic shunt tube with valve. The preamble to the proposal included, among other things, the proposed findings with respect to the degree of risk of illness or injury designed to be eliminated or reduced by requiring the device to meet the statute's premarket approval requirements and the expected benefit to the public health from the use of the device. The proposal also provided an opportunity for interested persons to request the agency to change the classification of the device based on new information. On July 27, 1990, FDA received a petition (Ref. 1) from the petitioner requesting that the classification of the endolymphatic shunt tube with valve be changed from class III to class II.

IV. Device Description

The endolymphatic shunt tube with valve is a device that consists of a pressure-limiting valve associated with a tube intended to be implanted in the inner ear to relieve the symptoms of vertigo and hearing loss due to endolymphatic hydrops of Meniere's disease. The device directs excess endolymph from the distended end of the endolymphatic system into the mastoid cavity where resorption occurs. The function of the pressure-limiting inner ear valve is to maintain the physiologically normal endolymphatic pressure and to assure a unidirectional flow of endolymph.

Hood Laboratories' endolymphatic shunt tube with valve is the only device of its type in commercial distribution legally in the United States. It consists of a Supramid™ catheter tube connected to a silicone tube that is inside a silicone molded body. The inside silicone tube has a slit valve at one end that allows the endolymph to exit. The Supramid™ tube is inserted into the end of the endolymphatic sac so that the endolymph will flow through the valve and into the mastoid cavity via the tail-like portion of the molded silicone body.

V. Recommendation of the Panel

In a public meeting held on June 11, 1992, the Panel met to discuss the reclassification petition submitted by Hood Laboratories. The Panel noted the similarities between the valved and nonvalved shunts. Both the valved shunt device (class III) and the nonvalved shunt device (class II) drain excess endolymph from the distended end of the endolymphatic system into the mastoid cavity where resorption occurs. Both devices are intended to relieve the symptoms of Meniere's disease. The nonvalved shunt (class II device) permits the unrestricted flow of excess endolymph, while the valved shunt (class III device) is intended to control the flow of endolymph so that a normal endolymphatic pressure is maintained.

The Panel acknowledged the difficulty in diagnosing, treating, and assessing the treatment plans for Meniere's disease and could not agree that the valved shunt is effective, but believed the device ''does something worthwhile'' in treating the symptoms. They also noted the lack of objective scientific data establishing that the device operates as a one-way valve to regulate the endolymphatic pressure. While acknowledging that the petitioner had not presented sufficient information to establish special controls to provide reasonable assurance of safety and effectiveness of the devices, three of the five voting members recommended reclassifying the generic endolymphatic shunt with valve from class III into class II.

VI. Agency Decision

Based on its review of the information contained in the petition and presented at the panel meeting, as well as the Panel's discussion, the agency respectfully disagrees with the Panel's recommendation. FDA finds that the petition contains insufficient valid scientific evidence to determine that special controls, in addition to the general controls applicable to all devices, would provide reasonable assurance of the device's safety and

effectiveness for its intended use. FDA, therefore, is denying the petition.

VII. Reasons for the Denial

FDA has determined that Hood Laboratories has not presented sufficient new scientific information to support the requested change in classification of this device. FDA has further determined that Hood Laboratories did not adequately address the issues of normal endolymphatic sac pressure, the mode of action of the endolymphatic shunt tube with valve, flow characteristics, nor the risks associated with the use of the device. The endolymphatic shunt tube with valve is intended to relieve the symptoms of Meniere's disease by employing a unidirectional valve, which reportedly opens at 10 millimeters of mercury (mm Hg) pressure to maintain the normal physiological pressure of the endolymphatic system. The lack of information addressing the issues of normal physiological pressure within the endolymphatic system, as noted in the preamble to the final rule classifying the device (51 FR 40378 at 40385), remains a concern. FDA believes that objective scientific data, including clinical studies, are necessary to establish that the device is effective for its intended purpose. FDA also believes that clinical and nonclinical data are necessary to define the full range of physiological pressures present within the endolymphatic system and to define the flow characteristics attributable to the device and to the valve component. These issues remain unresolved. The agency further believes that an alternative treatment exists for the relief of Meniere's disease.

Current literature suggests that the natural flow of endolymph is very slow and that the pressure increases associated with endolymphatic hydrops may not be large in magnitude. Because current technology does not exist to allow the measurement of endolymph flow rates or endolymphatic pressure in humans, the animal studies discussed below provide the only information available to determine if the valve functions to maintain normal endolymphatic pressure. In the first study, Long and Morizono employed a micropressure system to measure the hydrostatic pressure of endolymph and perilymph in a guinea pig model of endolymphatic hydrops (Ref. 2). The authors reported the magnitude of the pressure difference between perilymph and endolymph that could be attributed to endolymphatic hydrops to be less than 0.5 mm Hg (within 95 percent confidence limits). In another study, Salt and Thalmann reported the average flow rate (velocity) of endolymph in the basal turn of the guinea pig cochlea to be 0.005 mm per minute using ionic tracers measured by ion-selective electrodes (Ref. 3).

Alec N. Salt, an invited guest speaker at the June 11, 1992, Panel meeting, concluded that the reported low flow rate of endolymph demonstrated that endolymph flow is not a significant homeostatic mechanism in the inner ear. He noted that, based on measurements of calcium ion levels within the cochlea of guinea pigs, the induction of endolymphatic hydrops elevated endolymph calcium ion concentration by an amount likely to impair hair cell function. Alec N. Salt concluded that these data suggest that an elevated calcium ion level may have a major role in the development of hearing impairment associated with endolymphatic hydrops in guinea pigs (Ref. 4). In a study of the long-term effects of destruction of the endolymphatic sac in a primate species (monkeys), none of the animals developed severe endolymphatic hydrops or the cochleo-vestibular symptoms that occur in human subjects with Meniere's disease (Ref. 5).

The animal studies cited above do not support an increase in endolymphatic pressure as the sole mechanism inducing the clinical findings observed in humans. The claim of maintenance of normal endolymphatic pressure by means of the endolymphatic shunt tube with valve has not been established despite numerous nonclinical and clinical studies involving the use of this device over the last 15 years. FDA believes that the mode of operation of the valved shunt is not supported by valid scientific evidence and remains to be established.

FDA notes that the benefits resulting from implantation of the endolymphatic shunt tube with valve, i.e., relief of vertigo, fluctuating hearing loss, tinnitus, and aural fullness, which typify Meniere's disease, appear to be very similar to those resulting from implantation of nonvalved shunts (Refs. 6, 7, and 8). Huang and Lin reported that risks such as the incidence of infections, iatrogenic deaf ears, and clogging have a similar occurrence in valved and nonvalved endolymphatic shunts (Ref. 6). However, the risk concerns raised in the proposed rule about any build up of fluid pressure in the inner ear because of a clogged or inoperative valved device or about the risk of infection from revision surgery were not addressed by Hood Laboratories and remain unanswered (55 FR 18830).

During the June 11 panel meeting, the Panel questioned whether the valve component of the shunt tube actually functions as a pressure-regulating valve. Questions regarding the true range of physiological pressures that one may expect to find within the endolymphatic sac, as well as the flow characteristics that one would find attributable to an effective functioning of the valve remain unanswered. In its deliberations, the Panel determined that Hood Laboratories had not presented sufficient valid scientific evidence as to whether the valve actually functions as a valve in vivo.

Another invited guest speaker, Douglas E. Mattox, reviewed the histology and ultrastructure of four failed, explanted valved shunts. Using scanning electron microscopy, multiple erosions along the length of the Supramid™ tube and liner and irregular erosion of the tip (Ref. 9) were shown. This finding calls into question the long-term functioning and integrity of the endolymphatic shunt tube with valve as currently marketed by Hood Laboratories.

Despite the potential benefits of the device in improving hearing, relief of vertigo, reduction of the fullness in the ear, and mitigation of tinnitus, FDA believes that little new information is available about the physiological functions and mode of operation of the device and therefore, the device presents serious potential risks. FDA believes that the petition lacks sufficient valid scientific evidence to determine that special controls would provide reasonable assurance of the safety and effectiveness of the endolymphatic shunt tube with valve for its intended use. Therefore, the endolymphatic shunt tube with valve shall be retained in class III (premarket approval). In a future issue of the Federal Register, FDA will promulgate a final rule under section 515(b) of the act to require the filing of a PMA by each manufacturer of this device.

VII. References

The following information has been placed on display in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. E. Benson Hood Laboratories, Inc., Reclassification Petition, Docket No. 88N–0244.

2. Long, C. H., and T. Morizono, ''Hydrostatic Pressure Measurement of Endolymph and Perilymph in a Guinea Pig Model of Endolymphatic Hydrops,'' *Otolaryngology Head and Neck Surgery*, 96:83–95, 1987.

3. Salt, A. N., and R. Thalmann (Review Chapter), ''Cochlear Fluid Dynamics,'' *Physiology of the Ear*, edited by A. F. Jahn, and J. R. Santos-Sacchi, Raven Press, New York, pp. 341–357, 1988.

4. Salt, A. N., and J. E. DeMott, ''Endolymph Calcium Increases with Time in Hydropic Guinea-Pigs,'' *Abstracts of the Fifteen Midwinter Research Meeting,* Association for Research in Otolaryngology, p. 128, 1992.

5. Swart, J. G., and H. F. Schuknect, ''Long-Term Effects of Destruction of the Endolymphatic Sac in a Primate Species,'' *Laryngoscope*, 98:1183–1189, 1988.

6. Huang, T. S., and C. C. Lin, ''Endolymphatic Sac Surgery for Meniere's Disease: A Composite Study of 339 Cases,'' *Laryngoscope*, 95:1082–1086, 1985.

7. Huang, T. S., ''Valve Implants Compared to Other Surgical Methods,'' *American Journal of Otology*, 8:301–305, 1987.

8. Wright, J. W., and G. W. Hicks, ''Valved Implants in Endolymphatic Surgery,'' *American Journal of Otology*, 8:307–312, 1987.

9. Cohen, E. J., and D. E. Mattox, ''Histology and Ultrastructure of Explanted Arenberg Shunts,'' Presented at the Annual Meeting of the American Otologic Society, Palm Desert, CA, April 12–13, 1992.

Dated: November 27, 1996.

D. B. Burlington,

Director, Center for Devices and Radiological Health.

[FR Doc. 96–31229 Filed 12–6–96; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 96M–0463]

Femcare™ Ltd.; Premarket Approval of Filshie Clip System™ (Mark VI)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application submitted by Family Health International, Research Triangle Park, NC, U.S. Representative for Femcare™ Ltd., Nottingham, U.K., for premarket approval, under the Federal Food, Drug, and Cosmetic Act (the act), of the Filshie Clip System™ (Mark VI). After reviewing the recommendation of the Obstetrics and Gynecology Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of September 5, 1996, of the approval of the application.

DATES: Petitions for administrative review by January 8, 1997.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Colin M. Pollard, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–1180.

SUPPLEMENTARY INFORMATION: On September 10, 1993, Family Health International, Research Triangle Park, NC, U.S. Representative for Femcare™ Ltd., Nottingham, NG73, England, submitted to CDRH an application for premarket approval of the Filshie Clip System™ (Mark VI). The device is a contraceptive tubal occlusion device (TOD) indicated for permanent female sterilization by occlusion of the fallopian tubes.

On February 26, 1996, the Obstetrics and Gynecology Devices Panel of the Medical Devices Advisory Committee, an FDA advisory committee, reviewed and recommended approval of the application. On September 5, 1996, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act, for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under 21 CFR part 12 of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under 21 CFR 10.33(b). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of the review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before January 8, 1997, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: October 24, 1996.

Joseph A. Levitt,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 96–31228 Filed 12–6–96; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 96M–0462]

Matritech, Inc.; Premarket Approval of the Matritech NMP22™ Test Kit

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Matritech, Inc., Newton, MA, for premarket approval, under the Federal Food, Drug, and Cosmetic Act (the act), of the Matritech NMP22™ Test Kit. After reviewing the recommendation of the Immunology Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of July 2, 1996, of the approval of the application.

DATES: Petitions for administrative review by January 8, 1997.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Peter E. Maxim, Center for Devices and Radiological Health (HFZ–440), Food

and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–1293.

SUPPLEMENTARY INFORMATION: On November 7, 1994, Matritech, Inc., Newton, MA 02160, submitted to CDRH an application for premarket approval of the Matritech NMP22™ Test Kit. The Matritech NMP22™ Test Kit is an enzyme immunoassay for the in vitro quantitative determination of nuclear matrix protein NMP22 in stabilized voided urine. The Matritech NMP22™ Test Kit is indicated as an aid in the management of patients with transition cell carcinoma of the urinary tract (TCC/UT), after surgical treatment to identify those patients with occult or rapidly recurring TCC/UT. The Matritech NMP22™ Urine Collection Kit is intended for the collection, stabilization, and transport of human urine which will be tested using the Matritech NMP22™ Test Kit.

On November 30, 1995, the Immunology Devices Panel of the Medical Devices Advisory Committee, an FDA advisory committee, reviewed and recommended approval of the application. On July 2, 1996, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act, for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under 21 CFR part 12 of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under 21 CFR 10.33(b). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of the review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before January 8, 1997, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: November 7, 1996.

Joseph A. Levitt,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 96–31246 Filed 12–6–96; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

[HCFA–3070G–I]

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Reinstatement without change; *Title of Information Collection:* Intermediate Care Facility for the Mentally Retarded or Persons with Related Conditions Survey Report Form and Supporting Regulations 42 CFR Sections 431, 435, 440, 442 and 483, Subpart I ; *Form No.:* HCFA 3070G–I; *Use:* The survey form and supporting regulations are needed to ensure provider compliance. In order to participate in the Medicaid program as an Intermediate Care Facility for the Mentally Retarded (ICF/MR), providers must meet Federal standards. The survey report form is used to record providers' compliance with the individual standard and report it to the Federal Government. *Frequency:* annually; *Affected Public:* Business or other for-profit, Not for-profit institutions, State, Local or Tribal Govt.; *Number of Respondents:* 7200; *Total Annual Responses:* ,7200; *Total Annual Hours:* 6,074,370.

2. *Type of Information Collection Request:* Extension of currently approved collection; *Title of Information Collection:* Medicare Current Beneficiary Survey Supplement-Round 18; *Form No.:* HCFA–P–15A; *Use:* The Office of the Actuary, HCFA, conducts the Medicare Current Beneficiary Survey (MCBS) through personal interviews of a random sample of Medicare beneficiaries. When sampled persons are found to reside in a long-term care facility, interviewers use a version of the questionnaire which is specially designed to obtain data about the beneficiary's health care from knowledgeable staff members. We are preparing to convert the facility interview from a hardcopy questionnaire to a Computer Assisted Personal Interviewing (CAPI) format beginning in May, 1997. CAPI, which we are currently using in the community interviews, increases the accuracy of the interview process by automating skip patterns, customizing questions, creating computed variables such as a time line of residence history, and automatically checking completeness and consistency of responses. Concurrently, we are modifying some of the questions we currently use in the facility interview to make them more comparable to those in other surveys, particularly the Medical Expenditure Panel Survey (MEPS). These modifications are responsive to the President's initiative toward consistency and integration among surveys; *Frequency:* Annually; *Affected Public:; Number of Respondents:* 1,900; *Total Annual Responses:* 1,900; *Total Annual Hours:* 1,900.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's WEB SITE ADDRESS at http://www.hcfa.gov/regs/prdact95.htm, or to obtain the supporting statement and any related forms, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Financial and Human Resources, Management Analysis and Planning Staff, Attention: John Rudolph, Room C2–25–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: December 2, 1996.

Edwin J. Glatzel,

Director, Management Analysis and Planning Staff, Office of Financial and Human Resources.

[FR Doc. 96–31145 Filed 12–6–96; 8:45 am]

BILLING CODE 4120–03–P

[ORD–094–N]

New and Pending Demonstration Project Proposals Submitted Pursuant to Section 1115(a) of the Social Security Act: October 1996

AGENCY: Health Care Financing Administration (HCFA).

ACTION: Notice.

SUMMARY: This notice identifies proposals submitted during the month of October 1996 under the authority of section 1115 of the Social Security Act and those that were approved, disapproved, pending, or withdrawn during this time period. (This notice can be accessed on the Internet at HTTP://WWW.HCFA.GOV/ORD/ORDHP1.HTML.)

DATES: We will accept written comments on these proposals. We will, if feasible, acknowledge receipt of all comments, but we will not provide written responses to comments. We will, however, neither approve nor disapprove any new proposal for at least 30 days after the date of this notice to allow time to receive and consider comments. Direct comments as indicated below.

ADDRESSES: Mail correspondence to: Susan Anderson, Office of Research and Demonstrations, Health Care Financing Administration, Mail Stop C3–11–07, 7500 Security Boulevard, Baltimore, MD 21244–1850.

FOR FURTHER INFORMATION CONTACT: Susan Anderson (410) 786–3996.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 1115 of the Social Security Act (the Act), the Department of Health and Human Services (HHS) may consider and approve research and demonstration proposals with a broad range of policy objectives. These demonstrations can lead to improvements in achieving the purposes of the Act.

In exercising her discretionary authority, the Secretary has developed a number of policies and procedures for reviewing proposals. On September 27, 1994, we published a notice in the Federal Register (59 FR 49249) that specified (1) the principles that we ordinarily will consider when approving or disapproving demonstration projects under the authority in section 1115(a) of the Act; (2) the procedures we expect States to use in involving the public in the development of proposed demonstration projects under section 1115; and (3) the procedures we ordinarily will follow in reviewing demonstration proposals. We are committed to a thorough and expeditious review of State requests to conduct such demonstrations.

As part of our procedures, we publish a notice in the Federal Register with a monthly listing of all new submissions, pending proposals, approvals, disapprovals, and withdrawn proposals. Proposals submitted in response to a grant solicitation or other competitive process are reported as received during the month that such grant or bid is awarded, so as to prevent interference with the awards process.

II. Listing of New, Pending, Approved, and Withdrawn Proposals for the Month of October 1996

A. Comprehensive Health Reform Programs

1. New Proposals

The following comprehensive health reform proposal was received during the month of October:

Demonstration Title/State: State of Washington Medicaid Section 1115(a) Waiver Request—Washington.

Description: Under ''The State of Washington Medicaid Section 1115(a) Waiver Request,'' the State is requesting waivers of the 75/25 and lock-in requirements. The State's intent is for the demonstration to subsume the current 1915(b) Healthy Options Program. The State is planning innovations with encounter data, Medicaid HEDIS, and quality measures for the disabled population.

Date Received: October 2, 1996.

State Contact: Jane Beyer, Assistant Secretary, Medical Assistance Administration, Department of Social and Health Services, P.O. Box 45500, Olympia, Washington 98504–5500, (360) 586–6513.

Federal Project Officer: Nancy Goetschius, Health Care Financing Administration, Office of Research & Demonstration, Office of State Health Reform Demonstrations, Mail Stop C3–18–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

2. Pending Proposals

Demonstration Title/State: Better Access for You (BAY) Health Plan Demonstration—Alabama.

Description: Alabama proposes to create a mandatory managed care delivery system in Mobile County for non-institutionalized Medicaid beneficiaries and an expansion population of low-income women and children. The network, called the Bay Health Network, would be administered by the PrimeHealth Organization, which is owned by the University of South Alabama Foundation. The State also proposes to expand family planning benefits for pregnant women whose income is less than 133 percent of the Federal poverty level.

Date Received: July 10, 1995.

State Contact: Vicki Huff, Director, Managed Care Division, Alabama Medicaid Agency, P.O. Box 5624, Montgomery, AL 36103–5624, (334) 242–5011.

Federal Project Officer: Maria Boulmetis, Health Care Financing Administration, Office of Research and Demonstrations, Mail Stop C3–18–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Demonstration Title/State: Arizona Health Care Cost Containment System (AHCCCS)—Arizona.

Description: Arizona proposes to expand eligibility under its current section 1115 AHCCCS program to individuals with incomes up to 100 percent of the Federal poverty level.

Date Received: March 17, 1995.

State Contact: Mabel Chen, M.D., Director, Arizona Health Care Cost Containment System, 801 East Jefferson, Phoenix, AZ 85034, (602) 271–4422.

Federal Project Officer: Joan Peterson, Health Care Financing Administration, Office of Research and Demonstrations, Mail Stop C3–18–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Demonstration Title/State: The Georgia Behavioral Health Plan—Georgia.

Description: Georgia proposes to provide behavioral health services under a managed care system through a section 1115 demonstration. The plan would be implemented by regional boards that would contract with third party administrators to develop a network of behavioral health providers. The currently eligible Medicaid population would be enrolled in the program and would have access to a full range of behavioral health services. Once the program realizes savings, the State proposes to expand coverage to individuals who are not otherwise eligible for Medicaid.

Date Received: September 1, 1995.

State Contact: Margaret Taylor, Coordinator for Strategic Planning, Department of Medical Assistance, 1 Peachtree Street, NW, Suite 27–100, Atlanta, GA 30303–3159, (404) 657–2012.

Federal Project Officer: Nancy Goetschius, Health Care Financing Administration, Office of Research and Demonstrations, Mail Stop C3–18–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Demonstration Title/State: Community Care of Kansas—Kansas.

Description: Kansas proposes to implement a ''managed cooperation demonstration project'' in four predominantly rural counties, and to assess the success of a non-competitive managed care model in rural areas. The demonstration would enroll persons currently eligible in the Aid to Families with Dependent Children (AFDC) and AFDC-related eligibility categories, and expand Medicaid eligibility to children ages 5 and under with family incomes up to 200 percent of the Federal poverty level.

Date Received: March 23, 1995.

State Contact: Karl Hockenbarger, Kansas Department of Social and Rehabilitation Services, 915 Southwest Harrison Street, Topeka, KS 66612, (913) 296–4719.

Federal Project Officer: Jane Forman, Health Care Financing Administration, Office of Research and Demonstrations, Mail Stop C3–21–04, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Demonstration Title/State: Louisiana Health Access—Louisiana

Description: Louisiana proposes to implement a fully capitated statewide managed care program. A basic benefit package and a behavioral health and pharmacy wrap-around would be administered through the managed care plans. The State intends to expand Medicaid eligibility to persons with incomes up to 250 percent of the Federal poverty level; those with incomes above 133 percent of the Federal poverty level would pay all or a portion of premiums.

Date Received: January 3, 1995.

State Contact: Carolyn Maggio, Executive Director Bureau of Research and Development, Louisiana Department of Health and Hospitals, P.O. Box 2870, Baton Rouge, LA 70821–2871, (504) 342–2964.

Federal Project Officer: Gina Clemons, Health Care Financing Administration, Office of Research and Demonstrations, Mail Stop C3–18–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Demonstration Title/State: Missouri.

Description: Missouri proposes to require Medicaid beneficiaries to enroll in managed care delivery systems, and extend Medicaid eligibility to persons with incomes below 200 percent of the Federal poverty level. As part of the program, Missouri would create a fully capitated managed care pilot program to serve non-institutionalized persons with permanent disabilities on a voluntary basis.

Date Received: June 30, 1994.

State Contact: Donna Checkett, Director, Division of Medical Services, Missouri Department of Social Services, P.O. Box 6500, Jefferson City, MO 65102–6500, (314) 751–6922.

Federal Project Officer: Nancy Goetschius, Health Care Financing Administration, Office of Research and Demonstrations, Mail Stop C3–18–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Demonstration Title/State: Community Care Systems—New Hampshire.

Description: The State submitted a revised proposal for ''Community Care Systems.'' This system will provide capitated, managed acute care services not included in the health plan service package. The State proposed to implement this program in three phases: Phase 1 will enroll AFDC and AFDC-related children and families; Phase 2 will enroll the elderly population; and Phase 3 will enroll disabled adults and disabled children. The current waiver request is for Phase 1 only.

Date Received: June 5, 1996.

State Contact: Lorrie Lutz, Planning and Policy Development, State of New Hampshire, Department of Health and Human Services, 6 Hazen Drive, Concord, NY 03301–6505, (603) 271–4478.

Federal Project Officer: Cindy Shirk, Health Care Financing Administration, Office of Research and Demonstrations, Office of State Health Reform Demonstrations, Mail Stop C3–18–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Demonstration Title/State: The Partnership Plan—New York.

Description: New York proposes to move most of the currently eligible Medicaid population and Home Relief (General Assistance) populations from a primarily fee-for-service system to a managed care environment. The State also proposes to establish special needs plans to serve individuals with HIV/AIDS and certain children with mental illnesses.

Date Received: March 17, 1995.

State Contact: Richard T. Cody, Deputy Commissioner, Division of Health and Long Term Care, 40 North Pearl Street, Albany, NY 12243, (518) 474–9132.

Federal Project Officer: Debbie Van Hoven, Health Care Financing Administration, Office of Research and Demonstrations, Mail Stop C3–18–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Demonstration Title/State: State of Texas Access Reform (STAR)—Texas.

Description: Texas is proposing a section 1115 demonstration that will restructure the Medicaid program using competitive managed care principles. A focal point of the proposal is to utilize local governmental entities (referred to as Intergovernmental Initiatives (IGIs)) and to make the IGI responsible for designing and administering a managed care system in its region. Approximately 876,636 new beneficiaries would be served during the 5-year demonstration in addition to the current Medicaid population. Texas proposes to implement the program in June 1996.

Date Received: September 6, 1995.

State Contact: Cathy Rossberg, State Medicaid Office, P.O. Box 13247, Austin, TX 78711, (512) 502–3224.

Federal Project Officer: Alisa Adamo, Health Care Financing Administration, Office of Research and Demonstrations, Mail Stop C3–18–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Demonstration Title/State: Section 1115 Demonstration Waiver for Medicaid Expansion—Utah.

Description: Utah proposes to expand eligibility for Medicaid to all individuals with incomes up to 100 percent of the Federal poverty level (subject to limited cost sharing) and to enroll all Medicaid beneficiaries in managed care plans. The State also proposes to streamline eligibility and administrative processes and to develop a subsidized small employer health insurance plan.

Date Received: July 5, 1995.

State Contact: Michael Deily, Acting Division Director, Utah Department of Health, Division of Health Care

Financing, 288 North 1460 West, P.O. Box 142901, Salt Lake City, UT 84114–2901, (801) 538–6406.

Federal Project Officer: David Walsh, Health Care Financing Administration, Office of Research and Demonstrations, Mail Stop C3–18–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

3. Approved Proposals

No conceptual proposals were approved during the month of October. The following comprehensive health reform proposal was approved during that month:

Demonstration Title/State: Maryland Medicaid Reform Proposal—Maryland.

Description: A statewide section 1115 demonstration proposal has been developed to: provide a patient-focused system with a medical home for all beneficiaries; build on the strengths of the current Maryland health care system, provide comprehensive, prevention-orientated systems of care; hold Managed Care Organizations (MCOs) accountable for high-quality care, and achieve better value and predictability for State expenditures.

Date Received: May 3, 1996.

Date Approved: October 30, 1996.

State Contact: Mary Mussman, MD, M.P.H., Acting Executive Director, Center for Health Program Development and Management, UMBC, Social Sciences Building, Room 309A, 5401 Wilkens Avenue, Baltimore, MD 21228–5398, (410) 455–6804.

Federal Project Officer: Gina Clemons, Health Care Financing Administration, Office of Research and Demonstrations, Office of State Health Reform Demonstrations, Mail Stop C3–18–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

4. Disapproved and Withdrawn Proposals

No comprehensive health reform proposals were disapproved or withdrawn during the month of October.

B. Other Section 1115 Demonstration Proposals

1. New Proposals

No new proposals were received during the month of October.

2. Pending Proposals

Demonstration Title/State: Alternatives in Medicaid Home Care Demonstration—Colorado.

Description: Colorado proposes to conduct a pilot project that eliminates the restriction on provision of Medicaid home health services in locations other than the beneficiary's place of residence. The proposal would also permit nursing aides to perform functions that historically have been provided only by skilled nursing staff. Medicaid beneficiaries participating in the project will be adults (including both frail elderly clients and younger clients with disabilities) who can live independently and self-direct their own care. The project would provide for delegation of specific functions from nurses to certified nurses aides, pay nurses for shorter supervision and monitoring visits, and allow higher payments to aides performing delegated nursing tasks. Currently, home health agency nursing and nurse aide services are paid on a per visit basis. Each visit is approximately 2–4 hours in duration, and recipients must require skilled, hands-on care.

Date Received: June 3, 1995.

State Contact: Dann Milne, Director, Department of Health Care Policy and Financing, 1575 Sherman Street, Denver, CO 80203–1714, (303) 866–5912.

Federal Project Officer: Phyllis Nagy, Health Care Financing Administration, Office of Research and Demonstrations, Mail Stop C3–21–06, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Demonstration/Title: Integrated Care and Financing Project Demonstration—Colorado.

Description: Colorado proposes to conduct an Integrated Care and Financing Project demonstration. Specifically, the Colorado Department of Health Care Policy and Financing proposes to add institutional and community-based long-term care services to a health maintenance organization (HMO) and make the HMO responsible for providing comprehensive medical and supportive services through one capitated rate. The project would include all Medicaid eligibility groups, including individuals with dual eligibility.

Date Received: September 28, 1995.

State Contact: Dann Milne, Office of Long-Term Care System Development, State of Colorado Department of Health Care Policy and Financing, 1575 Sherman Street, Denver, CO 80203–1714, (303) 866–5912.

Federal Project Officer: Melissa McNiff, Health Care Financing Administration, Office of Research and Demonstrations, Mail Stop C3–18–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Demonstration Title/State: Georgia's Children's Benefit Plan—Georgia.

Description: Georgia submitted a section 1115 proposal entitled ''Georgia Children's Benefit Plan'' to provide preventive and primary care services to children aged 1 through 5 living in families with incomes between 133 percent and 185 percent of the Federal poverty level. The duration of the project is 5 years with proposed project dates of July 1, 1995 to June 30, 2000.

Date Received: December 12, 1994.

State Contact: Jacquelyn Foster-Rice, Georgia Department of Medical Assistance, 2 Peachtree Street Northwest, Atlanta, GA 30303–3159, (404) 651–5785.

Federal Project Officer: Maria Boulmetis, Health Care Financing Administration, Office of Research and Demonstrations, Mail Stop C3–18–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Demonstration Title/State: Family Planning Services Section 1115 Waiver Request—Michigan.

Description: Michigan seeks to extend Medicaid eligibility for family planning services to all women of childbearing age with incomes at or below 185 percent of the Federal poverty level, and to provide an additional benefit package consisting of home visits, outreach services to identify eligibility, and reinforced support for utilization of services. The duration of the project is 5 years.

Date Received: March 27, 1995.

State Contact: Gerald Miller, Director, Department of Social Services, 235 South Grand Avenue, Lansing, MI 48909, (517) 335–5117.

Federal Project Officer: Suzanne Rotwein, Ph.D., Health Care Financing Administration, Office of Research and Demonstrations, Mail Stop C3–24–07, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Demonstration Title/State: Montana Mental Health Access Plan—Montana.

Description: Montana proposes to provide all mental health services for current Medicaid-eligible individuals through managed care and to expand Medicaid eligibility to persons with incomes up to 200 percent of the Federal poverty level. Newly eligible individuals would receive only mental health benefits, and would not be eligible for other health services under the demonstration. A single statewide contractor would provide the mental health services and also determine eligibility, perform inspections, and handle credentialing.

Date Received: June 16, 1995.

State Contact: Nancy Ellery, State Medicaid Director, Department of Social and Rehabilitation Services, P.O. Box 4210, 111 North Sanders, Helena, MT 59604–4210, (406) 444–4540.

Federal Project Officer: Nancy Goetschius, Health Care Financing

Administration, Office of Research and Demonstrations, Mail Stop C3–18–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Demonstration Title/State: Family Planning Proposal—New Mexico.

Description: New Mexico proposes to extend Medicaid eligibility for family planning services to all women of childbearing age with incomes at or below 185 percent of the Federal poverty level.

Date Received: November 1, 1994.

State Contact: Bruce Weydemeyer, Director, Division of Medical Assistance, P.O. Box 2348, Santa Fe, NM 87504–2348, (505) 827–3106.

Federal Project Officer: Suzanne Rotwein, Ph.D., Health Care Financing Administration, Office of Research and Demonstrations, Mail Stop C3–24–07, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Demonstration Title/State: Continuing Care Networks (CCN) Demonstration—Monroe County, New York.

Description: The CCN project is designed to test the efficiency and effectiveness of financing and delivery systems which integrate primary, acute and long term care services under combined Medicare and Medicaid capitation payments. Participants will be both Medicare only, and dually eligible Medicare/Medicaid beneficiaries, who are 65 or older. Enrollment will be voluntary for all participants.

Date Received: July 1, 1996.

State Contact: C. Christopher Rush, Assistant Bureau Director, Bureau of Long Term Care, Division of Health and Long Term Care, New York State Department of Social Services, 40 North Pearl Street, Albany, New York 12243–0001, (518) 473–5507.

Federal Project Officer: Kay Lewandowski, Health Care Financing Administration, Office of Research and Demonstrations, Mail Stop C3–23–04, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Demonstration Title/State: CHOICES—Citizenship, Health, Opportunities, Interdependence, Choices and Supports—Rhode Island.

Description: Rhode Island proposes to consolidate all current State and Federal funding streams for adults with developmental disabilities under one program using managed care/managed competition.

Date Received: April 5, 1994.

State Contact: Susan Babin, Department of Mental Health, Retardation, and Hospitals, Division of Developmental Disabilities, 600 New London Avenue, Cranston, RI 02920, (401) 464–3234.

Federal Project Officer: Melissa McNiff, Health Care Financing Administration, Office of Research and Demonstrations, Mail Stop C3–21–06, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Demonstration Title/State: Family Planning Services Eligibility Requirements Waiver—South Carolina.

Description: South Carolina proposes to extend Medicaid coverage for family planning services for 22 additional months to postpartum women with monthly incomes under 185 percent of the Federal poverty level. The objectives of the demonstration are to increase the number of reproductive age women receiving either Title XIX or Title X funded family planning services following the completion of a pregnancy, increase the period between pregnancies among mothers eligible for maternity services under the expanded eligibility provisions of Medicaid, and estimate the overall savings in Medicaid spending attributable to providing family planning services to women for 2 years postpartum. The duration of the proposed project would be 5 years.

Date Received: May 4, 1995.

State Contact: Eugene A. Laurent, Executive Director, State Health and Human Services Finance Commission, P.O. Box 8206, Columbia, SC 29202–8206, (803) 253–6100.

Federal Project Officer: Suzanne Rotwein, Ph.D., Health Care Financing Administration, Office of Research and Demonstrations, Mail Stop C3–24–07, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Demonstration Title/State: Wisconsin.

Description: Wisconsin proposes to limit the amount of exempt funds that may be set aside as burial and related expenses for SSI-related Medicaid beneficiaries.

Date Received: March 9, 1994.

State Contact: Jean Sheil, Division of Economic Support, Wisconsin Department of Health and Social Services, 1 West Wilson Street, Room 650, P.O. Box 7850, Madison, WI 53707, (608) 266–0613.

Federal Project Officer: J. Donald Sherwood, Health Care Financing Administration, Office of Research and Demonstrations, Mail Stop C3–16–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Demonstration Title/State: Wisconsin Partnership Program—Wisconsin.

Description: Wisconsin has submitted Medicare section 222 demonstration and Medicaid section 1115 waiver requests to implement the ''Wisconsin Partnership Program'' in specific counties of the State. This program will test two innovative models of care, one for frail elderly and one for persons with disabilities, utilizing a multi-disciplinary team to manage care. The team is to include the beneficiary, a nurse practitioner, the beneficiary's choice of primary care physician, and a social worker or independent living coordinator. Consumer choice of care, settings and the manner of service delivery is a key component of the program. The demonstration will test the use of consumer-defined quality indicators to measure and improve the quality of service provided to people who are elderly and people with disabilities.

Date Received: February 28, 1996.

State Contact: Mary Rowin, State of Wisconsin, Department of Health and Social Services, 1 West Wilson Street, P.O. Box 7850, Madison, WI 53707, (608) 261–8885.

Federal Contact: William Clark, Health Care Financing Administration, Office of Research and Demonstrations, Office of Beneficiary and Program Research and Demonstrations, Mail Stop C3–21–06, 7500 Security Boulevard, Baltimore, MD 21244–1850.

3. Approved and Disapproved Proposals

No proposals were approved or disapproved during the month of October.

4. Withdrawn Proposals

Demonstration Title/State: Maryland High Cost/High Risk Initiative—Maryland.

Description: The goal of the demonstration is to test whether new forms of case management and managed care can significantly lower the cost of care for clinically-focused groups of high-cost/high risk patients, while maintaining or improving service quality. The State plans to incorporate the structure of the High Cost User Program into the Rare and Expensive Case Management Program. The High Cost User Program will operate prior to the implementation of the 1115 waiver, and parallel with it after 1115 implementation until phase-in is completed.

Date Received: July 8, 1994.

Date Approved: October 6, 1995.

Date Withdrawn: October 16, 1996.

State Contact: John Folkemer, Maryland Department of Health and Mental Hygiene, Office of Medical Assistance Policy, 201 West Preston Street, Baltimore, MD 21201, (410) 225–5206.

Federal Project Officer: William Clark, Health Care Financing Administration, Office of Research and Demonstrations,

Mail Stop: C3–21–06, 7500 Security Boulevard, Baltimore, MD 21244.

III. Requests for Copies of a Proposal

Requests for copies of a specific Medicaid proposal should be made to the State contact listed for the specific proposal. If further help or information is needed, inquiries should be directed to HCFA at the address above.

(Catalog of Federal Domestic Assistance Program, No. 93.779; Health Financing Research, Demonstrations, and Experiments.)

Dated: November 27, 1996.

Barbara Cooper,

Acting Director, Office of Research and Demonstrations.

[FR Doc. 96–31139 Filed 12–6–96; 8:45 am]

BILLING CODE 4120–01–P

National Institutes of Health

Amended Notice of Meeting of the Advisory Committee to the Director, NIH

Notice is hereby given of a change in the meeting of the Advisory Committee to the Director, NIH, December 12, 1996, Conference Room 10, Building 31, National Institutes of Health, Bethesda, Maryland 20892, which was published in the Federal Register on November 21, 1996 (61 FR 59234).

This Committee was to have convened at 9:00 a.m., but has been changed to 8:30 a.m.

Among the topics proposed for discussion: (1) Clinical Center Update; (2) Report from the Clinical Research Panel; (3) OAR Implementation of Levine Report; (4) Discussion of Small Business Innovation Research and Small Business Technology Transfer Grants; and (5) Various Reviews of the Institutes, Centers, and Divisions. In addition, the Committee will seek advice on a NIDA grant award.

The meeting will be open to the public from 8:30 a.m. to adjournment.

Dated: December 2, 1996.

Paula N. Hayes,

Acting Committee Management Officer, NIH.

[FR Doc. 96–31238 Filed 12–6–96; 8:45 am]

BILLING CODE 4140–01–M

National Center for Research Resources; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Center for Research Resources Special Emphasis Panel (SEP) meetings:

Name of SEP: Biomedical Research Technology.

Date: February 19, 1997.

Time: 8:00 a.m.—until adjournment.

Place: Doubletree Hotel, Montrose Room, 1750 Rockville Pike, Rockville, MD 20852, (301) 468–1100.

Contact Person: Dr. Sharon Moss, Scientific Review Administrator, 6705 Rockledge Drive, MSC 7965, Room 6018, Bethesda, MD 20892–7965, (301) 435–0822.

Name of SEP: Science Education Partnership Award.

Date: February 19–20, 1997.

Time: 8:00 a.m.—until adjournment.

Place: Hyatt Regency, Diplomat Ambassador and Sellini Rooms, One Bethesda Metro Center, Bethesda, MD 20815, (301) 657–1234.

Contact Person: Dr. Jill Carrington, Scientific Review Administrator, 6705 Rockledge Drive, MSC 7965, Room 6018, Bethesda, MD 20892–7965, (301) 435–0822.

Purpose/Agenda: To evaluate and review grant applications.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.371, Biomedical Research Technology, National Institutes of Health, HHS)

Dated: December 2, 1996.

Paula N. Hayes,

Acting Committee Management Officer, NIH.

[FR Doc. 96–31241 Filed 12–6–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Mental Health; Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Mental Health Council of the National Institute of Mental Health for January 1997.

The meeting will be open to the public, as indicated, for discussion of NIMH policy issues and will include current administrative, legislative, and program developments. Attendance by the public will be limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the contact person named below in advance of the meeting.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, a portion of the Council will be closed to the public as indicated below for the review, discussion and evaluation of individual grant applications. These applications, evaluations, and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The contact person named below will provide a summary of the meeting and a roster of committee members.

Other information pertaining to the meetings may be obtained from the contract person indicated.

Name of Committee: National Advisory Mental Health Council.

Date: January 28–29, 1997.

Place: January 28—Conference Room D, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857; January 29—Conference Room 6, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892.

Open: January 29, 9 a.m. to adjournment.

Closed: January 28, 2 p.m. to 5 p.m.

Contact Person: Gemma Weiblinger, Executive Secretary, Parklawn Building, Room 17C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–3675.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: December 3, 1996.

Paul N. Hayes,

Acting Committee Management Officer, NIH.

[FR Doc. 96–31237 Filed 12–6–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Neurological Disorders and Stroke Division of Extramural Activities; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel (Telephone Conference Call).

Date: January 7, 1997.

Time: 11:00 a.m.

Place: Bethesda, Maryland.

Contact Person: Dr. Howard Weinstein, Scientific Review Administrator, National Institutes of Health, 7550 Wisconsin Avenue, Room 9C10, Bethesda, MD 20892, (301) 496–9223.

Purpose/Agenda: To review and evaluate an SBIR Phase II Contract Proposal.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as

patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.853, Clinical Research Related to Neurological Disorders; No. 93.854, Biological Basis Research in the Neurosciences)

Dated: December 2, 1996.

Paula N. Hayes,

Acting Committee Management Officer, NIH.

[FR Doc. 96–31239 Filed 12–6–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Neurological Disorders and Stroke Division of Extramural Activities; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

Date: December 11, 1996.

Time: 8:30 a.m.

Place: ANA Hotel, 2401 M Street, N.W., Washington, DC 20037.

Contact Person: Dr. Lillian Pubols, Chief Scientific Review Branch, National Institutes of Health, 7550 Wisconsin Avenue, Room 9C10, Bethesda, MD 20892, (301) 496–9223.

Purpose/Agenda: To review and evaluate two grant applications.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program No. 93.853, Clinical Research Related to Neurological Disorders; No. 93.854, Biological Basis Research in the Neurosciences)

Dated: December 2, 1996.

Paula N. Hayes,

Acting Committee Management Officer, NIH.

[FR Doc. 96–31240 Filed 12–6–96; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review Small Business Innovation Research.

Name of SEP: Chemistry and Related Sciences.

Date: February 27–28, 1997.

Time: 8:00 a.m.

Place: Mayflower Hotel, Washington, DC.

Contact Person: Dr. Marjam Behar, Scientific Review Administrator, 6701 Rockledge Drive, Room 5218, Bethesda, Maryland 20892, (301) 435–1180.

Name of SEP: Chemistry and Related Sciences.

Date: March 19–20, 1997.

Time: 8:00 a.m.

Place: Wyndham Bristol Hotel, Washington, DC.

Contact Person: Dr. Donald Schneider, Scientific Review Administrator, 6701 Rockledge Drive, Room 5104, Bethesda, Maryland 20892, (301) 435–1165.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. (Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93,893, National Institutes of Health, HHS)

Dated: December 2, 1996.

Paula N. Hayes,

Acting Committee Management Officer, NIH.

[FR Doc. 96–31242 Filed 12–6–96; 8:45 am]

BILLING CODE 4140–01–M

Request for Nominations of Candidates To Serve on the National Vaccine Advisory Committee, Department of Health and Human Services

The Public Health Service (PHS) is soliciting nominations for possible membership on the National Vaccine Advisory Committee (NVAC). This committee studies and recommends ways to encourage the availability of an adequate supply of safe and effective vaccination products in the States; recommends research priorities and other measures the Director of the National Vaccine Program should take to enhance the safety and efficacy of vaccines; advises the Director of the Program in the implementation of sections 2102, 2103, and 2104, of the PHS Act; and identifies annually for the Director of the Program the most important areas of government and non-government cooperation that should be considered in implementing sections 2102, 2103, and 2104, of the PHS Act.

Nominations are being sought for individuals engaged in vaccine research or the manufacture of vaccines or who are physicians, members of parent organizations concerned with immunizations, or representatives of State or local health agencies, or public health organizations. Federal employees will not be considered for membership. Members may be invited to serve a four-year term.

Close attention will be given to minority and female representation; therefore, nominations from these groups are encouraged.

The following information is requested: name, affiliation, address, telephone number, and a current curriculum vitae. Nominations should be sent, in writing, and postmarked by December 31, 1996, to: Felecia D. Pearson, Committee Management Specialist, NVAC, National Vaccine Program Office, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, M/S D50, Atlanta, Georgia 30333. Telephone of facsimile submissions cannot be accepted.

Dated: December 3, 1996.

Nancy C. Hirsch,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–31225 Filed 12–1–96; 8:45 am]

BILLING CODE 4163–18–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–060–1620–01, WYW136142, WYW136458]

Powder River Federal Coal Production Region, WY; Coal Lease Application

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS) on two separate lease applications received from Powder River Coal Company and Kerr-McGee Coal Corporation for Federal coal in the decertified Powder River Federal Coal Production Region, Wyoming.

SUMMARY: The Bureau of Land Management (BLM) received a competitive coal lease application from Powder River Coal Company on March 23, 1995, for approximately 4,020 acres (approximately 550 million tons of coal) in an area adjacent to the company's North Antelope and Rochelle Mines in

Campbell County, Wyoming (WYW136142). On April 14, 1995, BLM received a second coal lease application from Kerr-McGee Coal Corporation for approximately 4,000 acres (approximately 432 million tons of coal) in an area adjacent to the company's Jacobs Ranch Mine in Campbell County, Wyoming (WYW136458). The two application areas are about 9 miles apart. Both applications were filed as maintenance tract lease-by-applications (LBAs) under the provisions of 43 Code of Federal Regulations (CFR) 3425.1. The Powder River Regional Coal Team (RCT) reviewed both competitive lease applications at their meeting on April 23, 1996, in Cheyenne, Wyoming, and recommended that both be processed.

BLM conducted scoping on the two lease applications in June and July of 1996, including a public scoping meeting held at the Holiday Inn in Gillette, Wyoming, on June 27, at 7 p.m. As part of the scoping process, BLM requested comments on several options to satisfy the requirements of the National Environmental Policy Act (NEPA) in processing these two lease applications: preparing separate NEPA documents for each lease application or preparing one NEPA document to analyze the impacts of both lease applications. The RCT had recommended that BLM include such a request for comments from the public on which of these options would best satisfy NEPA during scoping.

After consideration of the comments received during the scoping period, the BLM Wyoming State Director determined that the requirements of NEPA and the parties concerned would be best served by preparing one EIS for both of these lease applications. The U.S. Forest Service and Office of Surface Mining will be cooperating agencies on the EIS.

DATES: As part of the public scoping process, the public had the opportunity to comment verbally on concerns or issues the BLM should address in processing these two applications at the public scoping meeting on June 27, and to submit written comments to BLM by July 31, 1996. Although the scoping comment period has expired, BLM will continue to accept comments on these two lease applications at the address given below. Comments should be submitted by December 31, 1996 to be considered in the draft EIS.

ADDRESSES: Please address questions, comments or concerns to the Casper District Office, Bureau of Land Management, Attn: Nancy Doelger, 1701 East E Street, Casper, Wyoming 82601, or fax them to 307–234–1525.

FOR FURTHER INFORMATION CONTACT: Nancy Doelger or Mike Karbs at the above address, or phone: 307–261–7600.

SUPPLEMENTARY INFORMATION: On March 23, 1995, Powder River Coal Company filed a coal lease application with the BLM for a maintenance tract LBA for the following lands, which contain an estimated 550 million tons of coal:

Sixth Principal Meridian, Wyoming

T. 41 N., R. 70 W.,
Sec. 6, lots 10 thru 13, and 18 thru 21;
Sec. 7, lots 6, 11, 14, and 19.
Sec. 18, lots 5, 12, 13, and 20.
T. 42 N., R. 70 W.,
Sec. 31, lots 5 thru 20;
Sec. 32, lots 1 thru 16;
Sec. 33, lots 1 thru 16;
Sec. 34, lots 1 thru 16;
Sec. 35, lots 1 thru 16.
T. 41 N., R. 71 W.,
Sec. 1, lots 5, 6, 11, and 12.

The area described contains 4,022.96 acres more or less.

The North Antelope and Rochelle Mines are contiguous mines which are both adjacent to the lease application area. Both mines have approved mining and reclamation plans. The Rochelle Mine has an air quality permit approved by the Wyoming Department of Environmental Quality, Air Quality Division (WDEQ/AQD), to mine up to 30 million tons of coal per year. The North Antelope Mine has an air quality permit approved by the WDEQ/AQD to mine up to 35 million tons of coal per year. According to the application, Powder River Coal Company plans no production increase at either mine solely from the acquisition of the proposed lease; the additional tonnage would extend the life of both mines.

Powder River Coal Company previously acquired a maintenance coal lease (WYW122586, issued effective 10/1/92) containing approximately 3,493 acres adjacent to the North Antelope and Rochelle Mines using the LBA process.

On April 14, 1995, Kerr-McGee Coal Corporation filed a coal lease application with the BLM for a maintenance tract LBA for the following lands, which contain an estimated 432 million tons of coal:

Sixth Principal Meridian, Wyoming

T. 43 N., R. 70 W.,
Sec. 4, lots 8, 9, and 15 thru 18;
Sec. 5, lots 5 thru 20;
Sec. 6, lots 8 thru 23;
Sec. 7, lots 5 thru 7;
Lot 8 (N½), lots 9 thru 12, lot 13 (N½ and SE¼), lot 19 (NE¼);
Sec. 8, lots 1 thru 16;
Sec. 9, lots 3 thru 6 and 11 thru 13;
T. 43 N., R. 71 W.,
Sec. 1, lots 5 thru 15, 19, and SE¼NE¼.

The area described contains 3,354.265 acres more or less.

The acreage applied for in Kerr McGee's application is known as the Thundercloud tract. It is described in a 1983 BLM document entitled ''Powder River Coal Region Tract Summaries,'' which was prepared in anticipation of a Federal coal sale proposed for 1984 that did not take place.

The Jacobs Ranch Mine has an air quality permit approved by the WDEQ/AQD to mine up to 35 million tons of coal per year. According to Kerr-McGee, the additional coal reserves would extend the life of the current mining operations at the Jacobs Ranch Mine.

Kerr-McGee previously acquired a maintenance coal lease (WYW117924, issued effective 10/1/92) containing approximately 1,709 acres adjacent to the Jacobs Ranch Mine under the LBA process.

There are six surface coal mines (Jacobs Ranch, Black Thunder, North Rochelle, Rochelle, North Antelope, and Antelope) located southeast of Wright, Wyoming, in southern Campbell County and northern Converse County. Since decertification of the Federal coal region in 1990, these mines have leased approximately 8,300 acres of Federal coal, and have applied for an additional 10,000 acres of Federal coal. The BLM has determined that the EIS will include an updated analysis of the cumulative impacts of coal mining in the southern group of mines in the Wyoming Powder River Basin, so that the cumulative impacts of mining the previously issued leases and the applied-for tracts in this area can be fully disclosed as required by NEPA.

The major issues related to these two competitive lease applications having been identified to date include the potential cumulative impacts to air quality, groundwater, and wildlife that may occur if these tracts are leased and mined. If you have specific concerns about these issues, or have other concerns or issues that BLM should consider in processing these lease applications, please address them to the individuals listed above. Comments should be submitted by December 31, 1996 to be considered in the draft EIS. Comments will again be requested following issuance of the draft and final EIS documents.

Dated: December 2, 1996.

Robert A. Bennett,

Acting State Director.

[FR Doc. 96–31224 Filed 12–6–96; 8:45 am]

BILLING CODE 4310–22–M

Notice of Motor Vehicle Closure

AGENCY: Bureau of Land Management, Department of the Interior Prineville District (OR–056–1220–00:GP7–0038).

ACTION: Notice is hereby given that effective immediately, the following legally described area below, including all roads and trails, is closed to motor vehicle use year-long.

LEGAL DESCRIPTION: This closure order applies to the entire area, and all roads and trails within the area, located in Township 22 South, Range 10 East, north half of Section 1, east of the Great Northern Burlington Railroad tracks, and south of Rosland Road and Township 22 South, Range 11 East, north half of Section 6, west of Road 2205, and south of Rosland Road.

The purpose of this closure is to protect public safety and welfare. More specifically, this closure is ordered in light of the recent injuries in the ''Rosland'' gravel pit, pending further investigation and evaluation of the site. Exemptions to this closure order apply to administrative personnel of the Oregon Department of Transportation for access to the existing material site right-of-way (Serial #L 015800). Other exemptions to this closure order may be made on a case-by-case basis by the authorized officer. This emergency order will be evaluated in the Urban Interface Plan Amendment to the 1989 Brothers/La Pine Resource Management Plan. The authority for this closure is 43 CFR 8364.1: Closure and restriction orders.

SUPPLEMENTARY INFORMATION: Violation of this closure is punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months as provided in 43 CFR 8360.0–7.

FOR FURTHER INFORMATION CONTACT: Sharon Netherton, PLM Prineville District Office, P.O. Box 550, Prineville, Oregon 97754 (Telephone 541–416–6766).

Dated: November 26, 1996.

James L. Hancock,

District Manager.

[FR Doc. 96–31235 Filed 12–6–96; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Judgment Under the Clean Water Act

In accordance both with a Court order dated November 19, 1996, and Department Policy, 28 C.F.R. § 50.7, notice is hereby given that a proposed Consent Degree in *United States* v. *The Telluride Company*, Civil No. 93–K–2181 (D. Colo.), was lodged with the United States District Court for the District of Colorado on October 15, 1996.

The November 19, 1996, Court order required, among other things, that the proposed Consent Degree be published in the Federal Register in each of three consecutive weeks. This is the first of the three publications.

The proposed Consent Degree concerns alleged violations of section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a), resulting from the defendants' unauthorized filling of over 46 acres of alpine wetlands as part of their mountain resort development near Telluride, San Miguel County, Colorado. As part of the proposed Consent Degree, defendants will be required to pay a penalty of $1.1 million dollars and to implement a 16-acre restoration project to the satisfaction of the U.S. Environmental Protection Agency. Defendants have also agreed to abide by a site-wide management plan for the continued protection and preservation of the remaining wetlands that they own. The proposed Consent Degree preserves the United States' right to appeal an earlier ruling of the Court. If the appeal is successful, defendants will be obligated to perform an additional 15-acres of wetland restoration along the San Miguel River and pay an additional penalty of $50,000.

The Clerk of the United States District Court will receive written comments relating to the proposed Consent Degree until January 22, 1997. Comments should be addressed to James R. Manspeaker, Clerk of the District Court, United States Courthouse, 1929 Stout Street, Denver, CO 80294. Please send a copy of any comments to Robert H. Foster, U.S. Department of Justice, Environmental Defense Section, 999 18th Street, Suite 945, Denver, CO 80202. The comments should refer to *United States* v. *The Telluride Company*, Civil No. 93–K–2181 (D. Colo.), and should also make reference to DJ # 90–5–1–4–293.

The proposed Consent Degree Judgment may be examined at three (3) locations: (1) the Clerk's Office, United States District Court for the District of Columbia, 1929 Stout Street, Denver, CO 80295, (2) the Clerk's Office, San Miguel County Courthouse, 305 West Colorado, Telluride, CO 81435 and (3) the Clerk's Office, United States District Court for the District of Colorado, 402 Rood Avenue, Room 301, Grand Junction, CO 81501.

Letitia J. Grishaw,

Chief, Environmental Defense Section, Environment and Natural Resources Division.

[FR Doc. 96–30991 Filed 12–6–96; 8:45 am]

BILLING CODE 4410–15–M

Immigration and Naturalization Service

Agency Information Collection Activities: New Collection; Comment Request

ACTION: Notice of information collection under review; application for transmission of citizenship through a grandparent.

Office of Management and Budget (OMB) approval is being sought for the information collection listed below. This proposed information collection was previously published in the Federal Register on July 10, 1996, at 61 FR 36397 allowing for a 60-day public comment period. No comments were received by the Immigration and Naturalization Service.

The purpose of this notice is to allow an additional 30 days for public comments until January 8, 1997. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC, 20530. Additionally, comments may be submitted to OMB via facsimile to 202–395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street, NW, Washington, DC, 20530. Additionally, comments may be submitted to DOJ via facsimile to 202–514–1534.

Written comments and suggestions from the public and affected agencies should address one or more of the following points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection: New collection.*

(2) *Title of the Form/Collection.* Application for Transmission of Citizenship Through a Grandparent.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form N–600/N–643 Supplement A. Office of Examinations, Adjudications, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. This form is required so that information on a grandparent's residence may be collected to establish a child's eligibility for naturalization.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 4,000 responses at 30 minutes (.50) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 2,000 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: December 3, 1996.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 96–31202 Filed 12–6–96; 8:45 am]

BILLING CODE 4410–18–M

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Cancellation of Previously Announced Open Meeting

TIME AND DATE: 5:00 p.m., Friday, December 6, 1996.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

The National Credit Union Administration Board has canceled its previously announced open meeting scheduled for 5:00 p.m. on Friday, December 6, 1996.

The previously announced items were:

1. Request from a Federal Credit Union to Convert to a Community Charter.

2. Request from a Federal Credit Union to Convert to a Group Community Charter.

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone 703–518–6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 96–31349 Filed 12–5–96; 2:31 pm]

BILLING CODE 7535–01–M

NATIONAL SCIENCE FOUNDATION

Proposed Data Collection: Comment Request

Title of Proposed Collection: National Science Board and National Science Foundation Staff Task Force on Merit Review Discussion Report

Merit Review at NSF

For every proposal that receives funding from the National Science Foundation, two do not. To determine which get funded and which do not, NSF relies on a rigorous, competitive process of merit review based on peer evaluation.

Merit review is the cornerstone of the NSF's work. Virtually all of the 30,000 new proposals submitted to NSF annually undergo external merit review. NSF receives over 170,000 reviews each year to help evaluate these proposals. Through the use of merit review, NSF seeks to maintain the high standards of excellence and accountability for which it is known around the world.

Why Consider Changing NSF's Merit Review Criteria?

NSF's current criteria were adopted by the National Science Board in 1981. They remain an effective means for determining the optimal allocation of NSF's valuable resources. From time to time, it is neverless prudent to examine the review criteria—in the spirit of improving an already outstanding system.

Furthermore, there are also a number of important factors that deserve consideration in any assessment of NSF's review criteria:

—First, NSF's 1994 strategic plan established long-range goals and core strategies for the Foundation.

—Second, several studies suggest that there is room for improvement in NSF's highly successful system of merit review. For example, surveys of reviewers and program officers have revealed that the current criteria are not always well understood and often ignored.

—Third, seminal events over the past fifteen years—notably the end of the Cold War and the rise of global economic competition—have altered the context for public support of research and education. It is now more important than ever to highlight and document the returns to society on NSF's investments in research and education.

It is worth noting in addition that maintaining flexibility in the application of criteria may be as important as the criteria themselves. Most reviewers will only address those elements that they feel they are capable of judging. Similarly, NSF also does not pre-assign weights to the criteria; given the variation across NSF's many different programs, any such ''one size fits all'' approach would be counterproductive. Overall, excellence will continue to be the hallmark of all NSF-sponsored activities.

Furthermore, NSF will continue to employ special criteria when proposals are expected to respond to the specific objectives of certain programs and activities. Examples include teacher training projects and the development of large research facilities.

Opportunity for Input and Comments

At the November 1996 meeting of the National Science Board, the Board's Merit Review Task Force recommended that the current merit review criteria be simplified and that the language be harmonized with the NSF strategic plan. The current criteria and the Task Force's recommended criteria are shown below.

With the release of the Task Force's discussion report, NSF and the Board aim to stimulate discussion within and outside the Foundation. NSF is seeking input and comments from all interested persons—especially current and potential grant applicants and reviewers, as well as informed observers and followers of science and engineering research and education. To encourage the broadest possible comment and discussion, we have posted a summary of this document along with a comparison of current and proposed merit review criteria on our homepage (http://www.nsf.gov). The summary includes ''hotlinks'' to the full NSB Task Force report, NSF strategic plan, and other related documents. Most important, there is a response box for you to provide the agency with your feedback electronically.

We hope you will provide us with your thoughts on the proposed criteria. Comments on any aspect of the merit review criteria are welcome. In particular, we are interested in your views on questions such as:

—Are the proposed criteria clear? Would they be easier to use than the current criteria?

—Would the proposed criteria elicit useful input and comments from reviewers?

—Would the proposed criteria improve NSF's ability to foster linkages (e.g. across disciplines and between academe and industry)?

—Would the proposed criteria contribute to the integration of research and education?

—Are there further improvements to the criteria that you would recommend?

Thank you for taking the time to share your ideas with us. Please feel free to raise any specific questions or concerns you may have regarding the proposed criteria or the merit review process generally. (A set of FAQs (frequently asked questions) is available for your reference.)

Also, please let us know via the response forms if you would like to receive information describing what changes to the criteria (if any) are eventually adopted by the Board. A final decision is expected by the summer of 1997.

Send comments via the feedback mechanisms provided on the NSF homepage at (http://www.nsf.gov). Comments also can be mailed to Office of Policy Support, National Science Foundation, 4201 Wilson Boulevard, Room 1205, Arlington, VA 22230.

All comments should be received by January 31, 1997.

Dated: December 4, 1996.

George T. Mazuzan,

Acting Director, Office of Legislative and Public Affairs.

Current and Proposed Merit Review Criteria

Current Criteria (adopted in 1981)

1. Research performer competence—This criterion relates to the capability of the investigators, the technical soundness of the proposed approach, and the adequacy of the institutional resources available.

2. Intrinsic merit of the research—This criterion is used to assess the likelihood that the research will lead to new discoveries or fundamental advances within its field of science or engineering, or have substantial impact on progress in that field or in other science and engineering fields.

3. Utility or relevance of the research—This criterion is used to assess the likelihood that the research can contribute to the achievement of a goal that is extrinsic or in addition to that of the research itself, and thereby serves as the basis for new or improved technology or assist in the solution of societal problems.

4. Effect on the infrastructure of science and engineering—This criterion relates to the potential of the proposed research to contribute to better understanding or improvement of the equality, distribution, or effectiveness of the nation's scientific and engineering research, education, and manpower base.

Proposed Criteria

1. What is the intellectual merit and quality of the proposed activity?

The following are suggested questions to consider in assessing how well the proposal meets the criterion: What is the likelihood that the project will significantly advance the knowledge base within and/or across different fields? Does the proposed activity suggest and explore new lines of inquiry? To what degree does the proposer's documented expertise and record of achievement increase the probability of success? Is the project conceptually well designed? Is the plan for organizing and managing the project credible and well conceived? And, is there sufficient access to resources?

2. What are the broader impacts of the proposed activity?

The following are suggested questions to consider in assessing how well the proposal meets the criterion: How well does the activity advance discovery and understanding while concurrently promoting teaching, training, and learning? Will it create/enhance facilities, instrumentation, information bases, networks, partnerships, and/or other infrastructure? How well does the activity broaden the diversity of participants? Does the activity enhance scientific and technological literacy? And, what is the potential impact on meeting societal needs?

[NSB/MR–96–15]

National Science Board and National Science Foundation Staff

Task Force on Merit Review; Discussion Report

November 20, 1996.

National Science Board

DR. F. ALBERT COTTON, Distinguished Professor, Department of Chemistry, Texas A&M University

* DR. CHARLES E. HESS, Director of International Programs, University of California—Davis

* DR. JOHN E. HOPCROFT, Joseph Silbert Dean of Engineering, Cornell University

* DR. SHIRLEY M. MALCOM, Head, Directorate for Education and Human Resources Programs, American Association for the Advancement of Science

* DR. JAMES L. POWELL, President & Director, Los Angeles Museum of Natural History

DR. FRANK H.T. RHODES, President Emeritus, Cornell University

DR. IAN M. ROSS, President-Emeritus, AT&T Bell Laboratories

* DR. RICHARD N. ZARE (Chairman), Professor, Department of Chemistry, Stanford University

DR. SANFORD D. GREENBERT, Chairman & CEO of TEI Industries, Inc.

DR. EVE L. MENGER, Director, Characterization Sciences & Services, Corning Incorporated

DR. CLAUDIA I. MITCHELL-KERNAN, Vice Chancellor, Academic Affairs and Dean, Graduate Division, University of California

* DR. DIANA S. NATALICIO (Vice Chairman), President, The University of Texas at El Paso

DR. ROBERT M. SOLOW, Institute Professor Emeritus, Massachusetts Institute of Technology

DR. WARREN M. WASHINGTON, Senior Scientists and Head, Climate Change Research Section, National Center for Atmospheric Research

DR. JOHN A. WHITE, JR., Regents' Professor and Dean of Engineering, Georgia Institute of Technology

** DR. JOHN A. ARMSTRONG, IBM Vice President for Science & Technology (Retired)

** DR. MARK K. GAILLARD, Professor of Physics, University of California, Berkeley

** DR. M.R.C. GREENWOOD, Chancellor, University of California, Santa Cruz

** DR. STANLEY V. JASKOLSKI, Vice President, Eaton Corporation

** DR. EAMON M. KELLY, President, Tulane University

** DR. JANE LUBCHENCO, Wayne and Gladys Valley Professor of Marine Biology and Distinguished Professor of Zoology, Oregon State University

** DR. VERA RUBIN, Staff Member (Astronomy), Department of Terrestrial Magnetism, Carnegie Institution of Washington

** DR. BOB H. SUZUKI, President, California State Polytechnic University

** DR. RICHARD TALIA, Professor, Department of Computational & Applied Mathematics, Rice University

* DR. NEAL F. LANE (Chairman, Executive Committee), Director, NSF

DR. MARTA CEHELSKY, Executive Officer

Members of the Task Force

National Science Board Members:

Dr. Warren M. Washington, Chair, Dr. Shirley M. Malcom.

* Member, Executive Committee

** NSB nominee pending U.S. Senate confirmation

National Science Foundation Staff

Dr. Mary E. Clutter, Dr. John B. Hunt.
Mr. Paul J. Herer, Executive Secretary.

I. Context of the Report

The merit review process is the modus operandi for the evaluation of proposals at the National Science Foundation (NSF). While almost all of the 30,000 proposals submitted to NSF annually undergo external merit review, NSF has the resources to fund only about one third of them. NSF receives over 170,000 reviews each year to help evaluate these proposals. Through the use of merit review, NSF seeks to maintain its high standards of excellence and accountability for which it is known around the world.

In 1981, the National Science Board (NSB) adopted four generic criteria for the selection of research projects, titled: (1) research performance competence, (2) intrinsic merit of the research, (3) utility or relevance of the research, and (4) effect of the research on the infrastructure of science and engineering. (A detailed description of these criteria may be found in Appendix A.) Because education programs had been eliminated from the budget at that time, the 1981 criteria addressed on research proposals. In the 1980s, they were adapted to suit education programs as those were reestablished.

Also, since 1981, the portfolio of projects solicited and supported by NSF has expanded to include, among other things, broad education initiative and focused center-based activities. Further, the NSF Strategic Plan (NSF95–24) embraces new long-range goals and core strategies, and the Government Performance and Results Act (GPRA) emphasizes the importance of linking NSF's goals and strategies to the results of its portfolio of investments in science and engineering. In light of these changes, an assessment of the appropriateness of the NSB criteria seems warranted.

At its May 1995 meeting, the NSB stated that re-examining the criteria in light of the new Strategic Plan was a matter of high Board interest. Subsequently, an NSF staff task group on review criteria, formed by the Deputy Director, found that the criteria are unevenly applied by reviewers and NSF staff in the proposal review and selection process, and reported that, ''The NSB criteria are in need of clarification and should be rewritten.'' The task group also recommended that options be explored for more effective application of the criteria.

In May 1996, the Board established the NSB-NSF Staff Task Force on Merit Review, and charged it with examining the Board's generic review criteria and making recommendations on retaining or changing them, along with providing guidance on their use. This paper presents the Task Force's deliberations and findings. It is not intended as a final set of recommendations but as a means of stimulating discussion within and outside of the Foundation.

II. Task Force Membership and Activities

The Task Force has the following membership:

National Science Board Members

Dr. Warren M. Washington, Chair, Senior Scientist, Climate and Global Dynamics Division, National Center for Atmospheric Research, Boulder, Colorado
Dr. Shirley M. Malcom, Head, Directorate for Education and Human Resources Programs, American Association for the Advancement of Science, Washington, D.C.

National Science Foundation Staff

Dr. Mary E. Clutter, Assistant Director for Biological Sciences
Dr. John B. Hunt,* Acting Assistant Director for Mathematical and Physical Sciences

Executive Secretary

Mr. Paul J. Herer, Senior Advisor for Planning and Technology Evaluation, Directorate for Engineering

The Task Force met several times for extensive discussions, and reviewed a number of previous studies, surveys and reports, including the following:

(1) Criteria for the Selection of Research Projects by the National Science Foundation, adopted by the National Science Board at its 228th meeting on August 20–21, 1981.

(2) Federally Funded Research: Decisions for a Decade. U.S. Congress, Office of Technology Assessment (1991).

(3) The Track Record of NSF Proposal Review: Reviewers Rate the Process. NSF Program Evaluation Staff and Science Resources International (SRI) (1991).

(4) Peer Review. Reforms Needed to Ensure Fairness in Federal Agency Grant Selection, United States General Accounting Office (1994).

(5) Report of the NIH Committee on Improving Peer Review (1996).

(6) NSF Proposal Review Project Reports (1996, by internal teams):

- Task Group on Review Criteria (P. Stephens, Chair)
- Task Group on Review Variations (D. Schindel/D. Chubin)
- Task Group on Calibration and Disaggregated Ratings (C. Eavey)

* Replaced Dr. William Harris.

III. Current Criteria and Their Use

The four generic criteria established by the NSB in 1981 for the selection of projects are: (1) research performance competence, (2) intrinsic merit of the research, (3) utility or relevance of the research, and (4) effect of the research on the infrastructure of science and engineering. For reference, the full NSB guidance for these criteria are provided in Appendix I.

The table below summarizes the results of two surveys and highlights some of the problems with the current criteria from two different perspectives.

- A cross-section of reviewers in a 1991 NSF/SRI survey (first column) considered the first two NSB criteria (intrinsic merit and PI competence) to be considerably more important than the last two. Less than half of the respondents said they usually commented on all four criteria; as many as 20% said they ignored the NSB criteria altogether.
- A 1995 electronic survey of NSF program officers (P.O.) in 35 divisions on reviewer responsiveness (second column) revealed that program officers experience difficulty in obtaining useful input from reviewers with respect to criterion 3 (utility/relevance) and criterion 4 (infrastructure).

PERCEIVED IMPORTANCE AND USEFULNESS OF CURRENT REVIEW CRITERIA

[In percent]

	1991 SRI survey of reviewers[1]	1995 survey of NSF P.O.[2]
(1) Competence	94	0
(2) Instrinisic Merit	98	2
(3) Utility/Relevance	56	31
(4) infrastructure	26	46

[1] Percent of reviewers who said criterion was ''extremely important''.

[2] Percent of program officers expressing difficulty in obtaining useful input.

In addition to these surveys, the NSF Office of Policy Support OPS) recently conducted an informal content analysis on a small sample of reviews of research project proposals to gain an empirical perspective of how reviewers use the four NSB criteria. By far the criterion most frequently used by reviewers was research performance competence. Almost every reviewer commented on some variation of competence. The intrinsic merit of the proposed research was addressed in about 80% of the reviews; utility/relevance in about 40%; and infrastructure in about a third of the reviews. For criterion 4, reviewers

referred to such potential ''products'' as trained researchers/graduate students, hardware, and information data bases. The goals and core strategies in NSF's strategic plan, such as the integration of education and research, were rarely mentioned in the reviews.

These studies imply that there are a number of problems with the current NSB generic criteria, including:

- Lack of clarity in wording encourages the use of ''unwritten'' criteria.
- Reviewers and Program Officers do not apply to the current criteria uniformly (e.g., criterion #3 and #4 are not well understood and often ignored).
- Criteria do not easily encompass non-research activities, e.g., education and human resources, large-scale facilities, and centers.
- Criteria do not track very will with NSF Strategic Plan.
- Considerable variation exists in use of criteria across NSF.

In February 1996, the NSF staff *Task Group on Review Criteria* (Chair, Pamela Stephens) reported that, ''The NSB criteria are in need of clarification and should be rewritten'', with consideration given to: (a) making the criteria clearer to evaluators; (b) emphasizing important attributes such as innovation, clarity of thought and soundness of approach; and (c) encouraging substantive comments on the quality of proposals. The Task Group further recommended that NSF explore more effective ways to apply the infrastructure criterion, and should continue the practice of allowing programs to employ additional specific criteria as needed.

The staff Task Group suggested a number of interrelated components that contribute to the evaluation of a proposal's overall merit, including: Intrinsic Merit, Significance, Innovative, Approach, Feasibility, and Effect on Infrastructure. This served as a starting point for the NSB–NSF Task Force.

IV. Revised Generic Merit Review Criteria

The Task Force recommends the *two generic criteria* (below) to replace the current four NSB criteria. Within each criterion is a set of contextual elements, defined by questions to assist the reviewer in understanding their intent. These elements are non-inclusive; i.e. it is recognized that, for some programs, other considerations not identified below may be important for the evaluation of proposals. Further, reviewers are requested to address only those elements that they consider relevant to the proposal at hand and that they feel qualified to make judgments on.

#1 What is the intellectual merit and quality of the proposed activity?

The following are suggested questions to consider in assessing how well the proposal meets the criterion: What is the likelihood that the project will significantly advance the knowledge base within and/or across different fields? Does the proposed activity suggest and explore new lines of inquiry? To what degree does the proposer's documented expertise and record of achievement increase the probability of success? Is the project conceptually well designed? Is the plan for organizing and managing the project credible and well conceived? And, is there sufficient access to resources?

#2 What are the broader impacts of the proposed activity?

The following are suggested questions to consider in assessing how well the proposal meets the criterion: How well does the activity advance discovery and understanding while concurrently promoting teaching, training, and learning? Will it create/enhance facilities, instrumentation, information bases, networks, partnerships, and/or other infrastructure? How well does the activity broaden the diversity of participants? Does the activity enhance scientific and technological literacy? And, what is the potential impact on meeting societal needs?

The NSB–NSF Task Force believes that the proposed new criteria offer several advantages over the existing criteria, such as:

- NSF is increasingly asked to connect its investments to societal value, while preserving the ability of the merit review system to select excellence within a portfolio that is rich and diverse. Having two criteria, one for intellectual quality and the other for societal impact, should serve to reveal the situations where proposals have high quality but minimal potential impact (and vice-versa). Quality will continue to be the threshold criterion, but will come to be seen as not sufficient by itself for making an award.
- The two new criteria are more clearly related to the goals and strategies in the NSF Strategic Plan. For example, ''NSF in a Changing World'' states (page 31) that: ''We rely on our proven system of merit review, which weighs each proposal's technical merit, creativity, educational impact, and its potential benefits to society.''
- The criteria are simplified by reducing their number from four to two, and are defined for reviewers and proposers by a set of suggested contextual elements. Reviewers are asked to describe the proposal's ''strengths and weaknesses'' with respect to each criterion using only those contextual elements that they consider relevant to the proposal at hand.

V. Application of the Proposed Generic Criteria

The Task Force was charged not only with examining the Board's generic review criteria but also recommending accompanying guidance on their use. There are a number of important ''process'' issues that help to frame this guidance.

Because of the great range and diversity of activities supported by NSF, it is evident that maintaining flexibility in the application of criteria is as important as the criteria themselves. Most reviewers will only address those elements that they feel they are capable of judging. Asking proposers and reviewers to address all of the contextual elements in each and every proposal, regardless of the nature of the proposed activity, is not only unrealistic but, in fact, may be counterproductive. Also, pre-assigning weights to the criteria will, if applied to all proposals, incorrectly appraise some of them.

It is important to take into account the relative roles of the external expert reviewers and the NSF program staff. Specifically, NSF proposals are evaluated by the Program Officer and other NSF staff with the help of the written reviews from expert peers. These external reviews are always advisory; the final funding decision rests with the NSF staff. Hence, while the external reviewer applies the review criteria to the individual proposal, the Program Officer must evaluate the proposal within the context of managing a balanced portfolio of projects that will achieve the program's objectives and contribute to NSF's overall mission. In particular, reviewer assessment of criterion #2 (potential impact and societal value) is intended to provide NSF with input from reviewers, but the ultimate responsibility for judging the potential impact of the investment of public funds must rest with NSF. Hence, the Task Force recommends that the NSF staff be provided flexibility and discretion in the application and weighting of criteria.

The Use of Special Criteria

NSF supports an extremely diverse set of activities ranging from individual investigator projects to teacher training to large research facilities. Many of these activities have special objectives

and require proposals that are responsive to them. Program solicitations and announcements are frequently used to solicit proposals from the community, and, in some cases, the NSB generic criteria are modified or augmented to make the review process responsive to the special objectives.

For example, the CISE Minority Institutions Infrastructure Program Announcement (NSF 96–15) lists nine additional factors that will be used to evaluate the proposals, including such factors as: (1) institutional cost-sharing, commitment, and related support to the projects, and (2) institutional track record in graduating minority scientists and engineers.

The EHR/CISE Networking Infrastructure for Education Program Solicitation (NSF 93–13) adds six additional criteria, including: ''Sustainability: The Potential to leverage the ability of the education community to carry out full scale, self-sustaining and scaleable educational networking models.''

In other cases, a set of criteria are provided in-lieu of the NSB generic criteria. For example, the Academic Research Infrastructure (ARI) Program (NSF 96–12) specifies the following criteria headings: Research and Research Training Merit; Infrastructure Need; Project Impacts; and Plans & Funding. Under the latter category, ''the institutional management plan for maintenance and operation of the requested facility'' is cited.

Revising the NSB generic criteria will lessen but not eliminate the need for special criteria. However, it is important that the additional or replacement criteria be consistent with the intent and spirit of the NSB generic criteria. Since each new program announcement or solicitation receives considerable NSF internal review before it is issued, it is appropriate that this be considered during the publication's clearance process.

Options for Rating Proposals

Whatever the criteria, reviewers and panelists must be encouraged to provide substantive comments on proposals, not merely ''check boxes'' to satisfy some proposal rating scheme. Moreover, NSF should not impose a rigid system of multiple criteria and sub-criteria, each with a separate score. The end result is often a review with too much weight given to less significant aspects of the proposal.

In terms of adjectival proposal ratings and numerical scoring, the Task Force extensively discussed the pros and cons of several options, including the following:

1. No ratings or scores. Reviewer comments on proposal's strengths and weaknesses; then provides a summary narrative statement.

Pros:

- Encourages more substantive reviewer comments while avoiding ''box checking''.
- Avoids dependence on ''uncalibrated'' scores.
- Results in fewer NSF staff callbacks to reviewers to clarify ratings and reconcile comments with ratings.
- Encourages reviewer to give equal attention to both criteria.
- Makes it easier for program officer to go against the ''collective wisdom''; i.e., to recommend ''high risk'' proposals that may not be as highly rated as some ''low risk'' proposals.

Cons:

- More difficult to ''bin'' proposals (i.e., into categories such as those that definitely should be funded, those that might be funded, and those that definitely should not be funded).
- More difficult to evaluate the effectiveness and fairness of the merit review system (i.e., cannot compare ratings scores with proposal decisions).
- Introduces more subjectively into the review process because of difficulty in interpreting the narrative statement alone.

2. Separate rating for each of the two criterion.

Pros:

- Sends message to community that both criteria are important.
- NSF program staff has flexibility to determine relative application (weighting) of the two criteria to the funding decision.
- Provides program officers with better information for making funding decisions and can provide more precise feedback to applicants.
- Eliminates mere averaging of ratings as a means of ranking proposals.
- Ends semantic arguments about whether a proposal is, e.g., ''excellent'' or merely ''outstanding'', or somewhere in between.

Cons:

- May complicate the ranking of proposals in the panel review process and lead to proposal ranking that do not reflect consensus.
- May encourage even greater degree of ''box checking'' in place of substantive comments, i.e., could result in shorter and less detailed written comments.

3. Single composite rating (for the two criteria).

Pros:

- Simplest to understand and use.
- Easy to relate proposal ratings to proposal decisions.

Cons:

- Reviewers will implicitly weigh each criterion; may not give much attention to criterion #2 in assigning overall rating.
- Encourages ''box checking'' rather than substantive comments.
- Scores may be arbitrary or uncalibrated (i.e., too lenient or strict).

In order to determine which is the most effective rating scheme (i.e., one that optimizes rationality, excellence, and fairness) the Task Force encourages the Foundation to experiment with various options. In designing these experiments, NSF should be fully cognizant of recent NIH efforts to redesign its peer review system.

NSF instructions and guidance to reviewers are very important. The system will be improved only if the reviewer use the criteria when evaluating the proposal. Thus, whatever criteria the NSB decides upon, they must be formatted for maximum use. This means redesigning the review form and the Grant Proposal Guide so that both the P.I.'s and reviewers understand what is to be evaluated. In fact, it may be advisable to design different review forms for different classes of proposals; for example, for investigator initiated research proposals, for large facility proposals, for systemic education reform projects, etc.

In order to illustrate how the new criteria might be presented to the merit reviewer, a sample draft NSF Proposal Review Form is provided in Appendix B. While option #2 (i.e., provide a rating for each criterion) is being used in this case for illustration purposes, this does not imply that it is the recommendation of the Task Force.

A draft one-page synopsis of NSF's strategic plan, NSF in a Changing World, is also provided in the Appendix C. This plan provides a context for shaping the Foundation's future through a set of principles, goals, and core strategies that are aimed at developing a greater sense of interdependence between the research and education communities and the public. While a one-to-one mapping of the generic review criteria to the NSF strategic plan is not necessary, the Task Force believes that outside expert reviewers should be exposed to at least a summary of the strategic plan. This may be accomplished by attaching the synopsis to the proposal review form.

The new criteria imply that changes to NSF's guidelines for preparing proposals are needed. This should be carefully looked at by NSF management. At the very least changes will have to be made in the Grant Proposal Guide. Additionally, in all NSF program

solicitations and announcements, NSF should carefully explain the full set of criteria that will be used to evaluate the proposal, including those related to the program's investment portfolio.

VI. Future Action

On October 17, 1996, the National Science Board approved the release of the Task Force Discussion Report, subject to final clearance by the Executive Committee, not as NSB policy, but as a proposal for broader discussion inside and outside of the Foundation. Specifically, the Director, NSF, is authorized to: ''share the report with the Nation's research and education community for comment, for the purpose of informing the Task Force on Merit Review''. The NSB also requested the Task Force to provide its recommendations at the March 1997 Meeting of the National Science Board, with respect to the nature and content of the new general criteria for review of proposals submitted to NSF (see Appendix D).

Note. To encourage the broadest possible comment and discussion, NSF has posted a summary of this document along with a comparison of the current and proposed merit review criteria on its homepage (http://www.nsf.gov). Most important, there is a response box for you to provide the agency with your feedback electronically. NSF wants to hear your views and specific suggestions on this report.

Appendices

Appendix A—Current Criteria (adopted in 1981)

1. Research performer competence—relates to the capability of the investigators, the technical soundness of the proposed approach, and the adequacy of the institutional resources available.

2. Intrinsic merit of the research—the likelihood that the research will lead to new discoveries or fundamental advances within its field of science or engineering, or have substantial impact or have substantial impact on progress in that field or in other science and engineering fields.

3. Utility or revlenace of the research—the likelihood that the research can contribute to the achievement of a goal that is extrinsic or in addition to that of the research itself, and thereby serves as the basis for new or improved technology or assist in the solution of societal problems.

4. Effect on the infrastructure of science and engineering—the potential of the proposed research to contribute to better understanding or improvement of the quality, distribution, or effectiveness of the nation's scientific and engineering research, education, and manpower base.

BILLING CODE 7555–01–M

APPENDIX B

Sample NSF Proposal Review Form

Proposal No.	Institution	Principal Investigator
Title		

Please evaluate this proposal according to the two NSB criteria, which are explained on the reverse side of this form. While ratings are requested for each criterion, your substantive written comments on the proposal's strengths and weaknesses are critical to the evaluation. (Continue on additional sheet(s) if necessary)

Criterion 1.	What is the intellectual merit and quality of the proposed activity? (Provide detailed comments)

Rating: ( ) Excellent ( ) Very Good ( ) Good ( ) Fair ( ) Poor

Criterion 2.	What are the broader impacts of the proposed activity? (Provide detailed comments)

Rating: ( ) Excellent ( ) Very Good ( ) Good ( ) Fair ( ) Poor

Reviewer's Name/Address/E-mail/Phone/Fax (Typed)	Other Suggested Reviewers (Optional)

Reviewers Signature and Date

National Science Foundation

OMB No.____
NSF Form____

Sample NSF Proposal Review Form - Page 2

Important! Please Read Before Reviewing Proposal!

In evaluating this proposal, you are requested to provide detailed comments for each of two merit review criteria. Following each criterion is a suggested set of questions to consider in assessing how well the proposal meets that criterion. ***Please address only those questions that you believe are relevant to this particular proposal.*** **If appropriate, please include comments on the quality of the prior work described in the "Results from Prior NSF Support" section.**

1. What is the intellectual merit and quality of the proposed activity?

The following are suggested questions to consider in assessing how well the proposal meets the criterion:
What is the likelihood that the project will significantly advance the knowledge base within and/or across different fields? Does the proposed activity suggest and explore new lines of inquiry? To what degree does the proposer's documented expertise and record of achievement increase the probability of success? Is the project conceptually well designed? Is the plan for organizing and managing the project credible and well conceived? And, is there sufficient access to resources?

2. What are the broader impacts of the proposed activity?

The following are suggested questions to consider in assessing how well the proposal meets the criterion: How well does the activity advance discovery and understanding while concurrently promoting teaching, training, and learning? Will it create/enhance facilities, instrumentation, information bases, networks, partnerships, and/or other infrastructure? How well does the activity broaden the diversity of participants? Does the activity enhance scientific and technological literacy? And, what is the potential impact on meeting societal needs?

Conflict of Interests

If you have an affiliation or financial connection with the institution or the person submitting this proposal that might be construed a conflict of interests, please describe those affiliations or interests on a separate objective, we would like to have your review. If you do not attach a statement we shall assume that you have no conflicting affiliations or interests.

Confidentiality of Proposals and Peer Reviews

The Foundation receives proposals in confidence and is responsible for protecting the confidentiality of their contents. In addition, the identity of reviewers will be kept confidential to the maximum extent possible. For this reason, please do not copy, quote, or otherwise use material from this proposal. If you believe that a colleague can make a substantial contribution to the review, please consult the NSF Program Officer before disclosing either the contents of the proposal or the applicant's name. When you have completed your review, please destroy the proposal.

Privacy Act and Public Burden Statements

The information requested on this reviewer form is solicited under the authority of the National Science Foundation Act of 1950, as amended. It will be used in connection with the selection of qualified proposals and may be disclosed to qualified reviewers and staff assistants as part of the review process and to other Government agencies needing names of potential reviewers. See Systems of Records, NSF-50. "Principal Investigator/Proposal File and Associated Records" and NSF-51. "Reviewer/Proposals File and Associated Records, 56 Federal Register 54907 (October 23, 1991). It is the policy of the Foundation that reviews, and reviewers identities, will not be disclosed to persons outside the Government, except that verbatim copies of reviews without the name and affiliation of the reviewer will be sent to the principal investigator. The Foundation considers review and reviewer identities to be exempt from disclosure under the Freedom of Information Act (5 USC 552) but cannot guarantee that it will not be forced to release them under FOIA, Privacy Act, or other laws. Submission of the requested information is voluntary.

Public reporting burden for this collection of information is estimated to average 5 hours per response, including the time for reviewing instructions. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to:

Herman G. Fleming
Reports Clearance Officer
Division of Human Resource Management
National Science Foundation
Washington, DC 20550

and to

Office of Management and Budget
Paperwork Reduction Project (3145-0058)
Washington, DC 20503

BILLING CODE 7555–01–C

Appendix C—Synopsis of NSF Strategic Plan; NSF in a Changing World (NSF 95–24)

In 1995, the National Science Foundation issued its strategic plan, NSF in a Changing World, which reiterated the Foundation's mission and established its strategic goals. The National Science Foundation Act of 1950 (Public Law 81–507) set forth NSF's mission and purpose.

To promote the progress of science: to advance the national health, prosperity, and welfare: to secure the national defense * * *

As described in NSF in a Changing World, the National Science Foundation has three long-range goals:

- Enable the U.S. to uphold a position of world leadership in all aspects of science, mathematics, and engineering. This grows from the conviction that a position of world leadership in science, mathematics, and engineering provide the Nation with the broadest range of options in determining the course of our economic future and our national security.
- Promote the discovery, integration, dissemination, and employment of new knowledge in service to society. This goal emphasizes the connection between world leadership in science and engineering on the one hand and contributions in the national interest on the other.
- Achieve excellence in U.S. science, mathematics, engineering, and technology education at all levels. This goal is worthy in its own right, and also recognizes that the first two goals can be met only by providing educational excellence. It requires attention to needs at every level of schooling and access to science, mathematics, engineering, and technology educational opportunities for every member of society.

To move toward the achievement of these goals, NSF employs a set of core strategies. These strategies reaffirm the Foundation's traditions, especially its reliance on merit review of investigator-initiated proposals, yet at the same time point to new directions for the Foundation.

- Develop intellectual capital. Selecting the best ideas in research and education and the most capable people to carry them out is at the heart of NSF's programmatic activities and the merit review system with which we implement those programs. Opening opportunities for all Americans to participate fully in an increasingly technological society is an essential part of NSF's mission.
- Strengthen the physical infrastructure. NSF's programs support investments in new windows on the universe, through facilities planning and modernization, instrument acquisition, design and development, and shared-use research platforms.
- Integrate research and education. NSF aims to infuse education with the joy of discovery and to bring an awareness of the needs of the learning process to research, creating a rich environment for both.
- Promote partnerships. For NSF, success requires collaboration with many different partners, including universities, industry, elementary and secondary schools, other Federal agencies, state and local governments, and other institutions. We also carry out partnerships across national boundaries.

The Foundation's general goals and strategies are translated into a diverse portfolio of activities, which often embody more than one strategy and contribute to more than one goal. In turn, NSF's efforts interact with those of other Federal agencies, state and local governments, school districts, schools, and partners in the private sector to produce progress toward the three goals. NSF does not itself conduct research or educate students. Instead, it invests the Nation's resources in a portfolio of projects and activities performed by universities, schools, nonprofit institutions, and small businesses. NSF balances its investments among three broad program functions, research, projects, facilities, and education and training.

Appendix D—Resolution Approved by the National Science Board at its 339th Meeting, on October 17, 1996

[NSB–96–182]

October 17, 1996.

Whereas, competive merit review, with peer evaluation, is the National Science Foundation's accepted method of informing its proposal decision processes;

Whereas, the Board requested that the general review criteria adopted by the Board in 1981 be re-examined in light of the Strategic Plan entitled ''NSF in a Changing World,'' as approved by the Board in October 1994;

Whereas, a joint Task Force of Board members and Foundation staff, having reviewed a number of studies, surveys and reports and engaged in extensive discussions of criteria and related matters, have produced a report containing proposed new general criteria for the review of NSF proposals;

Whereas, NSF works in partnership with the Nation's research and education community in all its endeavors;

Now therefore be it resolved, that the National Science Board:

Receives the report of its Task Force on Merit Review containing proposed new general criteria for review of proposals submitted to NSF;

Authorizes the Director, NSF, to share the report with the Nation's research and education community for comment, for the purpose of informing the Task Force on Merit Review;

And asks the Task Force on Merit Review to provide its recommendations at the March 1997 Meeting of the National Science Board, with respect to the nature and content of any such criteria.

[FR Doc. 96–31214 Filed 12–6–96; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–445 and 50–446]

Texas Utilities Electric Company (Comanche Peak Steam Electric Station Units 1 and 2); Order Approving Application Regarding the Corporate Restructuring of Texas Utilities Company, the Parent Holding Company, for Texas Utilities Electric Company, To Facilitate the Acquisition of Enserch Corporation

I

Texas Utilities Electric Company (TUEC) is sole owner of Comanche Peak Steam Electric Station (CPSES), Units 1 and 2. TUEC holds Facility Operating License Nos. DPR–87 and DPR–89 issued by the U.S. Nuclear Regulatory Commission (NRC) pursuant to Part 50 of Title 10 of the Code of Federal Regulations (10 CFR Part 50) on April 17, 1990, and April 6, 1993, respectively. Under these licenses, TUEC has the authority to possess and operate Comanche Peak Steam Electric Station, Units 1 and 2, located in Somervell County, TX. TUEC is currently a wholly owned subsidiary of Texas Utilities Company (TUC).

II

By letter dated September 20, 1996, TUEC informed the Commission that TUC was in the process of implementing a corporate restructuring to facilitate TUC's acquisition of ENSERCH Corporation (ENSERCH). The acquisition will be accomplished through the following merger transactions: (1) the formation of a new Texas Corporation, TUC Holding Company, and two new subsidiaries of TUC Holding Company (i.e., TUC Merger Corporation and Enserch Merger

Corporation); (2) the merger of TUC Merger Corporation with and into TUC with TUC being the surviving corporation; and (3) the merger of Enserch Merger Corporation with and into ENSERCH with ENSERCH being the surviving company. Upon the consummation of these transactions, TUC and ENSERCH will both become wholly owned subsidiaries of TUC Holding Company, which will change its name to Texas Utilities Company. TUEC would continue to remain the sole owner and operator of CPSES, Units 1 and 2. Upon consummation of the restructuring, current stockholders of TUC would become stockholders of the new TUC and would hold approximately 94 percent of the issued and outstanding shares of common stock of the new TUC. In addition, current stockholders of ENSERCH would also become stockholders of the new TUC and would hold the remaining 6 percent of the common stock of the new TUC. TUEC requested, to the extent necessary, the Commission's approval of the corporate restructuring, pursuant to 10 CFR 50.80. Notice of this application for approval was published in the Federal Register on November 13, 1996 (61 FR 58256), and an Environmental Assessment and Finding of No Significant Impact was published in the Federal Register on November 19, 1996 (61 FR 58897).

Under 10 CFR 50.80(a), no license shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information submitted in the letter of September 20, 1996, and other information before the Commission, the NRC staff has determined that the restructuring of TUC will not affect the qualifications of TUEC as holder of the licenses, and that the transfer of control of the licenses for CPSES, to the extent effected by the restructuring of TUC, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth herein. These findings are supported by a Safety Evaluation dated November 29, 1996.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 USC §§ 2201(b), 2201(i), 2201(o) and 2234, and 10 CFR 50.80, it is hereby ordered that the Commission approves the application regarding the restructuring of TUC subject to the following: (1) TUEC shall provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from TUEC to its direct or indirect parent company or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding 10 percent (10%) of TUEC's consolidated net utility plant, as recorded on TUEC's books of account; and (2) should the restructuring of TUC not be completed by December 31, 1997, this Order shall become null and void, provided, however, on application and for good cause shown, such date may be extended.

IV

By January 8, 1997, any person adversely affected by this Order may file a request for a hearing with respect to issuance of the Order. Any person requesting a hearing shall set forth with particularity how that interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is to be held, the Commission will issue an order designating the time and place of such hearing.

The issue to be considered at any such hearing shall be whether this Order should be sustained.

Any request for a hearing must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Docketing and Services Branch, or may be delivered to 11555 Rockville Pike, Rockville, Maryland between 7:45 am and 4:15 pm Federal workdays, by the above date. Copies should be also sent to the Office of the General Counsel, and to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to George L. Edgar, Esquire, Morgan, Lewis & Bockius, 1800 M Street, N.W., Washington, DC 20036–5869, attorney for TUEC.

For further details with respect to this Order, see the application for approval of the corporate restructuring dated September 20, 1996, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, DC, and at the local public document room located at the University of Texas at Arlington Library, Government Publications/Maps, 702 College, P.O. Box 19497, Arlington, TX 76019.

Dated at Rockville, Maryland, this 29th day of November 1996.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 96–31222 Filed 12–6–96; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–22363; 812–10066]

OCC Distributors, et al.; Notice of Application

December 2, 1996.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: OCC Distributors (the ''Sponsor'') and Qualified Unit Investment Trust Liquid Series (''QUILTS''), Equity Strategic Ten Series; QUILTS, Equity Strategic Five Series; QUILTS, Opportunity Trust Series; QUILTS, U.S. Treasury Trust Series; QUILTS, Corporate Trust Series; and QUILTS, Municipal Insured Series (the ''Trusts'').

RELEVANT ACT SECTIONS: Order requested pursuant to section 6(c) for exemptions from sections 2(a)(32), 2(a)(35), 22(d), and 26(a)(2) of the Act and rule 22c–1 thereunder, and pursuant to section 11(a) to supersede a prior order (the ''Prior Order'') [1] for an exemption from section 11c).

SUMMARY OF APPLICATION: Applicants seek to impose sales charges on a deferred basis, waive the deferred sales charge in certain cases, and offer exchange and rollover privileges at a reduced sales charge that would extend to units having deferred sales charges.

FILING DATE: The application was filed on March 28, 1996 and amended on July 16, 1996. Applicants have agreed to file an additional amendment, the substance of which is incorporated herein, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 27, 1996 and should be accompanied by proof of service on

[1] *Quest for Value Distributors,* Investment Company Act Release Nos. 21079 (May 17, 1995) (notice) and 21133 (June 13, 1995)

applicants, in the form of an affidavit or, for layers, a certificate of service. Hearing requests should state the nature of the writer's request, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street N.W., Washington, D.C. 20549. Applicants, OCC Distributors, Two World Financial Center, 225 Liberty Street, New York, New York 10080–6116, Attention: Susan A. Murphy.

FOR FURTHER INFORMATION CONTACT: David W. Grim, Staff Attorney, at (202) 942–0571, or Mercer E. Bullard, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. Each of the Trusts is a unit investment trust registered as an investment company under the Act and is sponsored by the Sponsor. Each of the trusts consists of one or more series of separate unit investment trusts issuing securities registered under the Securities Act of 1933 (''Series''). Applicants request that the relief sought herein apply to any future trusts sponsored by the Sponsor, and any future series of such trusts.

2. Each Series is created by a trust indenture among the Sponsor, a banking institution or trust company as trustee, and an evaluator. The Sponsor acquires a portfolio of securities which it deposits with the trustee in exchange for certificates representing units of fractional undivided interest in the deposited portfolio (''Units''). The Units are then offered to the public through the Sponsor, underwriters, and dealers at a public offering price which, during the initial offering period, is based upon the aggregate offering side evaluation of the underlying securities plus a 0.85% to 4.50% of the public offering price, generally depending on the terms of the underlying securities. The maximum charge is usually subject to reduction in compliance with rule 22d–1, under certain stated circumstances disclosed in the prospectus, such as for a volume discount purchase.

3. Applicants seek a order under section 6(c) exempting them from sections 2(a)(32), 2(a)(35), 22(d), and 26(a)(2) of the Act, and rule 22c–1 thereunder, to the extent necessary to permit them to impose a deferred sales charge (''DSC'') on Units, and vary or waive the DSC under certain circumstances. Under applicants' proposal, the Sponsor will determine the maximum amount of the sales charge per Unit. The Sponsor will have the discretion to defer the collection of all of part of such sales charge over a period (the ''Collection Period'') subsequent to the settlement date for the purchase of Units. The Sponsor will in no event add to the deferred amount of the sales charge any additional amount for interest or any similar or related charge to reflect or adjust for the ''time value of money,'' and the DSC will not apply to increases in the value per Unit after the date of purchase.

4. The Sponsor anticipates collecting a portion of the total sales charge ''up-front,'' *i.e.,* immediately upon purchase of Trust Units. The balance of the sales charge per Trust Unit as of the initial date of deposit will be collected over the Collection Period for the particular Series. A ratable portion of the sales charge remaining to be collected will be educated from each unitholder's distributions on the Units (''Distribution Deductions'') during the Collection Period until the total amount of the sales charge per Unit is collected. To the extent that distribution income is sufficient to make the requisite Distribution Deductions, the trustee will withdraw the appropriate amount of the DSC from such distribution income and will pay such amount directly to the Sponsor. If distribution income is insufficient to pay a DSC installment, the trustee, pursuant to the powers granted in the trust indenture, will have the ability to sell portfolio securities in an amount necessary to provide the requisite payments.

5. It is the Sponsor's current intention to deduct any amount of unpaid DSC expense from the proceeds of any redemption of Units or any sale of Units to the Sponsor. For purposes of calculating the amount of the DSC due upon redemption or sale of Units, it will be assumed that Units on which the sales charge has been paid in full are liquidated first. Any Units liquidated over and above such amounts will be subject to the DSC, which will be applied on the assumption that Units held for the longest time are redeemed first.

6. The Sponsor may adopt a procedure of waiving the DSC in connection with redemptions or sales of Units under certain circumstances. Any such waiver will be disclosed in the prospectus for each Series subject to the waiver, and will be implemented in accordance with rule 22d–1.

7. Applicants also request an order under section 11(a) of the Act to supersede the Prior Order granting an exemption from section 11(c) of the Act. Applicants propose to offer an exchange privilege to unitholders of the Trusts at a reduced sales charge (the ''Exchange Privilege''). Unitholders would be able to exchange any of their Units for Units of one or more available Series of the Trusts (an ''Exchange Trust''). Applicants also propose to offer a rollover privilege to unitholders of the Trusts at a reduced sales charge (the ''Rollover Privilege''). Unitholders would be able to ''roll over'' their Units in a Series which is terminating for Units of one or more new Series of the Trusts (a ''Rollover Trust''). Applicants seek to supersede the Prior Order in order to create a Exchange Privilege and Rollover Privilege that would extend to all exchanges of Units sold either with a fixed sales charge or with a DSC for Units of an Exchange Trust or Rollover Trust sold either with a fixed sales charge or with a DSC.

8. To exercise the Exchange Privilege or Rollover Privilege, a unitholder must notify the Sponsor. Exercise of the Exchange Privilege or Rollover Privilege is subject to the following conditions: (a) the Sponsor must be maintaining a secondary market in Units of the Trust held by the unitholder and Units of the Trust to be acquired in the exchange, (b) at the time of the exchange, there must be Units of the Exchange Trust or Rollover Trust to be acquired available for sale, and (c) exchanges will be in whole units only.

9. While Units of an applicable Series are normally sold on the secondary market with maximum sales charges ranging from 0.85% to 4.50% of the public offering price, the sales charge on Units acquired pursuant to the Exchange Privilege or Rollover Privilege will generally be reduced. In any event, an investor who purchases units under the exchange or rollover option will pay a lower sales charge than that which would be paid by a new investor. An adjustment will be made if Units of any Series are exchanged within five months of their acquisition for Units of a Series with a higher sales charge. In this case, the exchange fee will be the greater of the applicable reduced sales charges previously collected and the normal sales charge of the Unit being acquired.

Applicants' Legal Analysis

1. Under section 6(c), the SEC may exempt any person or transaction from any provision of the Act or any rule thereunder to the extent that such exemption is necessary or appropriate in the public interest and consistent

with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants believe that their proposal meets these standards.

2. Section 4(2) of the Act defines a ''unit investment trust'' as an investment company which ''issues only redeemable securities.'' Section 2(a)(32) defines a ''redeemable security'' as a security that, upon its presentation to the issuer, entitles the unitholder to receive approximately his or her proportionate share of the issuer's current net assets, or the cash equivalent of those assets. Applicants state that to avoid uncertainty regarding whether the imposition of the DSC in the manner described in the application would cause Units of the Trust to fall outside the definition of ''redeemable security,'' applicants request an exemption from the operation of section 2(a)(32) to the extent necessary to permit implementation of the DSC under the deferred sales charge program.

3. Section 2(a)(35) defines the term ''sales load'' to be the difference between the sales price and the portion of the proceeds invested by the depositor or trustee. Therefore, applicants submit that this arrangement is within the section 2(a)(35) definition of sales load, but for the timing of the imposition of the charge.

4. Rule 22c–1, promulgated pursuant to the SEC's authority under section 22(c) of the Act, requires that the price of a redeemable security issued by an investment company for purposes of sale, redemption, and repurchase be based on the security's current net asset value. Applicants note that the DSC would be deducted at the time of redemption of repurchase from the unitholder's proportionate liquidation proceeds. Applicants state that in order to avoid any possibility that questions might be raised as to the potential applicability of rule 22c–1, applicants request an exemption from the operation of the provisions of the rule to the extent necessary or appropriate to permit applicants to implement the DSC under the proposed deferred sales charge program.

5. Section 22(d) requires an investment company and its principal underwriter and dealer to sell securities only at a current public offering price described in the investment company's prospectus. Sales loads historically were deemed to be subject to the provisions of section 22(d) because they were traditionally a component of the public offering price; hence all investors were charged the same sales load. Rule 22d-1 was adopted to permit the sale of redeemable securities at prices which reflect scheduled variations in the sales load. Applicants state that in the interest of clarity, applicants request an exemption from the provisions of section 22(d) in order to permit scheduled variations or waivers of the DSC under certain circumstances.

6. Section 26(a)(2), in relevant part, prohibits a trustee or custodian of a unit investment trust from collecting from the Trust as an expense any payment to a depositor or principal underwriter thereof. Applicants state that in order to avoid any possibility that questions may be raised as to the propriety of the trustee disbursing sales charges to the Sponsor, applicants request an exemption from section 26(a)(2)(C) to the extent necessary to permit the trustee to collect deductions and disburse them to the Sponsor as contemplated by the deferred sales charge program.

7. Section 11(c) prohibits any offers of exchange of the securities of a registered unit investment trust for the securities of any other investment company, unless the terms of the offer have been approved by the SEC under section 11(a). Applicants submit that certain savings in sales related expenses involving repeat investors may appropriately be passed along to such investors, which savings will be recognized by a reduction in the sales charge of the Unit exchanged into. Applicants believe that whether the sales charge on the Unit exchanged is collected up-front or on a deferred basis in no way affects the nature of these savings.

8. Applicants represent that unitholders will not be induced or encouraged to participate in the Exchange or Rollover Privilege through an active advertising or sales campaign. The Sponsor recognizes its responsibility to its customers against generating excessive commissions through churning and represents that the sales charge collected will not be a significant economic incentive to salesman to promote inappropriately the Exchange or Rollover Privilege. The Sponsor also believes that the operation and implementation of the DSC program will be adequately disclosed and explained to potential investors as well as unitholders.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Whenever the Exchange Privilege or Rollover Privilege is to be terminated or its terms are to be amended materially, any unitholder of a security subject to that privilege will be given prominent notice of the impending termination or amendment at least 60 days prior to the date of termination or the effective date of the amendment, provided that: (a) no such notice need be given if the only material effect of an amendment is to reduce or eliminate the sales charge payable at the time of an exchange, to add one or more new Series eligible for the Exchange Privilege or Rollover Privilege, or to delete a Series which has terminated; and (b) no notice need be given if, under extraordinary circumstances, either (i) there is a suspension of the redemption of Units of an Exchange Trust or Rollover Trust under section 22(e) of the Act and the rules and regulations promulgated thereunder, or (ii) an Exchange Trust or Rollover Trust temporarily delays or ceases the sale of its Units because it is unable to invest amounts effectively in accordance with applicable investment objectives, policies, and restrictions.

2. An investor who purchases Units under the Exchange Privilege or Rollover Privilege will pay a lower sales charge than that which would be paid for the Units by a new investor. The reduced sales charge will be reasonably related to the expense of providing such service, and may include an amount that will fairly and adequately compensate the Sponsor.

3. The prospectus of each Series and any sales literature or advertising that mentions the existence of the Exchange Privilege or the Rollover Privilege will disclose that the Exchange Privilege and the Rollover Privilege are subject to termination and that their terms are subject to change.

4. Each Series offering Units subject to a DSC will include in its prospectus the table required by item 2 of Form N–1A (modified as appropriate to reflect the differences between unit investment trusts and open-end management investment companies) and a schedule setting forth the number and date of each installment payment.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–31150 Filed 12–6–96; 8:45 am]

BILLING CODE 6717–01–M

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of December 9, 1996.

A closed meeting will be held on Thursday, December 12, 1996, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10 and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Wallman, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Thursday, December 12, 1996, at 10:00 a.m., will be:

Institution and settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942–7070.

Dated: December 4, 1996.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–31336 Filed 12–5–96; 11:48 am]

BILLING CODE 8010–01–M

[Release No. 34–38013; File No. SR–OCC–96–17]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Source of Prices for Certain Government Securities

December 3, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on November 8, 1996, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

I. Self Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change amends Section 3, Article VII of OCC's By-laws and Rule 604 of OCC's Rules by replacing the Federal Reserve Bank of New York (''NY FED'') and the Bank of Canada as OCC's source for U.S. and Canadian Government securities prices with ''a source designated by'' OCC.

II. Self Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to amend Section 3, Article VIII of OCC's By-laws and OCC's Rule 604 to eliminate reference to the NY FED and the Bank of Canada as the required sources for U.S. and Canadian Government securities prices. The proposed rule change will allow OCC to receive prices from a source designated by OCC. Currently, Section 3 states that OCC will value U.S. Government securities deposited as contributions to the clearing fund based on bid prices supplied by the NY FED. Additionally, Rule 604 states that OCC will value U.S. Government securities pledged as margin collateral based on bid prices supplied by the NY FED. Section 3 and Rule 604 also require OCC to establish prices for Canadian Government securities based on prices provided by the Bank of Canada.

On October 15, 1996, the NY FED ceased disseminating composite quotations for U.S. Government securities. The NY FED informed OCC that the function of providing prices for U.S. Government securities would be better performed by a commercial service. Prior to such date, OCC's vendor for U.S. Government securities received its prices from the NY FED. On October 15th, OCC's vendor started receiving U.S. Government securities prices from GovPX, a leading independent provider of financial data. GovPX is one of the most widely used sources of U.S. Government securities prices. Their prices are based on bid and offer quotations reported by five of the six interdealer brokers in U.S. Government securities. OCC intends to continue using Gov PX as its source for U.S. Government securities prices

In addition, Rule 604 currently allows OCC such discretion in the case of other foreign government securities. This amendment would make the language of Rule 604 consistent as it pertains to the source of U.S., Canadian, and other countries government securities prices. Furthermore, the proposed rule change would give OCC the flexibility to use a vendor that supplies, in OCC's opinion, the most reliable prices for U.S. and Canadian Government securities. Finally, the proposed rule change would eliminate the necessity to file a proposed rule change each time a specific named vendor ceases to supply price quotations.

OCC believes the proposed rule change is consistent with Section 17A of the Act and the rules and regulations thereunder because the proposed rule change will promote the prompt and accurate clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were not and are not intended to be solicited by OCC with respect to the proposed rule change, and none were received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii)[3] of the Act and pursuant to Rule 19b–4(e)(3)[4] promulgated thereunder because the proposal is concerned solely with the administration of the self-regulatory organization. At any time within sixty days of the filing of such rule change, the Commission may summarily

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] The Commission has modified the text of the summaries prepared by OCC.

[3] 15 U.S.C. § 78s(b)(3)(A)(iii) (1988).

[4] 17 CFR 240.19b–4(e)(3) (1996).

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, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR–OCC–96–17 and should be submitted by December 30, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–31149 Filed 12–6–96; 8:45 am]

BILLING CODE 8010–01–M

U.S. SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2917]

Hawaii; Declaration of Disaster Loan Area

Honolulu County in the State of Hawaii is hereby declared a disaster area as a result of damages caused heavy rains, high surf, flooding and landslides which occurred from November 5, through 16,1996. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on January 27, 1997 and for economic injury until the close of business on August 26, 1997 at the address listed below: U.S. Small Business Administration, Disaster Area 4 Office, 1825 Bell Street, Suite 208, Sacramento, CA 95825, 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	7.250
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 291706 and for economic injury the number is 925800.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: November 26, 1996.

John T. Spotila,

Acting Administrator.

[FR Doc. 96–31209 Filed 12–06–96; 8:45 am]

BILLING CODE 8025–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences (GSP): Notice of Review Timetable and Public Hearings Regarding Least Developed Beneficiary Developing Countries

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The Trade Policy Staff Committee (TPSC) provides this notice to identify the HTS numbers of articles (see attached list) imported from the LDBDCs (identified in the general note 4(b) to the Harmonized Tariff Schedule (HTS) of the United States) that are proposed for designation as GSP eligible for duty-free entry. This notice also sets forth the timetable for public hearings for GSP Subcommittee consideration in reviewing the proposed list of articles for GSP eligibility, and the procedures for further public comment prior to the Presidential decision on which articles are to be designated as GSP eligible under the recently reauthorized GSP program.

FOR FURTHER INFORMATION CONTACT: GSP Subcommittee, Office of the United States Trade Representative, 600 17th Street, NW, Room 518, Washington, DC 20508. Telephone: (202) 395–6971.

SUPPLEMENTARY INFORMATION: The GSP program grants duty-free treatment to designated eligible articles that are imported from designated beneficiary developing countries. The GSP program is authorized by Title V of the Trade Act of 1974, as amended (''Trade Act'') (19 U.S.C. 2461 et seq.). The GSP program was implemented by Executive Order 11888 of November 24, 1975, and modified by subsequent Executive orders and Presidential Proclamations.

Legislation amending and reauthorizing the GSP program was signed by the President on August 20, 1996 (Public Law 104–188, 110 Stat. 1755) (Small Business Job Protection Act of 1996. For the GSP related provisions, see subtitle J of Title I of the foregoing Act). The new law provides for the possible designation as GSP-eligible certain articles from LDBDCs that were previously ineligible. Specifically, the President may designate as eligible for purposes of duty-free treatment under the GSP articles imported only from countries designated as LDBDCs if, after receiving the advice of the U.S. International Trade Commission (USITC), the President determines that such articles are not import-sensitive in the context of imports from the LDBDCs.

I. Review of Products from LDBDCs for GSP Eligibility

Notice is hereby given of a list of articles that are proposed for eligibility for duty-free treatment under the GSP, provided they are imported from the LDBDCs, as set forth in section 502 of the Trade Act. These articles are identified in the attached list. The countries that have been designated as LDBDCs are identified in general note 4(b) to the HTS.

Listing the articles proposed for GSP eligibility does not indicate any opinion about the merits of granting eligibility for these articles. Placement on the list indicates only that the articles have been found eligible for review by the GSP Subcommittee and the TPSC, and that such review will take place.

A. GSP Eligibility

Section 501 of the Trade Act provides that the President, in considering GSP eligibility for products from the LDBDCs, shall have due regard for the following:

(1) the effect such action will have on furthering the economic development of developing countries through the expansion of their exports;

[5] 17 CFR 200.30–3(a)(12) (1996).

(2) the extent to which other major developed countries are undertaking a comparable effort to assist developing countries by granting generalized preferences with respect to imports of products of such countries;

(3) the anticipated impact of such action on U.S. producers of like or directly competitive products; and

(4) the extent of the beneficiary country's competitiveness with respect to eligible articles.

In addition, for those articles listed as watches in HTS headings 9101 and 9102, the President must determine that the designations of the watch as an eligible article will not cause material injury to the watch or watch band, strap or bracelet manufacturing and assembly operations in the United States or the U.S. insular possessions.

B. Communications

The GSP Subcommittee of the TPSC invites submissions supporting or opposing the granting of GSP eligibility for any article on the attached list. All such submissions should include fourteen copies in English and conform to 15 CFR 2007, particularly 2007.0, 2007.1(a)(1), 2007.1(a)(2), and 2007.1(a)(3). All submissions should identify the subject article(s) in terms of the current HTS nomenclature and should be provided by 5:00 p.m., January 3, 1997.

All communications about public comments should be addressed to: Chairman of the GSP Subcommittee, Office of the United States Trade Representative, 600 17th Street, NW, Room 518, Washington, DC 20506. Telephone number: (202) 395–6971. Questions may be directed to any staff member of the GSP Information Center. Public versions of all documents relating to this review will be available for inspection by appointment in the USTR public reading room. Appointments may be made from 10 a.m. to noon and 1 p.m. to 4 p.m. by calling (202) 395–6186.

Submissions that are granted ''business confidential'' status pursuant to 15 CFR 2203.6, and other qualifying information submitted in confidence pursuant to 15 CFR 2007.7, will not be available for public inspection. If a document contains such confidential information, an original and fourteen (14) copies of the confidential version of the document along with an original and fourteen (14) copies of the non-confidential version must be submitted. The document that contains confidential information should be clearly marked ''confidential'' at the top and bottom of each page. The version that does not contain business confidential information (the public version) should also be clearly marked at the top and bottom of every page (either ''public version'' or ''nonconfidential'').

II. Requests To Participate in the Public Hearings

The GSP Subcommittee will hold hearings on January 23 and, if needed, on January 24, 1997, beginning at 10 a.m., in the main hearing room of the U.S. International Trade Commission, 500 E Street SW., Washington, DC. The hearings will be open to the public, and a transcript of the hearings will be available for public inspection or it can be purchased from the reporting company. No electronic media coverage will be allowed.

All interested parties wishing to make an oral presentation at the hearings must submit the name, address, and telephone number of the witness or witnesses representing their organization to the Chairman of the GSP Subcommittee by 5 p.m., January 3, 1997, as well as fourteen (14) copies, (in English) of all written briefs or statements. Oral testimony before the GSP Subcommittee will be limited to five minute presentations that summarize or supplement information contained in the briefs or statements submitted for the record.

If, by the close of business on January 3, 1997, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or non-participant may call the GSP Information Office (202) 395–6971 after January 10, 1997, to determine whether a hearing will be held.

Post-hearing briefs or statements will be accepted if they conform with the regulations cited above and if fourteen (14) copies in English are submitted no later than 5 p.m., February 14, 1997. Parties not wishing to appear at the public hearings may submit pre-hearing written briefs or statements by January 3, 1997, and may submit post-hearing written briefs or statements by February 14, 1997. Rebuttal briefs or statements should be submitted in fourteen (14) copies, in English, by 5 p.m., February 28, 1997.

On behalf of the President and in accordance with sections 503(a) and 131(a) of the Trade Act, on September 17, 1996, the list of articles proposed for duty-free treatment eligibility under the GSP was furnished to the U.S. International Trade Commission (USITC) to secure its advice on: (1) The probable economic effect of the elimination of U.S. import duties under GSP on U.S. industries producing like or directly competitive articles, and on consumers; and (2) to the extent possible, the level of U.S. sensitivity to imports of such LDBDC articles.

During March 1997, the public will have an opportunity to comment on the nonconfidential USITC analysis when a notice of the date of availability of this analysis and the timetable for comments is published in the Federal Register.

III. Announcement of Articles to be Accepted for Designations as Eligible Articles for GSP Purposes When Imported Only from the LDBDCs

Pursuant to the law that the President signed on August 20, 1996, he is authorized to designate as GSP eligible certain HTS articles imported from LDBDCs. He may make this determination only after he has received advice from the USITC on the probable effects of the requested modification in the GSP on consumers and on industries producing like or directly competitive articles, and he has determined that such articles are not import-sensitive in the context of imports from least-developed beneficiary developing countries. The list of articles designated as eligible for duty-free treatment under the GSP as a result of the review will be announced in the spring of 1997.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

BILLING CODE 3190–01–M

List of HTS Numbers of the 1,895 Articles Proposed for Duty-free Treatment Eligibility Under GSP

Part A

0101.20.20	0207.14.00	0403.90.20	0406.20.61	0406.90.46
0101.20.40	0207.24.00	0403.90.37	0406.20.65	0406.90.49
0102.90.40	0207.25.20	0403.90.41	0406.20.69	0406.90.51
0104.20.00	0207.25.40	0403.90.47	0406.20.73	0406.90.52
0105.11.00	0207.26.00	0403.90.51	0406.20.77	0406.90.59
0105.12.00	0207.27.00	0403.90.57	0406.20.81	0406.90.61
0105.19.00	0207.32.00	0403.90.61	0406.20.85	0406.90.63
0105.92.00	0207.34.00	0403.90.72	0406.20.89	0406.90.66
0105.93.00	0207.35.00	0403.90.74	0406.20.95	0406.90.72
0105.99.00	0207.36.00	0403.90.85	0406.30.12	0406.90.76
0106.00.30	0208.10.00	0403.90.87	0406.30.14	0406.90.82
0201.10.05	0208.90.40	0403.90.90	0406.30.22	0406.90.86
0201.10.10	0210.11.00	0404.10.08	0406.30.24	0406.90.90
0201.20.02	0210.19.00	0404.10.11	0406.30.32	0406.90.93
0201.20.04	0304.10.10	0404.10.20	0406.30.34	0406.90.95
0201.20.06	0304.20.30	0404.10.48	0406.30.42	0406.90.99
0201.20.10	0305.30.20	0404.10.50	0406.30.44	0408.11.00
0201.20.30	0305.30.40	0404.90.28	0406.30.49	0408.19.00
0201.20.50	0305.41.00	0404.90.30	0406.30.51	0408.91.00
0201.30.02	0305.49.20	0404.90.70	0406.30.55	0408.99.00
0201.30.04	0305.61.20	0405.10.05	0406.30.56	0409.00.00
0201.30.06	0305.69.20	0405.10.10	0406.30.57	0509.00.00
0201.30.10	0305.69.40	0405.20.10	0406.30.61	0601.10.30
0201.30.30	0401.10.00	0405.20.20	0406.30.65	0601.10.85
0201.30.50	0401.20.20	0405.20.40	0406.30.69	0601.20.10
0202.10.05	0401.30.02	0405.20.50	0406.30.73	0602.90.50
0202.10.10	0401.30.05	0405.20.60	0406.30.77	0603.10.60
0202.20.02	0401.30.42	0405.90.05	0406.30.81	0701.10.00
0202.20.04	0401.30.50	0405.90.10	0406.30.85	0701.90.50
0202.20.06	0402.10.05	0406.10.12	0406.30.89	0702.00.20
0202.20.10	0402.10.10	0406.10.14	0406.30.95	0702.00.40
0202.20.30	0402.21.02	0406.10.24	0406.40.20	0703.10.40
0202.20.50	0402.21.05	0406.10.34	0406.40.40	0703.90.00
0202.30.04	0402.21.27	0406.10.44	0406.40.51	0704.90.40
0202.30.06	0402.21.30	0406.10.54	0406.40.52	0706.10.05
0202.30.30	0402.21.73	0406.10.64	0406.40.54	0706.10.20
0202.30.50	0402.21.75	0406.10.74	0406.40.58	0706.90.40
0203.12.10	0402.29.05	0406.10.84	0406.90.05	0707.00.50
0203.19.20	0402.29.10	0406.10.95	0406.90.06	0708.20.90
0204.10.00	0402.91.03	0406.20.10	0406.90.08	0708.90.40
0204.21.00	0402.91.06	0406.20.22	0406.90.14	0709.20.90
0204.22.20	0402.91.10	0406.20.24	0406.90.16	0709.40.20
0204.22.40	0402.91.30	0406.20.29	0406.90.20	0709.40.60
0204.23.20	0402.99.03	0406.20.31	0406.90.25	0709.51.00
0204.23.40	0402.99.06	0406.20.34	0406.90.28	0709.70.00
0204.30.00	0402.99.10	0406.20.36	0406.90.31	0709.90.30
0204.41.00	0402.99.30	0406.20.43	0406.90.33	0709.90.35
0204.42.20	0402.99.68	0406.20.44	0406.90.34	0709.90.45
0204.42.40	0402.99.70	0406.20.49	0406.90.36	0709.90.90
0204.43.20	0403.10.05	0406.20.51	0406.90.38	0710.10.00
0204.43.40	0403.10.10	0406.20.54	0406.90.39	0710.22.37
0207.11.00	0403.10.90	0406.20.55	0406.90.41	0710.22.40
0207.12.00	0403.90.02	0406.20.56	0406.90.43	0710.29.40
0207.13.00	0403.90.04	0406.20.57	0406.90.44	0710.30.00

0710.40.00	0812.90.30	1503.00.00	1704.90.54	2008.11.02
0710.80.20	0812.90.40	1504.10.40	1704.90.74	2008.11.05
0710.80.40	0812.90.90	1507.10.00	1704.90.90	2008.11.22
0710.80.45	0813.20.10	1507.90.40	1806.20.79	2008.11.25
0710.80.60	0813.20.20	1508.10.00	1806.20.81	2008.11.42
0710.80.85	0813.40.15	1508.90.00	1806.20.85	2008.11.45
0710.80.97	0813.40.30	1512.11.00	1806.20.95	2008.19.20
0710.90.90	0813.40.40	1512.19.00	1806.20.99	2008.19.40
0711.20.38	0813.40.90	1512.21.00	1901.10.05	2008.19.50
0711.20.40	0813.50.00	1512.29.00	1901.10.15	2008.19.85
0711.90.40	0814.00.80	1514.10.90	1901.10.35	2008.20.00
0712.20.20	0901.90.20	1514.90.50	1901.10.45	2008.30.20
0712.20.40	0904.20.40	1514.90.90	1901.10.55	2008.30.30
0712.30.20	0910.40.40	1515.11.00	1901.10.60	2008.30.35
0712.90.20	1001.10.00	1515.19.00	1901.10.80	2008.30.40
0712.90.40	1001.90.10	1515.21.00	1901.10.95	2008.30.46
0712.90.75	1001.90.20	1515.29.00	1901.90.10	2008.30.65
0714.90.40	1003.00.20	1516.20.10	1901.90.20	2008.30.70
0802.11.00	1003.00.40	1516.20.90	1901.90.32	2008.30.80
0802.12.00	1006.10.00	1517.10.00	1901.90.33	2008.30.85
0802.21.00	1006.20.20	1517.90.45	1901.90.34	2008.40.00
0802.22.00	1006.20.40	1517.90.50	1901.90.38	2008.50.40
0802.32.00	1006.30.90	1517.90.90	1901.90.42	2008.60.00
0802.90.10	1006.40.00	1518.00.20	1901.90.44	2008.70.00
0802.90.90	1008.20.00	1522.00.00	1901.90.46	2008.80.00
0804.10.20	1008.90.00	1602.10.00	1901.90.48	2008.92.10
0804.10.40	1101.00.00	1602.20.20	1901.90.56	2008.92.90
0804.10.60	1102.10.00	1602.41.90	1901.90.70	2008.99.05
0804.10.80	1103.11.00	1602.42.40	1903.00.40	2008.99.10
0804.20.40	1103.19.00	1602.50.60	1904.20.10	2008.99.18
0804.20.80	1104.11.00	1603.00.10	1904.20.90	2008.99.25
0804.30.20	1104.19.00	1604.11.20	2001.90.20	2008.99.29
0804.30.40	1104.21.00	1604.11.40	2001.90.35	2008.99.42
0804.30.60	1105.20.00	1604.12.20	2001.90.60	2008.99.60
0804.40.00	1107.10.00	1604.12.40	2002.10.00	2009.11.00
0805.10.00	1107.20.00	1604.13.10	2002.90.00	2009.19.25
0805.20.00	1108.13.00	1604.13.20	2003.10.00	2009.19.45
0805.30.20	1202.10.05	1604.13.30	2004.10.80	2009.20.20
0805.40.40	1202.10.40	1604.14.10	2004.90.90	2009.20.40
0805.40.60	1202.20.05	1604.14.20	2005.51.20	2009.30.40
0805.40.80	1202.20.40	1604.14.30	2005.60.00	2009.30.60
0806.10.20	1204.00.00	1604.14.40	2005.70.50	2009.40.20
0806.10.60	1205.00.00	1604.14.70	2005.70.60	2009.40.40
0806.20.10	1207.20.00	1604.14.80	2005.70.70	2009.60.00
0806.20.20	1208.10.00	1604.19.10	2005.70.91	2009.80.40
0806.20.90	1208.90.00	1604.19.40	2005.70.97	2009.90.40
0807.11.40	1209.22.20	1604.19.50	2005.90.30	2101.30.00
0807.19.10	1209.24.00	1604.20.15	2005.90.50	2103.20.40
0807.19.80	1209.25.00	1604.20.25	2005.90.80	2105.00.05
0808.20.40	1209.91.10	1604.20.30	2006.00.20	2105.00.10
0809.10.00	1209.91.50	1604.20.40	2006.00.40	2105.00.25
0809.30.20	1212.30.00	1604.20.50	2006.00.50	2105.00.30
0809.40.40	1212.91.00	1604.20.60	2006.00.60	2105.00.50
0810.20.10	1214.10.00	1604.30.30	2007.10.00	2106.90.22
0811.90.22	1302.13.00	1605.90.06	2007.91.10	2106.90.24
0811.90.40	1302.39.00	1605.90.50	2007.99.15	2106.90.28
0811.90.80	1401.90.20	1702.11.00	2007.99.35	2106.90.32
0812.10.00	1402.90.10	1702.19.00	2007.99.55	2106.90.34
0812.20.00	1403.10.00	1702.50.00	2007.99.60	2106.90.38
0812.90.10	1501.00.00	1704.90.10	2007.99.65	2106.90.48
0812.90.20	1502.00.00	1704.90.52	2007.99.70	2106.90.62

2106.90.64	2402.20.80	2903.59.15	2912.21.00	2921.22.10
2106.90.78	2402.90.00	2903.59.20	2912.30.10	2921.30.10
2106.90.83	2403.10.20	2903.61.20	2913.00.40	2921.30.30
2106.90.85	2403.10.30	2903.62.00	2914.11.10	2921.41.10
2106.90.95	2403.10.60	2903.69.10	2914.40.40	2921.41.20
2202.90.10	2403.91.43	2903.69.20	2914.50.30	2921.42.10
2202.90.22	2403.91.45	2903.69.23	2914.69.20	2921.42.18
2202.90.24	2403.99.20	2903.69.27	2914.69.90	2921.42.22
2202.90.30	2403.99.30	2903.69.70	2914.70.40	2921.42.65
2202.90.35	2403.99.60	2904.10.10	2915.39.30	2921.42.90
2204.21.20	2507.00.00	2904.10.15	2915.39.35	2921.43.08
2204.21.50	2508.10.00	2904.10.32	2915.40.20	2921.43.15
2204.29.20	2508.20.00	2904.10.37	2915.40.30	2921.43.40
2204.29.40	2508.30.00	2904.10.50	2915.90.18	2921.43.80
2204.29.60	2508.40.00	2904.20.10	2916.11.00	2921.44.10
2204.29.80	2509.00.20	2904.20.15	2916.13.00	2921.44.20
2204.30.00	2511.20.00	2904.20.35	2916.15.10	2921.44.70
2205.90.40	2519.90.20	2904.20.40	2916.19.30	2921.45.10
2206.00.30	2525.20.00	2904.20.45	2916.31.30	2921.45.20
2206.00.60	2613.10.00	2904.90.08	2916.31.50	2921.45.60
2207.10.60	2613.90.00	2904.90.20	2916.32.10	2921.45.90
2207.20.00	2616.10.00	2904.90.30	2916.32.20	2921.49.10
2208.20.20	2616.90.00	2904.90.40	2916.34.10	2921.49.37
2208.20.30	2620.11.00	2904.90.47	2916.34.25	2921.49.43
2208.20.40	2709.00.10	2905.17.00	2916.34.55	2921.49.45
2208.20.50	2709.00.20	2906.12.00	2916.35.25	2921.49.50
2208.20.60	2710.00.05	2906.21.00	2916.35.55	2921.51.10
2208.30.30	2710.00.10	2906.29.60	2916.39.03	2921.51.30
2208.30.60	2710.00.15	2907.13.00	2916.39.45	2921.51.50
2208.40.00	2710.00.18	2907.15.60	2916.39.75	2921.59.08
2208.90.01	2710.00.20	2907.19.10	2917.12.10	2921.59.30
2208.90.20	2710.00.25	2907.19.20	2917.12.50	2921.59.40
2208.90.25	2710.00.30	2907.19.80	2917.19.20	2921.59.80
2208.90.30	2710.00.45	2907.21.00	2917.19.27	2922.19.18
2208.90.35	2710.00.60	2907.22.50	2917.19.40	2922.19.20
2208.90.40	2801.30.20	2907.29.90	2917.20.00	2922.19.60
2302.50.00	2804.61.00	2907.30.00	2917.36.00	2922.19.70
2303.10.00	2804.69.50	2908.10.10	2917.39.04	2922.21.10
2304.00.00	2805.11.00	2908.10.25	2917.39.15	2922.21.40
2306.10.00	2805.19.00	2908.10.35	2917.39.17	2922.21.50
2308.10.00	2805.21.00	2908.10.60	2917.39.30	2922.22.10
2308.90.80	2805.30.00	2908.20.04	2917.39.70	2922.22.20
2309.90.22	2825.90.30	2908.20.20	2918.17.50	2922.22.50
2309.90.24	2827.39.40	2908.20.60	2918.19.10	2922.29.10
2309.90.42	2841.80.00	2908.90.08	2918.19.20	2922.29.15
2309.90.44	2842.10.00	2908.90.28	2918.19.30	2922.29.20
2309.90.60	2843.10.00	2908.90.40	2918.19.90	2922.29.27
2309.90.95	2844.10.50	2908.90.50	2918.23.30	2922.29.60
2401.10.61	2849.90.30	2909.30.05	2918.23.50	2922.29.80
2401.10.63	2850.00.10	2909.30.07	2918.29.04	2922.30.10
2401.20.05	2901.10.40	2909.30.09	2918.29.20	2922.30.25
2401.20.31	2901.10.50	2909.30.40	2918.29.65	2922.30.45
2401.20.33	2901.24.20	2909.30.60	2918.29.75	2922.42.10
2401.20.83	2901.24.50	2909.49.10	2918.30.10	2922.43.10
2401.20.85	2901.29.10	2909.49.15	2918.30.25	2922.43.50
2401.30.25	2901.29.50	2909.50.10	2918.30.30	2922.49.10
2401.30.27	2902.19.00	2909.50.45	2918.90.05	2922.49.27
2401.30.35	2902.90.30	2909.50.50	2918.90.43	2922.49.30
2401.30.37	2902.90.90	2909.60.10	2918.90.47	2922.49.37
2402.10.30	2903.30.05	2909.60.20	2919.00.30	2922.50.10
2402.10.60	2903.59.05	2910.90.20	2920.90.20	2922.50.14

2922.50.17	2933.39.20	3204.12.30	3809.92.10	4010.24.50
2922.50.25	2933.39.30	3204.12.45	3809.92.50	4010.29.10
2922.50.35	2933.39.41	3204.12.50	3809.93.10	4010.29.50
2922.50.40	2933.39.61	3204.13.10	3809.93.50	4012.20.60
2924.10.80	2933.39.91	3204.13.20	3810.10.00	4012.20.80
2924.21.20	2933.40.15	3204.13.25	3810.90.10	4015.19.50
2924.21.45	2933.40.20	3204.13.60	3810.90.50	4015.90.00
2924.22.00	2933.40.26	3204.13.80	3811.19.00	4104.10.60
2924.29.05	2933.40.60	3204.14.10	3811.21.00	4104.10.80
2924.29.20	2933.40.70	3204.14.20	3811.29.00	4105.12.00
2924.29.31	2933.51.90	3204.14.25	3811.90.00	4105.19.10
2924.29.70	2933.59.21	3204.14.30	3812.10.50	4105.19.20
2924.29.75	2933.59.22	3204.14.50	3812.20.50	4105.20.30
2925.19.10	2933.59.36	3204.15.10	3812.30.90	4107.10.20
2925.19.40	2933.59.45	3204.15.20	3814.00.10	4107.10.30
2925.20.10	2933.59.53	3204.15.30	3814.00.50	4107.90.30
2925.20.20	2933.59.70	3204.15.35	3815.90.50	4109.00.30
2925.20.60	2933.59.80	3204.15.40	3817.10.10	4109.00.40
2926.90.05	2933.79.09	3204.15.80	3817.20.00	4304.00.00
2926.90.12	2933.79.15	3204.16.10	3819.00.00	4405.00.00
2926.90.44	2933.90.13	3204.16.20	3820.00.00	4409.10.65
2926.90.47	2933.90.26	3204.16.30	3821.00.00	4409.20.65
2927.00.06	2933.90.46	3204.16.50	3823.13.00	4412.19.50
2927.00.40	2933.90.53	3204.17.04	3823.19.40	4420.90.65
2927.00.50	2933.90.61	3204.17.20	3823.70.20	4421.10.00
2928.00.25	2933.90.65	3204.17.60	3823.70.40	4421.90.20
2929.10.10	2933.90.70	3204.17.90	3823.70.60	4421.90.40
2929.10.20	2933.90.75	3204.19.11	3824.10.00	4421.90.80
2929.10.35	2933.90.79	3204.19.20	3824.40.10	4421.90.85
2929.10.55	2933.90.82	3204.19.25	3824.40.50	4601.99.00
2929.10.80	2934.10.10	3204.19.30	3824.71.00	6901.00.00
2929.90.15	2934.10.20	3204.19.40	3824.79.00	6907.10.00
2929.90.20	2934.20.20	3204.19.50	3824.90.28	6907.90.00
2930.20.20	2934.20.30	3205.00.40	3824.90.35	6908.10.10
2930.90.29	2934.20.40	3205.00.50	3824.90.45	6908.10.50
2930.90.45	2934.20.80	3206.49.20	3824.90.47	6908.90.00
2931.00.10	2934.30.12	3206.50.00	3824.90.90	6911.10.10
2931.00.15	2934.30.23	3207.40.50	3912.20.00	6911.10.52
2931.00.22	2934.30.27	3211.00.00	3916.90.30	6911.10.58
2931.00.27	2934.30.43	3214.90.50	3918.10.32	6911.10.80
2931.00.30	2934.30.50	3301.13.00	3918.10.40	6912.00.20
2931.00.60	2934.90.05	3302.10.90	3918.90.20	6912.00.39
2932.19.10	2934.90.06	3403.11.20	3918.90.30	6912.00.45
2932.29.20	2934.90.39	3403.19.10	3921.13.19	7002.10.10
2932.29.30	2934.90.44	3403.91.50	3921.90.19	7004.90.05
2932.29.45	2935.00.10	3403.99.00	3921.90.21	7004.90.10
2932.91.00	2935.00.15	3404.90.10	3921.90.29	7004.90.15
2932.92.00	2935.00.48	3407.00.40	3926.20.40	7004.90.20
2932.93.00	2935.00.60	3502.11.00	3926.30.50	7005.21.10
2932.99.35	2935.00.75	3502.19.00	3926.90.55	7005.21.20
2932.99.39	2935.00.95	3503.00.20	3926.90.59	7005.29.08
2932.99.60	2942.00.05	3503.00.40	3926.90.65	7005.29.18
2932.99.70	2942.00.10	3506.10.10	3926.90.77	7013.10.50
2933.19.08	2942.00.35	3606.90.30	3926.90.85	7013.21.10
2933.19.37	3202.10.50	3804.00.50	4007.00.00	7013.21.20
2933.19.43	3204.11.10	3805.90.00	4008.21.00	7013.21.30
2933.29.10	3204.11.15	3806.90.00	4010.12.90	7013.29.05
2933.29.35	3204.11.35	3808.10.50	4010.19.80	7013.29.10
2933.29.43	3204.11.50	3808.20.50	4010.21.30	7013.29.20
2933.32.10	3204.12.17	3808.30.50	4010.22.30	7013.29.30
2933.32.50	3204.12.20	3808.90.95	4010.23.50	7013.29.40

7013.29.50	7208.51.00	7213.99.00	7220.20.10	7228.30.80
7013.29.60	7208.52.00	7214.10.00	7220.20.60	7228.40.00
7013.31.10	7208.53.00	7214.20.00	7220.20.70	7228.50.10
7013.31.20	7208.54.00	7214.30.00	7220.20.80	7228.50.50
7013.32.10	7208.90.00	7214.91.00	7220.20.90	7228.60.10
7013.32.20	7209.15.00	7214.99.00	7220.90.00	7228.60.60
7013.32.30	7209.16.00	7215.10.00	7221.00.00	7228.60.80
7013.32.40	7209.17.00	7215.50.00	7222.11.00	7228.70.30
7013.39.10	7209.18.15	7215.90.10	7222.19.00	7228.70.60
7013.39.20	7209.18.25	7215.90.30	7222.20.00	7228.80.00
7013.39.30	7209.18.60	7216.10.00	7222.30.00	7229.10.00
7013.39.40	7209.25.00	7216.21.00	7222.40.30	7229.20.00
7013.39.50	7209.26.00	7216.22.00	7222.40.60	7229.90.10
7013.39.60	7209.27.00	7216.31.00	7223.00.10	7229.90.50
7013.91.10	7209.28.00	7216.32.00	7223.00.50	7229.90.90
7013.91.20	7209.90.00	7216.33.00	7223.00.90	7301.10.00
7013.91.30	7210.11.00	7216.40.00	7224.10.00	7301.20.10
7013.99.10	7210.12.00	7216.50.00	7224.90.00	7301.20.50
7013.99.20	7210.20.00	7216.91.00	7225.11.00	7302.10.10
7013.99.40	7210.30.00	7216.99.00	7225.19.00	7302.10.50
7013.99.50	7210.41.00	7217.10.10	7225.20.00	7302.20.00
7013.99.60	7210.49.00	7217.10.20	7225.30.10	7302.40.00
7013.99.70	7210.50.00	7217.10.30	7225.30.30	7304.10.10
7013.99.80	7210.61.00	7217.10.40	7225.30.50	7304.10.50
7013.99.90	7210.69.00	7217.10.50	7225.30.70	7304.21.30
7018.20.00	7210.70.30	7217.10.60	7225.40.10	7304.21.60
7019.19.90	7210.70.60	7217.10.70	7225.40.30	7304.29.10
7019.90.10	7210.90.10	7217.10.80	7225.40.50	7304.29.20
7104.20.00	7210.90.60	7217.10.90	7225.40.70	7304.29.30
7108.12.50	7210.90.90	7217.20.15	7225.50.10	7304.29.40
7108.13.50	7211.13.00	7217.20.30	7225.50.60	7304.29.50
7114.11.45	7211.14.00	7217.20.45	7225.50.70	7304.29.60
7201.50.60	7211.19.15	7217.20.60	7225.50.80	7304.31.30
7202.11.50	7211.19.20	7217.20.75	7226.11.10	7304.31.60
7202.21.75	7211.19.30	7217.30.15	7226.11.90	7304.39.00
7202.21.90	7211.19.45	7217.30.30	7226.19.10	7304.41.30
7202.49.10	7211.19.60	7217.30.45	7226.19.90	7304.41.60
7202.70.00	7211.19.75	7217.30.60	7226.20.00	7304.49.00
7202.91.00	7211.23.15	7217.30.75	7226.91.15	7304.51.10
7202.92.00	7211.23.20	7217.90.10	7226.91.25	7304.51.50
7202.93.00	7211.23.30	7217.90.50	7226.91.50	7304.59.10
7202.99.10	7211.23.45	7218.10.00	7226.91.70	7304.59.20
7202.99.50	7211.23.60	7218.91.00	7226.91.80	7304.59.60
7206.10.00	7211.29.20	7218.99.00	7226.92.10	7304.59.80
7207.11.00	7211.29.45	7219.11.00	7226.92.30	7304.90.10
7207.12.00	7211.29.60	7219.12.00	7226.92.50	7304.90.30
7207.19.00	7211.90.00	7219.13.00	7226.92.70	7304.90.50
7207.20.00	7212.10.00	7219.14.00	7226.92.80	7304.90.70
7208.10.15	7212.20.00	7219.21.00	7226.93.00	7305.11.10
7208.10.30	7212.30.10	7219.22.00	7226.94.00	7305.11.50
7208.10.60	7212.30.30	7219.23.00	7226.99.00	7305.12.10
7208.25.30	7212.30.50	7219.24.00	7227.10.00	7305.12.50
7208.25.60	7212.40.10	7219.31.00	7227.20.00	7305.19.10
7208.26.00	7212.40.50	7219.32.00	7227.90.10	7305.19.50
7208.27.00	7212.50.00	7219.33.00	7227.90.20	7305.20.20
7208.36.00	7212.60.00	7219.34.00	7227.90.60	7305.20.40
7208.37.00	7213.10.00	7219.35.00	7228.10.00	7305.20.60
7208.38.00	7213.20.00	7219.90.00	7228.20.10	7305.20.80
7208.39.00	7213.91.30	7220.11.00	7228.20.50	7305.31.40
7208.40.30	7213.91.45	7220.12.10	7228.30.20	7305.31.60
7208.40.60	7213.91.60	7220.12.50	7228.30.60	7305.39.10

7305.39.50	8112.91.40	8528.12.72	8540.12.70	8714.99.80
7305.90.10	8112.91.60	8528.12.84	8540.20.20	9029.20.20
7305.90.50	8203.20.40	8528.12.88	8540.20.40	9029.90.40
7306.10.10	8205.90.00	8528.13.00	8540.40.00	9103.10.20
7306.10.50	8206.00.00	8528.21.10	8540.50.00	9103.10.40
7306.20.10	8211.10.00	8528.21.24	8540.60.00	9103.10.80
7306.20.20	8211.91.20	8528.21.29	8540.71.40	9103.90.00
7306.20.30	8211.91.25	8528.21.39	8540.72.00	9104.00.05
7306.20.40	8211.91.30	8528.21.42	8540.79.00	9104.00.10
7306.20.60	8211.91.40	8528.21.49	8540.81.00	9104.00.20
7306.20.80	8213.00.90	8528.21.52	8540.89.00	9104.00.25
7306.30.10	8214.90.30	8528.21.65	8540.91.15	9104.00.30
7306.30.50	8215.10.00	8528.21.70	8540.91.20	9104.00.40
7306.40.10	8215.20.00	8528.21.85	8540.91.50	9104.00.45
7306.40.50	8215.99.01	8528.21.90	8540.99.40	9104.00.50
7306.50.10	8215.99.05	8528.22.00	8540.99.80	9104.00.60
7306.50.50	8215.99.10	8528.30.20	8607.19.03	9105.11.40
7306.60.10	8215.99.15	8528.30.40	8607.19.06	9105.11.80
7306.60.30	8215.99.26	8528.30.60	8701.20.00	9105.19.20
7306.60.50	8215.99.30	8528.30.66	8703.10.10	9105.19.30
7306.60.70	8215.99.35	8528.30.68	8703.21.00	9105.19.50
7306.90.10	8301.10.20	8528.30.78	8703.22.00	9105.21.40
7306.90.50	8301.10.40	8528.30.90	8703.23.00	9105.21.80
7307.19.90	8301.10.80	8529.10.20	8703.24.00	9105.29.10
7307.93.30	8302.30.60	8529.90.03	8703.31.00	9105.29.20
7308.90.30	8430.49.40	8529.90.06	8703.32.00	9105.29.30
7308.90.60	8431.43.40	8529.90.13	8703.33.00	9105.29.40
7312.10.30	8482.10.10	8529.90.33	8703.90.00	9105.29.50
7312.10.50	8482.10.50	8529.90.36	8704.10.10	9105.91.40
7312.10.60	8482.20.00	8529.90.39	8704.10.50	9105.91.80
7312.10.70	8482.91.00	8529.90.43	8704.21.00	9105.99.20
7312.10.90	8482.99.05	8529.90.46	8704.22.10	9105.99.30
7314.31.10	8482.99.15	8529.90.49	8704.22.50	9105.99.40
7314.41.00	8482.99.25	8529.90.53	8704.23.00	9105.99.50
7314.42.00	8482.99.35	8529.90.69	8704.31.00	9105.99.60
7317.00.55	8482.99.45	8529.90.83	8704.32.00	9106.10.00
7318.11.00	8482.99.65	8529.90.86	8704.90.00	9106.20.00
7318.14.10	8483.20.80	8529.90.89	8706.00.03	9106.90.75
7318.14.50	8483.30.80	8529.90.93	8706.00.05	9106.90.85
7320.10.60	8483.60.80	8532.10.00	8706.00.15	9107.00.80
7324.90.00	8483.90.30	8532.21.00	8706.00.25	9108.11.40
7601.10.30	8483.90.70	8532.22.00	8707.10.00	9108.11.80
7601.20.30	8483.90.80	8532.23.00	8707.90.50	9108.12.00
7601.20.60	8521.90.00	8532.24.00	8708.92.50	9108.19.40
7604.21.00	8525.10.20	8532.25.00	8712.00.15	9108.19.80
7614.10.10	8527.13.20	8532.30.00	8712.00.25	9108.20.40
7614.90.40	8527.13.40	8533.21.00	8712.00.35	9108.20.80
7901.12.10	8527.21.40	8533.29.00	8712.00.44	9108.91.10
8101.10.00	8527.29.80	8533.31.00	8712.00.48	9108.91.20
8101.91.50	8527.31.05	8533.39.00	8713.90.00	9108.91.30
8101.92.00	8527.31.50	8533.40.80	8714.91.30	9108.91.40
8101.93.00	8527.31.60	8533.90.40	8714.91.50	9108.91.50
8102.10.00	8527.90.40	8533.90.80	8714.91.90	9108.91.60
8102.91.10	8528.12.08	8540.11.10	8714.92.10	9108.99.20
8104.19.00	8528.12.20	8540.11.24	8714.93.28	9108.99.40
8104.30.00	8528.12.24	8540.11.28	8714.93.35	9108.99.60
8105.10.30	8528.12.32	8540.11.30	8714.94.90	9108.99.80
8108.10.50	8528.12.40	8540.11.44	8714.95.00	9109.11.10
8109.10.60	8528.12.48	8540.11.48	8714.96.10	9109.11.20
8111.00.45	8528.12.56	8540.11.50	8714.96.90	9109.11.40
8112.40.60	8528.12.68	8540.12.50	8714.99.10	9109.11.60

9109.19.10
9109.19.20
9109.19.40
9109.19.60
9109.90.20
9109.90.40
9109.90.60
9110.11.00
9110.12.00
9110.19.00
9110.90.20
9110.90.40
9110.90.60
9111.10.00
9111.20.20
9111.20.40
9111.80.00
9111.90.40
9111.90.50
9111.90.70
9112.10.00
9113.20.40
9113.90.40
9114.10.40
9114.10.80
9114.30.40
9114.30.80
9114.40.20
9114.40.40
9114.40.60
9114.40.80
9114.90.15
9114.90.30
9114.90.40
9114.90.50
9209.91.80
9302.00.00
9305.10.20
9404.29.10
9506.99.08
9507.10.00
9507.30.20
9507.30.40
9507.90.70
9603.10.05
9603.10.15
9603.10.35
9603.10.40
9603.10.50
9603.10.60
9608.31.00
9608.39.00
9608.50.00
9612.20.00
9616.20.00

Part B

9101.11.40
9101.11.80
9101.12.20
9101.19.40
9101.19.80
9101.21.10
9101.21.80
9101.29.10
9101.29.20
9101.29.30
9101.29.40
9101.29.50
9101.29.70
9102.11.10
9102.11.25
9102.11.30
9102.11.45
9102.11.50
9102.11.65
9102.11.70
9102.11.95
9102.12.20
9102.19.20
9102.19.40
9102.19.60
9102.19.80
9102.21.10
9102.21.25
9102.21.30
9102.21.50
9102.21.70
9102.21.90
9102.29.02
9102.29.15
9102.29.20
9102.29.25
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9102.29.35
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9102.29.45
9102.29.50
9102.29.55
9102.29.60
9102.91.40
9102.91.80

[FR Doc. 96–31146 Filed 12–6–96; 8:45 am]
BILLING CODE 3190–01–M

Notice of Meeting of the Industry Sector Advisory Committee for Retailing and Wholesaling (ISAC 17)

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of meeting.

SUMMARY: The Industry Sector Advisory Committee for Retailing and Wholesaling (ISAC 17) will hold a meeting on December 9, 1996 from 10:00 a.m. to 3:00 p.m. The meeting will be open to the public from 10:00 a.m. to 3:00 p.m.

DATES: The meeting is scheduled for December 9, 1996, unless otherwise notified.

ADDRESSES: The meeting will be held at the Department of Commerce in Room 1414, located at 14th Street and Constitution Avenue, N.W., Washington, D.C., unless otherwise notified.

FOR FURTHER INFORMATION CONTACT: Aaron Schavey, Department of Commerce, 14th St. and Constitution Ave., N.W., Washington, D.C. 20230, (202) 482–4117 or Suzanna Kang, Office of the United States Trade Representative, 600 17th St. N.W., Washington, D.C. 20508, (202) 395–6129.

SUPPLEMENTARY INFORMATION:

Agenda

10:00 a.m.
Welcoming Remarks—Aaron Schavey, Dept. of Commerce
10:10 a.m.
ISAC Elections/Administrative Issues
10:30 a.m.
Trade Compliance Center—Marilyn White, Dept. of Commerce
10:50 a.m.
ASEAN Briefing—Gene Kelly, Dept. of Commerce
11:30 a.m.
APEC Briefing—Tentative
12:00 p.m.
Lunch
1:00 p.m.
Committee for Implementation of Textile Agreements—Tentative
1:30 p.m.
Rules of Origin—Tentative
2:00 p.m.
Customs Issues—Tentative
2:30 p.m.
ISO Standards—Tentative
3:00 p.m.
Adjourn

Attendance during the meeting is for observation only. Individuals who are not members of the committee will not be invited to comment.

Phyllis Shearer Jones,

Assistant United States Trade Representative, Intergovernmental Affairs and Public Liaison.

[FR Doc. 96–31147 Filed 12–6–96; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ending 11/29/96

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–96–1984.
Date filed: November 25, 1996.
Parties: Members of the International Air Transport Association.
Subject: CAC/Reso/186 dated October 7, 1996; Cargo General Sales Agents—Reso 871; Telex SZ5263 amending Mail Vote; Telex SZ5264 declaring Mail Vote adopted; Intended effective date: January 1, 1997.

Docket Number: OST–96–1985.
Date filed: November 25, 1996.
Parties: Members of the International Air Transport Association.
Subject: PTC23 ME-TC3 0009 dated November 22, 1996; Expedited Mideast—TC3 Resos; r–1—002p r–2—049i; r–3—059i r–4—0691i; r–5—070ss r–6—072bb; Intended effective date: December 15, 1996.

Docket Number: OST–96–1989.
Date filed: November 27, 1996.
Parties: Members of the International Air Transport Association.
Subject: PSC/Reso/085 dated November 7, 1996 r1–20; PSC/Reso/086 dated November 7, 1996 r21–22; Expedited Resos/RPs (Summary attached.); Intended effective date: as early as December 1, 1996.

Docket Number: OST–96–1994.
Date filed: November 29, 1996.
Parties: Members of the International Air Transport Association.
Subject: PTC2 EUR 0030 dated October 22, 1996 r1–19; PTC2 EUR 0033 dated October 29, 1996 r20–41; PTC2 EUR 0034 dated October 29, 1996 r42–53; PTC2 EUR 0035 dated October 29, 1996 r54.

Correction—PTC2 EUR 0039 dated November 12, 1996.

Minutes—PTC2 EUR 0040 dated November 15, 1996; PTC2 EUR 0041 dated November 15, 1996.

Tables—PTC2 EUR Fares 0003 dated November 26, 1996; (Parts I, II, III, and IV).

Intended effective date: March 1/April 1, 1997.

Paulette V. Twine,

Chief, Documentary Services.

[FR Doc. 96–31211 Filed 12–6–96; 8:45 am]

BILLING CODE 4910–62–P

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending November 29, 1996

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–96–1986.

Date filed: November 25, 1996.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 23, 1996.

Description: Application of Air Holland Charter B.C., pursuant to Section 49 U.S.C. Section 41302 and Subpart Q of the Regulations, applies for a foreign air carrier permit to enable Air Holland to engage in charter air transportation of persons, property and mail (1) between any point or points in The Netherlands and any point or points in the United States, either directly or via intermediate or beyond points in other countries, with or without stopovers, and (2) between any point or points in the United States and any point or points not in The Netherlands or the United States (subject to Part 212 of the Department's Regulations).

Paulette V. Twine,

Chief, Documentary Services.

[FR Doc. 96–31210 Filed 12–6–96; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

Notice of Intent To Rule on Application (#97–04–C–00–COS) To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Colorado Springs Airport, Submitted by the Colorado Springs Airport, Colorado Springs, CO

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 PFC revenue at Colorado Springs Airport under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR 158).

DATES: Comments must be received on or before January 8, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Alan E. Wiechmann, Manager; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 26805 E. 68th Ave., Suite 224; Denver, CO 80249–6361.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Gary W. Green, A.A.E., Director of Aviation, at the following address: Colorado Springs Airport, 7770 Drennan Road, Colorado Springs, CO 80916.

Air carriers and foreign air carriers may submit copies of written comments previously provided to Colorado Springs Airport, under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Schaffer, (303) 286–5525; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 26805 E. 68th Avenue, Suite 224; Denver, CO 80249–6361. 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 (#97–04–C–00–COS) to impose and use PFC revenue at Colorado Springs Airport, under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On December 2, 1996, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Colorado Springs Airport, Colorado Springs, Colorado, was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than March 1, 1997.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: May 1, 1997.

Proposed charge expiration date: July 1, 1999.

Total requested for use approval: $15,050,000.00.

Brief description of proposed project: East apron expansion; North apron expansion.

Class or classes of air carriers which the public agency has requested not be required to collect PFC's: Part 135 on demand 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 S.W., 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 Colorado Springs Airport.

Issued in Renton, Washington on December 2, 1996.

Dennis G. Ossenkop,

Acting Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 96–31219 Filed 12–6–96; 8:45 am]

BILLING CODE 4910–13–M

National Highway Traffic Safety Administration

Research and Development Programs Meeting Agenda

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: This notice provides the agenda for a public meeting at which the National Highway Traffic Safety Administration (NHTSA) will describe and discuss specific research and development projects.

DATES AND TIMES: As previously announced, NHTSA will hold a public meeting devoted primarily to presentations of specific research and development projects on December 11, 1996, beginning at 1:30 p.m. and ending at approximately 5:00 p.m.

ADDRESSES: The meeting will be held at the Royce Hotel, Detroit Metro Airport, 31500 Wick Road, Romulus, Michigan 48174.

SUPPLEMENTARY INFORMATION: This notice provides the agenda for the fifteenth in a series of public meetings to provide detailed information about NHTSA's research and development programs. This meeting will be held on December 11, 1996. The meeting was announced on November 18, 1996 (61 FR 58738). For additional information about the meeting consult that announcement.

Starting at 1:30 p.m. and concluding by 5:00 p.m., NHTSA's Office of Research and Development will discuss the following topics:

Air bag assessment research;

Crash causal analysis;

Crashworthiness research update including (1) vehicle aggressivity and fleet compatibility, (2) light truck, sport utility, and multipurpose passenger vehicle crashworthiness and occupant protection, and (3) improved frontal crash protection;

Upgrade seat and occupant restraint systems including ''superseat,'' and

Biomechanical research.

NHTSA has based its decisions about the agenda, in part, on the suggestions it received by November 22, 1996, in response to the announcement published November 18, 1996.

As announced on November 18, 1996, in the time remaining at the conclusion of the presentations, NHTSA will provide answers to questions on its research and development programs, where those questions have been submitted in writing by 4:15 p.m. on November 29, 1996, to William A. Boehly, Associate Administrator for Research and Development, NRD–01, National Highway Traffic Safety Administration, Washington, DC 20590. Fax number: 202–366–5930.

FOR FURTHER INFORMATION CONTACT: Rita I. Gibbons, Staff Assistant, Office of Research and Development, 400 Seventh Street, SW, Washington, DC 20590. Telephone: 202–366–4862. Fax number: 202–366–5930.

Issued: December 3, 1996.

William A. Boehly,

Associate Administrator for Research and Development.

[FR Doc. 96–31135 Filed 12–6–96; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

November 22, 1996.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Financial Management Service (FMS)

OMB Number: 1510–0037.
Form Number: TFS 5135.
Type of Review: Extension.
Title: Voucher for Payment of Awards.
Description: Awards certified to Treasury are paid annually as funds are received from foreign Governments. Vouchers are mailed to awardholders showing payments due. Awardholders sign vouchers certifying that he/she is entitled to payment. Executed vouchers are used as basis for payment.
Respondents: Individuals or households.
Estimated Number of Respondents: 1,400.
Estimated Burden Hours Per Response: 30 minutes.
Frequency of Response: Annually.
Estimated Total Reporting Burden: 700 hours.
Clearance Officer: Jacqueline R. Perry, (301) 344–8577, Financial Management Service, 3361–L 75th Avenue, Landover, MD 20785.
OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.

[FR Doc. 96–31218 Filed 12–6–96; 8:45 am]
BILLING CODE 4810–35–P

Customs Service

[T.D. 96–82]

Extension of Oiltest, Inc.'s Customs Gauger Approval and Laboratory Accreditation to the New Site Located in New Orleans, LA

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

ACTION: Notice of the extension of Oiltest, Inc.'s Customs gauger approval and laboratory accreditations to include its New Orleans, LA new facility.

SUMMARY: Oiltest, Inc., of Roselle, NJ, a Customs approved gauger and accredited laboratory under Section 151.13 of the Customs Regulations (19 CFR 151.13), has been given an extension of its Customs gauger approval and laboratory accreditations to include the New Orleans, LA new site. Specifically, this site has been given Customs approval under Part 151.13(a)(1) of the Customs Regulations to gauge petroleum and petroleum products, organic chemicals in bulk and liquid form and animal and vegetable oils in all Customs districts; and accreditation to perform the following tests as listed under Part 151.13(a)(2): API gravity, water by distillation, distillation characteristics, sediment by extraction, water and sediment by centrifuge, viscosity and percent by weight sulphur.

SUPPLEMENTARY INFORMATION:

Background

Part 151 of the Customs Regulations provides for the acceptance at Customs Districts of laboratory analyses and gauging reports for certain products from Customs accredited commercial laboratories and approved gaugers. Oiltest, Inc., a Customs commercial approved gauger and accredited laboratory, has applied to Customs to extend its Customs gauger approval and laboratory accreditation to its New Orleans, LA new facility. Review of the qualifications of the site shows that the extension is warranted and, accordingly, has been granted.

Location

Oiltest, Inc.'s site is located at Cypress Point Business Center, Suite C, 660 Distributors Row, New Orleans, Louisiana 70123.

EFFECTIVE DATE: October 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ira S. Reese, Senior Science Officer, Laboratories and Scientific Services, U.S. Customs Service, 1301 Constitution Ave., NW, Washington, D.C. 20229 at (202) 927–1060.

Dated: October 28, 1996.

George D. Heavey,
Director, Laboratories and Scientific Service.

[FR Doc. 96–31153 Filed 12–6–96; 8:45 am]
BILLING CODE 4820–02–P

[T.D. 96–81]

Approval and Accreditation of Allied Control Services, L.L.C., as a Customs Commercial Gauger and Laboratory

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

ACTION: Notice of the approval of Allied Control Services, L.L.C., as a Customs approved commercial gauger, and as an accredited commercial laboratory to perform certain petroleum analyses.

SUMMARY: Allied Control Services, L.L.C., with facilities in Houston, Texas and Lutcher, Louisiana, has been given Customs gauger approval and laboratory accreditations under Part 151.13 of the Customs Regulations (19 CFR 151.13). Specifically, the Houston, Texas and Lutcher, Louisiana sites are approved to gauge imported petroleum, petroleum products, organic chemicals, vegetable and animal oils, and are accredited to perform the following tests as listed under Part 151.13(a)(2): distillation characteristics, water by distillation, API gravity, viscosity, sediment by extraction and percent by weight of sulfur.

SUPPLEMENTARY INFORMATION:

Background

Part 151 of the Customs Regulations provides for the acceptance at Customs Districts of gauging reports and laboratory analyses for certain products from Customs approved commercial gaugers and accredited laboratories. Allied Control Services, L.L.C., has applied to Customs for commercial gauger approval and for certain laboratory accreditations. Customs has determined that Allied Control Services, L.L.C. meets all the requirements for approval as a Customs approved commercial gauger and accredited laboratory. Therefore, in accordance with part 151.13(f) of the Customs Regulations, Allied Control Services, L.L.C.'s Houston, Texas and Lutcher, Louisiana sites are approved to gauge the products named above in all Customs Districts; and are accredited to perform the laboratory analyses listed above.

Location

Allied Control Services, L.L.C. facilities are located at 16640A, Jacintoport Blvd., Houston, Texas, 77015 and 2184 Jefferson Highway, Lutcher, Louisiana, 70071.

EFFECTIVE DATE: November 5, 1996.

FOR FURTHER INFORMATION CONTACT: Ira S. Reese, Senior Science Officer, Laboratories and Scientific Services, U.S. Customs Service, 1301 Constitution

Ave., NW, Washington, D.C. 20229, at (202) 927–1060.

Dated: November 26, 1996.

George D. Heavey,

Director, Laboratories and Scientific Services.

[FR Doc. 96–31155 Filed 12–6–96; 8:45 am]

BILLING CODE 4820–02–P

[T.D. 96–83]

Customs Commercial Gauger Approval of OMNI Measurement

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

ACTION: Notice of approval of OMNI Measurement, as a commercial gauger.

SUMMARY: OMNI Measurement (a.k.a. William J. Plocheck) of Crosby, Texas has applied to U.S. Customs for approval to gauge imported petroleum, petroleum products, organic chemicals and vegetable and animal oils under Part 151.13 of the Customs Regulations (19 CFR 151.13) at their Crosby, Texas facility. Customs has determined that this facility meets all of the requirements for approval as a commercial gauger. Therefore, in accordance with Part 151.13(f) of the Customs Regulations, OMNI Measurement's Crosby, Texas site is approved to gauge the products named above in all Customs districts.

SUPPLEMENTARY INFORMATION:

Background

Part 151 of the Customs Regulations provides for the acceptance at Customs Districts of laboratory analyses and gauging reports for certain products from Customs accredited commercial laboratories and approved gaugers. OMNI Measurement, of Crosby, Texas has applied to Customs for commercial gauger approval. Customs has determined that OMNI Measurement meets all the requirements for approval as a commercial gauger. Therefore, in accordance with part 151.13(f) of the Customs Regulations, OMNI Measurement's Crosby, Texas site is approved to gauge the products named above in all Customs districts.

Location

OMNI Measurement's approved site is located at: 914 Kennings Avenue, Crosby, Texas 77532.

EFFECTIVE DATE: November 1, 1996

FOR FURTHER INFORMATION CONTACT: Ira S. Reese, Senior Science Officer, Laboratories and Scientific Services, U.S. Customs Service, 1301 Constitution Avenue NW, Washington, D.C. 20229 at (202) 927–1060.

Dated: November 8, 1996.

George D. Heavey,

Director, Laboratories and Scientific Services.

[FR Doc. 96–31154 Filed 12–6–96; 8:45 am]

BILLING CODE 4820–02–P

Corrections

Federal Register
Vol. 61, No. 237
Monday, December 9, 1996

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 COMMERCE

National Telecommuciations and Information Administration

15 CFR Part 2301

[Docket No. 960524148-6243-02]

RIN 0660-AA09

Public Telecommunications Facilities Program

Correction

In rule document 96–28771 beginning on page 57966 in the issue of Friday, November 8, 1996, make the following correction:

§2301.4 [Corrected]

On page 57975, in the second column, in §2301.4(b)(2), in the first line, ''3'' should read ''2''.

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 431

[Docket No. EE-RM-96-400]

Energy Efficiency Program for Certain Commercial and Industrial Equipment: Test Procedures, Labeling, and Certification Requirements for Electric Motors

Correction

In proposed rule document 96–29048 beginning on page 60440 in the issue of Wednesday, November 27, 1996, make the following corrections:

1. On page 60448, in the second column, in the second full paragraph, in the eighth line, insert ''be'' after ''to''.

2. On page 60466, in the third column and continuing to page 60467, in the first column, in § 431.24, paragraph (b)(1)(i)(D) is corrected to read as follows:

§ 431.24 Units to be tested.

* * * * *

(b)* * *

(1)* * *

(i)* * *

(D) Each basic model should be expected to have the lowest nominal full load efficiency among the basic models with the same rating. In any instance where it is impossible for a manufacturer to select basic models for testing in accordance with all of these criteria, the criteria shall be given priority in the order in which they are listed. Within the limits imposed by the criteria, basic models shall be selected randomly.

* * * * *

3. On page 60467, in the first column, in § 431.24(b)(1), the paragraph designated ''(iii)'' is correctly designated ''(ii)''.

4. On page 60467, in the second column, in § 431.24(b)(4)(i)(A), in the third line, ''431.24(b)(1)(iii)'' should read ''431.24(b)(1)(ii)''.

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

[FRL-5656-3]

Proposed CERCLA Administrative Cost Recovery Settlement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act; Manistique River/Harbor Site, Manistique, MI

Correction

In notice document 96– beginning on page 60281 in the issue of Wednesday, November 27, 1996 make the following correction:

On page 60282, first column, in the **DATES** section ''December 30, 1996'' should read ''December 27, 1996''.

BILLING CODE 1505–01–D

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

Correction

In notice document 96–29844 beginning on page 59459 in the issue of Friday, November 22, 1996, make the followiwng corrections:

1. On page 59459, in the second column, in the fourth line ''*CITO*'' should read ''*CITGO*''; and in the second line from the bottom ''CITO'' should read ''CITGO''.

2. On the same page, in the third column:

a. In the first full paragraph, in the first line and in the second full paragraph, in the first and eighth lines ''CITO'' should read ''CITGO'' respectively.

b. In the third full paragraph, in the third line from the bottom ''*CITO*'' should read ''*CITGO*''.

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96-NM-173-AD; Amendment 39-9835; AD 96-24-11]

RIN 2120-AA64

Airworthiness Directives; Israel Aircraft Industries (IAI), Ltd., Model 1123, 1124, and 1124A Series Airplanes

Correction

In rule document 96–29988 beginning on page 63702 in the issue of Monday, December 2, 1996 make the following correction:

On page 63704, in the first column, the second complete paragraph, ''Issued in Renton, Washington, on November 18, 1997.'' should read ''Issued in Renton, Washington, on November 18, 1996.''

BILLING CODE 1505–01–D

Federal Register

Monday
December 9, 1996

Part II

Department of Justice

Bureau of Prisons

28 CFR Part 513, 522, and 540

Release of Information and Unescorted Transfers and Voluntary Surrenders Regulations Revision, Final Rules; and Pretrial Inmates Correspondence Regulations, Proposed Rule

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 513

[BOP–1015–F]

RIN 1120–AA21

Release of Information

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document, the Bureau of Prisons (''Bureau'') is adopting regulations to consolidate procedures for the release of requested records in the possession of the Bureau. These regulations have been developed to help ensure the Bureau is in compliance with the statutory requirements of the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a), and to supplement Department of Justice regulations implementing those statutes (28 CFR part 16).

EFFECTIVE DATE: This rule becomes effective January 8, 1997.

ADDRESSES: Rules Unit, Office of General Counsel, Bureau of Prisons, Room 754, 320 First Street, NW., Washington, D.C. 20534.

FOR FURTHER INFORMATION CONTACT: Roy M. Nanovic, Office of General Counsel, Bureau of Prisons, Telephone (202) 514–6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons (''Bureau'') is adopting regulations on Release of Information. A proposed rule on this subject was published in the Federal Register on June 21, 1996 (at 61 FR 32258). The new regulations provide instructions to assist all requesters in obtaining information through the Freedom of Information Act (FOIA) and the Privacy Act (PA). In addition, the new regulations are intended to assist an inmate in accessing records at his or her institution of confinement without submitting a FOIA/PA request.

In response to the one comment received, the Bureau is adding to the Final Rule a provision describing an informal institution procedure for inmates to review certain Bureau Program Statements. Because this provision is added as a new Section 513.43 under ''Inmate Requests to Institution for Information'', succeeding sections have been renumbered accordingly.

The Bureau of Prisons has determined that this rule is not a significant regulatory action for the purpose of Executive Order 12866 and accordingly, this rule was not reviewed by the Office of Management and Budget. After review of the law and regulations, the Director of the Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), does not have a significant impact on a substantial number of small entities within the meaning of the Act. The economic impact of this rule is limited by the fee schedule imposed under Departmental regulations contained in 28 CFR 16.10.

List of Subjects in 28 CFR Part 513

Prisoners.

Kathleen M. Hawk,

Director, Bureau of Prisons.

In consideration of the foregoing, 28 CFR, Chapter V, Subchapter A, is amended as follows:

SUBCHAPTER A—GENERAL MANAGEMENT AND ADMINISTRATION

PART 513—ACCESS TO RECORDS

1. The authority citation for 28 CFR part 513 is revised to read as follows:

Authority: 5 U.S.C. 301, 552, 552a; 13 U.S.C.; 18 U.S.C. 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to conduct occurring on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to conduct occurring after that date), 5039; 28 U.S.C. 509, 510; 31 U.S.C. 3711(f); 5 CFR part 297; 28 CFR 0.95–0.99 and parts 16 and 301.

2. Subpart D, consisting of §§ 513.30 through 513.68, is added to read as follows:

Subpart D—Release of Information

General Provisions and Procedures

Sec.

Inmate Requests to Institution for Information

Privacy Act Requests for Information

Freedom of Information Act Requests for Information

Subpart D—Release of Information

General Provisions and Procedures

§ 513.30 Purpose and scope.

This subpart establishes procedures for the release of requested records in possession of the Federal Bureau of Prisons (''Bureau''). It is intended to implement provisions of the Freedom of Information Act (FOIA), 5 U.S.C. 552, and the Privacy Act, 5 U.S.C. 552a, and to supplement Department of Justice (DOJ) regulations concerning the production or disclosure of records or information, 28 CFR part 16.

§ 513.31 Limitations.

(a) *Social Security Numbers.* As of September 27, 1975, Social Security Numbers may not be used in their entirety as a method of identification for any Bureau record system, unless such use is authorized by statute or by regulation adopted prior to January 1, 1975.

(b) *Employee records.* Access and amendment of employee personnel records under the Privacy Act are governed by Office of Personnel Management regulations published in 5 CFR part 297 and by Department of Justice regulations published in 28 CFR part 16.

§ 513.32 Guidelines for disclosure.

The Bureau provides for the disclosure of agency information pursuant to applicable laws, e.g. the Freedom of Information Act (5 U.S.C. 552), and the Privacy Act (5 U.S.C. 552a).

§ 513.33 Production of records in court.

Bureau records are often sought by subpoena, court order, or other court demand, in connection with court proceedings. The Attorney General has directed that these records may not be produced in court without the approval of the Attorney General or his or her designee. The guidelines are set forth in 28 CFR part 16, subpart B.

§ 513.34 Protection of individual privacy—disclosure of records to third parties.

(a) Information that concerns an individual and is contained in a system of records maintained by the Bureau shall not be disclosed to any person, or to another agency except under the provisions of the Privacy Act, 5 U.S.C. 552a, the Freedom of Information Act, 5 U.S.C. 552, and Departmental regulations.

(b) Lists of Bureau inmates shall not be disclosed.

§ 513.35 Accounting/nonaccounting of disclosures to third parties.

Accounting/nonaccounting of disclosures to third parties shall be made in accordance with Department of Justice regulations contained in 28 CFR 16.52.

§ 513.36 Government contractors.

(a) No Bureau component may contract for the operation of a record system by or on behalf of the Bureau without the express written approval of the Director or the Director's designee.

(b) Any contract which is approved shall contain the standard contract requirements promulgated by the General Services Administration (GSA) to ensure compliance with the requirements imposed by the Privacy Act. The contracting component shall have the responsibility to ensure that the contractor complies with the contract requirements relating to privacy.

Inmate Requests to Institution for Information

§ 513.40 Inmate access to Inmate Central File.

Inmates are encouraged to use the simple access procedures described in this section to review disclosable records maintained in his or her Inmate Central File, rather than the FOIA procedures described in §§ 513.60 through 513.68 of this subpart. Disclosable records in the Inmate Central File include, but are not limited to, documents relating to the inmate's sentence, detainer, participation in Bureau programs such as the Inmate Financial Responsibility Program, classification data, parole information, mail, visits, property, conduct, work, release processing, and general correspondence. This information is available without filing a FOIA request. If any information is withheld from the inmate, staff will provide the inmate with a general description of that information and also will notify the inmate that he or she may file a FOIA request.

(a) *Inmate review of his or her Inmate Central File.* An inmate may at any time request to review all disclosable portions of his or her Inmate Central File by submitting a request to a staff member designated by the Warden. Staff are to acknowledge the request and schedule the inmate, as promptly as is practical, for a review of the file at a time which will not disrupt institution operations.

(b) *Procedures for inmate review of his or her Inmate Central File.* (1) Prior to the inmate's review of the file, staff are to remove the Privacy Folder which contains documents withheld from disclosure pursuant to § 513.32.

(2) During the file review, the inmate is to be under direct and constant supervision by staff. The staff member monitoring the review shall enter the date of the inmate's file review on the Inmate Activity Record and initial the entry. Staff shall ask the inmate to initial the entry also, and if the inmate refuses to do so, shall enter a notation to that effect.

(3) Staff shall advise the inmate if there are documents withheld from disclosure and, if so, shall advise the inmate of the inmate's right under the provisions of § 513.61 to make a FOIA request for the withheld documents.

§ 513.41 Inmate access to Inmate Central File in connection with parole hearings.

A parole-eligible inmate (an inmate who is currently serving a sentence for an offense committed prior to November 1, 1987) may review disclosable portions of the Inmate Central File prior to the inmate's parole hearing, under the general procedures set forth in § 513.40. In addition, the following guidelines apply:

(a) A parole-eligible inmate may request to review his or her Inmate Central File by submitting the appropriate Parole Commission form. This form ordinarily shall be available to each eligible inmate within five work days after a list of eligible inmates is prepared.

(b) Bureau staff ordinarily shall schedule an eligible inmate for a requested Inmate Central File review within seven work days of the request after the inmate has been scheduled for a parole hearing. A reasonable extension of time is permitted for documents which have been provided (prior to the inmate's request) to originating agencies for clearance, or which are otherwise not available at the institution.

(c) A report received from another agency which is determined to be nondisclosable (see § 513.40(b)) will be summarized by that agency, in accordance with Parole Commission regulations. Bureau staff shall place the summary in the appropriate disclosable section of the Inmate Central File. The original report (or portion which is summarized in another document) will be placed in the portion of the Privacy File for Joint Use by the Bureau and the Parole Commission.

(d) Bureau documents which are determined to be nondisclosable to the inmate will be summarized for the inmate's review. A copy of the summary will be placed in the disclosable section of the Inmate Central File. The document from which the summary is taken will be placed in the Joint Use Section of the Privacy Folder. Nondisclosable documents not summarized for the inmate's review are not available to the Parole Commission and are placed in a nondisclosable section of the Inmate Central File.

(e) When no response regarding disclosure has been received from an originating agency in time for inmate review prior to the parole hearing, Bureau staff are to inform the Parole Commission Hearing Examiner.

§ 513.42 Inmate access to medical records.

(a) Except for the limitations of paragraphs (c) and (d) of this section, an inmate may review records from his or her medical file (including dental records) by submitting a request to a staff member designated by the Warden.

(b) Laboratory Reports which contain only scientific testing results and which contain no staff evaluation or opinion (such as Standard Form 514A, Urinalysis) are ordinarily disclosable. Lab results of HIV testing may be reviewed by the inmate. However, an inmate may not retain a copy of his or her test results while the inmate is confined in a Bureau facility or a Community Corrections Center. A copy of an inmate's HIV test results may be forwarded to a third party outside the institution and chosen by the inmate, provided that the inmate gives written authorization for the disclosure.

(c) Medical records containing subjective evaluations and opinions of medical staff relating to the inmate's care and treatment will be provided to the inmate only after the staff review required by paragraph (d) of this section. These records include, but are not limited to, outpatient notes, consultation reports, narrative summaries or reports by a specialist, operative reports by the physician, summaries by specialists as the result of laboratory analysis, or in-patient progress reports.

(d) Prior to release to the inmate, records described in paragraph (c) of

this section shall be reviewed by staff to determine if the release of this information would present a harm to either the inmate or other individuals. Any records determined not to present a harm will be released to the inmate at the conclusion of the review by staff. If any records are determined by staff not to be releasable based upon the presence of harm, the inmate will be so advised in writing and provided the address of the agency component to which the inmate may address a formal request for the withheld records. An accounting of any medical records will be maintained in the inmate's medical file.

§ 513.43 Inmate Access to certain Bureau Program Statements.

Inmates are encouraged to use the simple local access procedures described in this section to review certain Bureau Program Statements, rather than the FOIA procedures described in §§ 513.60 through 513.68 of this subpart.

(a) For a current Bureau Program Statement containing rules (regulations published in the Federal Register and codified in 28 CFR), local access is available through the institution law library.

(b) For a current Bureau Program Statement not containing rules (regulations published in the Federal Register and codified in 28 CFR), inmates may request that it be placed in the institution law library. Placement of a requested Program Statement in the law library is within the discretion of the Warden, based upon local institution conditions.

(c) Inmates are responsible for the costs of making personal copies of any Program Statements maintained in the institution law library. For copies of Program Statements obtained under the FOIA procedures described in §§ 513.60 through 513.68 of this subpart, fees will be calculated in accordance with 28 CFR 16.10.

§ 513.44 Fees for copies of Inmate Central File and Medical Records.

Within a reasonable time after a request, Bureau staff are to provide an inmate personal copies of requested disclosable documents maintained in the Inmate Central File and Medical Record. Fees for the copies are to be calculated in accordance with 28 CFR 16.10.

Privacy Act Requests for Information

§ 513.50 Privacy Act requests by inmates.

Because inmate records are exempt from disclosure under the Privacy Act (see 28 CFR 16.97), inmate requests for records under the Privacy Act will be processed in accordance with the FOIA. See §§ 513.61 through 513.68.

Freedom of Information Act Requests for Information

§ 513.60 Freedom of Information Act requests.

Requests for any Bureau record (including Program Statements and Operations Memoranda) ordinarily shall be processed pursuant to the Freedom of Information Act, 5 U.S.C. 552. Such a request must be made in writing and addressed to the Director, Federal Bureau of Prisons, 320 First Street, NW., Washington, D.C. 20534. The requester shall clearly mark on the face of the letter and the envelope ''FREEDOM OF INFORMATION REQUEST,'' and shall clearly describe the records sought. See §§ 513.61 through 513.63 for additional requirements.

§ 513.61 Freedom of Information Act requests by inmates.

(a) Inmates are encouraged to use the simple access procedures described in § 513.40 to review disclosable records maintained in his or her Inmate Central File.

(b) An inmate may make a request for access to documents in his or her Inmate Central File or Medical File (including documents which have been withheld from disclosure during the inmate's review of his or her Inmate Central File pursuant to § 513.40) and/or other documents concerning the inmate which are not contained in the Inmate Central File or Medical File. Staff shall process such a request pursuant to the applicable provisions of the Freedom of Information Act, 5 U.S.C. 552.

(c) The inmate requester shall clearly mark on the face of the letter and on the envelope ''FREEDOM OF INFORMATION ACT REQUEST'', and shall clearly describe the records sought, including the approximate dates covered by the record. An inmate making such a request must provide his or her full name, current address, date and place of birth. In addition, if the inmate requests documents to be sent to a third party, the inmate must provide with the request an example of his or her signature, which must be verified and dated within three (3) months of the date of the request.

§ 513.62 Freedom of Information Act requests by former inmates

Former federal inmates may request copies of their Bureau records by writing to the Director, Federal Bureau of Prisons, 320 First Street, NW., Washington, D.C. 20534. Such requests shall be processed pursuant to the provisions of the Freedom of Information Act. The request must be clearly marked on the face of the letter and on the envelope ''FREEDOM OF INFORMATION ACT REQUEST'', and must describe the record sought, including the approximate dates covered by the record. A former inmate making such a request must provide his or her full name, current address, date and place of birth. In addition, the requester must provide with the request an example of his or her signature, which must be either notarized or sworn under penalty of perjury, and dated within three (3) months of the date of the request.

§ 513.63 Freedom of Information requests on behalf of an inmate or former inmate.

A request for records concerning an inmate or former inmate made by an authorized representative of that inmate or former inmate will be treated as in § 513.61, on receipt of the inmate's or former inmate's written authorization. This authorization must be dated within three (3) months of the date of the request letter. Identification data, as listed in 28 CFR 16.41, must be provided.

§ 513.64 Acknowledgement of Freedom of Information Act requests.

(a) All requests for records under the Freedom of Information Act received by the FOI/PA Administrator, Office of General Counsel, will be reviewed and may be forwarded to the appropriate Regional Office for proper handling. Requests for records located at a Bureau facility other than the Central Office or Regional Office may be referred to the appropriate staff at that facility for proper handling.

(b) The requester shall be notified of the status of his or her request by the office with final responsibility for processing the request.

§ 513.65 Review of documents for Freedom of Information Act requests.

If a document is deemed to contain information exempt from disclosure, any reasonably segregable portion of the record shall be provided to the requester after deletion of the exempt portions. If documents, or portions of documents, in an Inmate Central File have been determined to be nondisclosable by institution staff but are later released by Regional or Central Office staff pursuant to a request under this section, appropriate instructions will be given to the institution to move those documents, or portions, from the Inmate Privacy Folder into the disclosable section of the Inmate Central File.

§ 513.66 Denials and appeals of Freedom of Information Act requests.

If a request made pursuant to the Freedom of Information Act is denied in whole or in part, a denial letter must be issued and signed by the Director or his or her designee, and shall state the basis for denial under § 513.32. The requester who has been denied such access shall be advised that he or she may appeal that decision to the Office of Information and Privacy, U.S. Department of Justice, Suite 570, Flag Building, Washington, D.C. 20530. Both the envelope and the letter of appeal itself should be clearly marked: ''Freedom of Information Act Appeal.''

§ 513.67 Fees for Freedom of Information Act requests.

Fees for copies of records disclosed under the FOIA, including fees for a requester's own records, may be charged in accordance with Department of Justice regulations contained in 28 CFR 16.10.

§ 513.68 Time limits for responses to Freedom of Information Act requests.

Consistent with sound administrative practice and the provisions of 28 CFR 16.1, the Bureau strives to comply with the time limits set forth in the Freedom of Information Act.

[FR Doc. 96–31162 Filed 12–6–96; 8:45 am]
BILLING CODE 4410–05–P

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 522

[BOP–1041–F]

RIN 1120–AA45

Unescorted Transfers and Voluntary Surrenders

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document, the Bureau of Prisons is revising its regulations on voluntary surrender commitments and transfers in order to make an editorial change in the heading of the subpart and to update statutory citations.

EFFECTIVE DATE: December 9, 1996.

ADDRESSES: Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514–6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is amending its regulations on Voluntary Surrender Commitments and Transfers to Bureau of Prisons Facilities. A final rule on this subject was published in the Federal Register June 29, 1979 (44 FR 38245).

Because these regulations pertain to transfers both to Bureau and to nonfederal facilities, it is more accurate to entitle the regulations as Unescorted Transfers and Voluntary Surrenders. The only other change to the regulation is the inclusion of a reference to 18 U.S.C. 3622, which is the statutory authority applicable to inmates convicted of committing an offense which occurred on or after November 1, 1987.

Because these changes are editorial in nature and have no adverse impact upon inmates, the Bureau finds good cause for exempting the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment, and delay in effective date. Members of the public may submit comments concerning this rule by writing to the previously cited address. These comments will be considered but will receive no response in the Federal Register.

The Bureau of Prisons has determined that this rule is not a significant regulatory action for the purpose of E.O. 12866, and accordingly this rule was not reviewed by the Office of Management and Budget. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), does not have a significant economic impact on a substantial number of small entities, within the meaning of the Act. Because this rule pertains to the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, its economic impact is limited to the Bureau's appropriated funds.

List of Subjects in 28 CFR Part 522

Prisoners.

Kathleen M. Hawk,

Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(p), part 522 in subchapter B of 28 CFR, chapter V is amended as set forth below.

SUBCHAPTER B—INMATE ADMISSION, CLASSIFICATION, AND TRANSFER

PART 522—ADMISSION TO INSTITUTION

1. The authority citation for 28 CFR part 522 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4161–4166 (Repealed in part as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

2. Subpart D, consisting of § 522.30, is revised to read as follows:

Subpart D—Unescorted Transfers and Voluntary Surrenders

Sec.
522.30 Purpose and scope.

Subpart D—Unescorted Transfers and Voluntary Surrenders

§ 522.30 Purpose and scope.

When the court orders or recommends an unescorted commitment to a Bureau of Prisons institution, the Bureau of Prisons authorizes the commitment and designates the institution for service of sentence. The Bureau of Prisons also authorizes furlough transfers of inmates between Bureau of Prisons institutions or to nonfederal institutions in appropriate circumstances in accordance with 18 U.S.C. 3622 or 4082, and within the guidelines of the Bureau of Prisons policy on furloughs, which allows inmates to travel unescorted and to report voluntarily to an assigned institution.

[FR Doc. 96–31161 Filed 12–6–96; 8:45 am]
BILLING CODE 4410–05–P

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 540

[BOP–1054–P]

RIN 1120–AA52

Correspondence: Pretrial Inmates

AGENCY: Bureau of Prisons, Justice.

ACTION: Proposed rule.

SUMMARY: In this document, the Bureau of Prisons is proposing to amend its regulations on correspondence to require that general mail from pretrial inmates may not be sealed and may be read and inspected by staff. This amendment is intended to provide for the continued efficient and secure operation of the institution and to protect the public.

DATES: Comments must be received by February 7, 1997.

ADDRESSES: Rules Unit, Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514–6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is proposing to amend its regulations on correspondence (28 CFR part 540, subpart B). Current regulations on this subject were published in the Federal Register on October 1, 1985 (50 FR 40109) and were amended on February 1, 1991 (56 FR 4159) and on December 18, 1995 (60 FR 65204).

Current provisions on general correspondence in § 540.14 (b) and (c) specify that outgoing general mail from pretrial inmates may be sealed by the inmate and are not subject to inspection by staff. The Bureau is proposing to require that general mail from pretrial inmates be sent out unsealed and subject to inspection. This requirement matches the requirement for general mail from sentenced inmates in medium, high, and administrative facilities. Ordinarily, pretrial inmates are housed in administrative facilities. Because pretrial inmates are not classified as to levels of security (as sentenced inmates are), the proposed requirement will apply to pretrial inmates even if they happen to be housed in minimum or low facilities. Special mail, whether from pretrial inmates or sentenced inmates, would be unaffected by this amendment.

The Bureau believes that inspection of outgoing mail from pretrial inmates is consistent with the application of other Bureau policies pertaining to contacts with the public. For example, general correspondence sent to pretrial inmates is already subject to inspection and telephone calls for pretrial inmates are treated the same as calls for sentenced inmates with respect to monitoring. This amendment also serves to ensure the secure operation of institutions by reducing the potential for inmates to use sealed mail to plan escape attempts. Pretrial inmates are ordinarily confined in Bureau facilities after a motion for detention by an Assistant United States Attorney (18 U.S.C. 3142(a)) and a detention hearing conducted by a U.S. Magistrate Judge. Often, the detention order reflected a finding by the Judge that the pretrial inmate is a flight risk and/or a threat to the community and requires confinement in order to ensure the pretrial inmate's presence at all court hearings and trial. While pretrial inmates retain the presumption of innocence, the unsettled nature of their status may lead to misuse of the correspondence privilege. Further, treating outgoing mail from pretrial inmates the same as outgoing mail from sentenced inmates simplifies mailroom procedures at those institutions which currently house a mix of pretrial and sentenced inmates.

The Bureau of Prisons has determined that this rule is not a significant regulatory action for the purpose of E.O. 12866, and accordingly was not reviewed by the Office of Management and Budget. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), does not have a significant impact on a substantial number of small entities. Because this rule pertains to the correctional management of persons committed to the custody of the Attorney General or the Director of the Bureau of Prisons, its economic impact is limited to the Bureau's appropriated funds.

Interested persons may participate in this proposed rulemaking by submitting data, views, or arguments in writing to the Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First Street, NW., HOLC Room 754, Washington, DC 20534. Comments received during the comment period will be considered before final action is taken. Comment received after the expiration of the comment period will be considered to the extent practicable. All comments received remain on file for public inspection at the above address. The proposed rule may be changed in light of the comments received. No oral hearings are contemplated.

List of Subjects in 28 CFR Part 540

Prisoners.

Kathleen M. Hawk,

Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(p), part 540 in subchapter C of 28 CFR, chapter V is proposed to be amended as set forth below.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 540—CONTACT WITH PERSONS IN THE COMMUNITY

1. The authority citation for 28 CFR part 540 continues to read as follows:

Authority: 5 U.S.C. 301, 551, 552a; 18 U.S.C. 1791, 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

2. In § 540.14, paragraphs (b) and (c) are revised to read as follows:

§ 540.14 General correspondence.

* * * * *

(b) Except for ''special mail,'' outgoing mail from a pretrial inmate may not be sealed by the inmate and may be read and inspected by staff.

(c)(1) Outgoing mail from a sentenced inmate in a minimum or low security level institution may be sealed by the inmate and, except as provided for in paragraphs (c)(1) (i) through (iv) of this section, is sent out unopened and uninspected. Staff may open a sentenced inmate's outgoing general correspondence:

(i) If there is reason to believe it would interfere with the orderly running of the institution, that it would be threatening to the recipient, or that it would facilitate criminal activity;

(ii) If the inmate is on a restricted correspondence list;

(iii) If the correspondence is between inmates (see § 540.17); or

(iv) If the envelope has an incomplete return address.

(2) Except for ''special mail,'' outgoing mail from a sentenced inmate in a medium or high security level institution, or an administrative institution may not be sealed by the inmate and may be read and inspected by staff.

* * * * *

[FR Doc. 96–31160 Filed 12–6–96; 8:45 am]

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Federal Register

Monday
December 9, 1996

Part III

The President

Proclamation 6963—National Pearl Harbor Remembrance Day, 1996

Federal Register
Vol. 61, No. 237
Monday, December 9, 1996

Presidential Documents

Title 3—

The President

Proclamation 6963 of December 5, 1996

National Pearl Harbor Remembrance Day, 1996

By the President of the United States of America

A Proclamation

Fifty-five years ago, on a calm Hawaiian morning, Imperial Japan launched a surprise attack against the U.S. Armed Forces stationed at Pearl Harbor, shattering the peace of our land and drawing America into World War II. The assault of December 7, 1941, lasted only two hours, but it killed or injured almost 3,600 Americans, destroyed a major portion of our Nation's Pacific Fleet, and damaged more than 325 aircraft, severely weakening our air power.

The attack jolted our Nation and forced us into a war unlike any previous conflict, waged across the globe in places most Americans had never heard of, in dense jungles and on an ocean we once thought too large for an enemy to cross. It was a war that would require unparalleled courage and determination from soldier and civilian alike, and all Americans rose to the monumental challenge.

During this time, our Nation stood united in purpose and in spirit as never before. Millions of brave and patriotic men and women served the Armed Forces in the struggle for freedom; millions of others sacrificed on the home front. On farms and in factories, mines, and shipyards, Americans labored around the clock to supply the food, weapons, and equipment needed to win the war. In our homes, schools, and places of worship, Americans from every walk of life prayed and worked together for victory. And—as a powerful testament to America's resilience—battleships damaged at Pearl Harbor returned to service and helped break the back of the Japanese fleet.

The generation that fought World War II came home to build new careers and communities and made America the richest, freest nation in history. Some men and women remained in uniform, safeguarding our liberties and ensuring that tyranny would never again threaten our shores. In peace, this generation vowed never again to be unprepared and gave our Nation the security and progress that we have known and cherished for over 50 years.

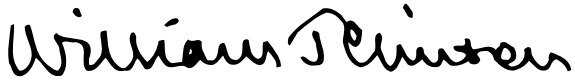
This is the precious legacy bestowed on us by the men and women of the World War II generation. We can best honor their deeds of courage and determination by maintaining their vigil in defense of freedom and striving, as they did, to make the world a better place for all its peoples.

As we mark the 55th anniversary of the attack on Pearl Harbor, let us remember in prayer all those who died on that day and throughout World War II. Let us also honor all World War II veterans and their families, those who lost loved ones, and those who worked on the home front. Finally, let us give thanks once again for the peace and freedom secured by their service and their sacrifice.

The Congress, by Public Law 103-308, has designated December 7, 1996, as ''National Pearl Harbor Remembrance Day.''

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim December 7, 1996, as National Pearl Harbor Remembrance Day. I urge all Americans to observe this day with appropriate programs, ceremonies, and activities in honor of the Americans who served at Pearl Harbor. I also ask all Federal departments and agencies, organizations, and individuals to fly the flag of the United States at halfstaff on this day in honor of those Americans who died as a result of the attack on Pearl Harbor.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of December, in the year of our Lord nineteen hundred and ninety-six, and of the Independence of the United States of America the two hundred and twenty-first.



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1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–028–00159–9)	12.00	July 1, 1996
101	(869–028–00160–2)	36.00	July 1, 1996
102–200	(869–028–00161–1)	17.00	July 1, 1996
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42 Parts:			
1–399	(869–026–00163–4)	26.00	Oct. 1, 1995
400–429	(869–026–00164–2)	26.00	Oct. 1, 1995
430–End	(869–026–00165–1)	39.00	Oct. 1, 1995
43 Parts:			
●1–999	(869–026–00166–9)	23.00	Oct. 1, 1995
1000–3999	(869–026–00167–7)	31.00	Oct. 1, 1995
4000–End	(869–026–00168–5)	15.00	Oct. 1, 1995
44	(869–026–00169–3)	24.00	Oct. 1, 1995
45 Parts:			
1–199	(869–022–00170–7)	22.00	Oct. 1, 1995
200–499	(869–028–00170–0)	14.00	[6] Oct. 1, 1995
500–1199	(869–026–00172–3)	23.00	Oct. 1, 1995
1200–End	(869–026–00173–1)	26.00	Oct. 1, 1995
46 Parts:			
1–40	(869–026–00174–0)	21.00	Oct. 1, 1995
41–69	(869–026–00175–8)	17.00	Oct. 1, 1995
70–89	(869–026–00176–6)	8.50	Oct. 1, 1995
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140–155	(869–026–00178–2)	12.00	Oct. 1, 1995
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166–199	(869–026–00180–4)	17.00	Oct. 1, 1995
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1996. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments to this volume were promulgated during the period July 1, 1991 to June 30, 1996. The CFR volume issued July 1, 1991, should be retained.

[6] No amendments were promulgated during the period October 1, 1995 to September 30, 1996. The CFR volume issued October 1, 1995 should be retained.